

Chapter 9
FIRE PROTECTION

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ARTICLE I. FIRE PREVENTION CODE

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

Pursuant to section 27-97 of the Code of Virginia, the 2000 edition of the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the "fire prevention code" or "SFPC." The fire prevention code shall be enforced by the fire official under the direction of the fire chief. For the purposes of this chapter the fire chief shall be the head of the James City County fire department.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-14, 10-11-05)

Sec. 9-2. Definitions.

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

Debris waste. Includes stumps, wood, brush and leaves from land clearing operations.

Local governing body. The James City County Board of Supervisors.

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

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

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

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

IFC. International Fire Code/2000.

Jurisdiction. The County of James City, Virginia.

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

Primary service area. The primary service area (PSA) is the area as defined in Chapter 24, Article I, Section 24-2 of this code.

Yard waste. Include leaves, brush, grass, stumps, scrub vegetation, bushes, and twigs or branches. (Ord. No. 9A-3, 11-6-89; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05)

Sec. 9-3. Amendments.

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

(1) *SFPC Section 107.2, Permits required,* is hereby added:

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

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

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

(2) *SFPC Table 107.2, Operational Permit Requirements* is hereby added:

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

(3) *SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA),* is hereby added:

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

(4) *SFPC Section 112.2.1, Chairman* is hereby added:

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

(5) *IFC Section 503.2.2, Authority* is hereby added:

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

(6) *IFC Section 307.2.2, Prohibited open burning*, is hereby added:

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

- (a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.
- (b) Except as provided in subsection (c), during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county or any portion thereof organized for forest fire control under the direction of the state forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on federal lands.

- (c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:
 - 1. The fire is set for “prescribed burning” that is conducted in accordance with a “prescription” and managed by a “certified prescribed burn manager” as those terms are defined in Va. Code section 10.1-1150.1;
 - 2. The burn is conducted in accordance with Va. Code section 10.1-1150.4;
 - 3. The state forester has, prior to February 1, approved the prescription for the burn; and

4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.

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

- (d) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.
- (e) Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the state forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

- (7) *IFC Section 307.3, Location*, is added:

The location of any open burning for the disposal of land clearing debris waste which has been permitted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 1,000 feet from an occupied dwelling or commercial building, when burning outside the PSA, and shall not be less than 2,000 feet from an occupied dwelling or commercial building when burning inside the PSA. A reduction in the burn distance from an occupied dwelling or commercial building inside the PSA and outside the PSA may be permitted by the fire official where written permission of the dwelling occupant or commercial building is obtained by the applicant for the open burn. No open burning for the disposal of land clearing debris waste shall be permitted unless the open burn is conducted in a pit approved by the fire official, with an incineration device which shall reduce smoke and ash, such as an air curtain destructor or other such incineration device as approved by the fire official.

- (8) *IFC Section 1404.3, Open burning*, is hereby added:

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

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

- (9) *IFC Section 307.2.2, Prohibited open burning*, is hereby added:

Open burning shall not be used for waste disposal purposes, the quantity of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

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

(10) *IFC 3301.1.3 Fireworks, Exception 4* is not applicable to Chapter 9, article 1, of this code.

(11) *SFPC Section 3301.2, Permit required*, is hereby added:

- (a) Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit.
- (b) The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.
- (c) A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond or certificate of insurance in the amount required by section 3301.2.4.2 of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

(12) *SFPC Section 3301.2.4.2, Fireworks display* is amended to read:

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

(13) *SFPC Section 3301.7, Seizure* is amended to read:

The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored, possessed or held in violation of this section. Violation of this chapter is a class 1 misdemeanor.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-4, 9-9-91; Ord. No. 9A-6, 5-4-92; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-9, 12-10-96; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-11, 4-27-99; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05; Ord. No. 9A-15, 2-27-07)

Sec. 9-4. Open burning prohibitions.

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

1. Yard waste.

(1) *IFC Section 307.2.2, Prohibited open burning*, is hereby added.

- (a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-1, General Agriculture; provided, however, even within A-1 acres, yard waste shall not be burned in platted subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is otherwise permitted, it shall be unlawful for any person to burn yard waste during the period beginning February 15 and ending April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.
- (b) Open burning of yard waste performed in an area permitted in paragraph (a) shall comply with any applicable provisions of state law and this article.
- (c) Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

2. Land clearing debris.

(a) Except as otherwise provided in this section, open burning of land clearing debris shall be prohibited.

(b) Exception: In the event of a declaration of local emergency, pursuant to Title 44, Military and Emergency Laws, of the Code of Virginia, the fire marshal may issue a permit to allow the burning of land clearing debris waste in order to protect the health, safety and welfare of the public.

(Ord. No. 9A-5, 5-4-92; Ord. No. 9A-7, 8-16-93; Ord. No. 9A-9, 12-10-96; Ord. No. 9A-10, 6-24-97; Ord. No. 9A-12, 10-14-03; Ord. No. 9A-13, 6-14-05)

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

Secs. 9-5 - 9-6. Reserved.

ARTICLE II. SMOKE DETECTORS

Sec. 9-7. Definitions.

As used in this article, the following words and terms shall have the meanings respectively ascribed:

Dwelling unit shall mean any single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Owner shall mean the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendor in possession, assignee of rents, receiver, executor, trustee, or other person, firm or corporation in control of a building.

Smoke detectors shall mean any mechanical device powered by batteries or alternating current, capable of sensing visible or invisible particles of combustion and capable of sounding an audible alarm.
(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-9, 12-10-96)

Sec. 9-8. Owner's responsibilities in residential buildings.

(a) The owner shall install smoke detectors in the following structures or buildings:

- (1) Any building containing one or more dwelling units;
- (2) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons; and
- (3) Rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

Smoke detectors installed pursuant to this section shall be installed in conformance with the provisions of the Uniform Statewide Building Code. Smoke detectors may be either battery-operated or AC-powered units.

(b) The owner of any unit which is rented or leased, at the beginning of each tenancy and at least annually thereafter, shall furnish the tenant with a certificate that all required smoke detectors are present, have been inspected, and are in good working order. A copy of all such certificates shall be available for inspection by the county building inspector, or his duly authorized representative.

(c) Except for smoke detectors located in hallways, stairwells, and other public or common areas of multifamily buildings, interim testing, repair and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair or replace any malfunctioning smoke detectors within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair or replacement.

(d) Any building containing fewer than four dwelling units which was not in compliance with this section on July 1, 1984, shall be exempted from the requirements of this section until such time as that building or any dwelling unit therein is sold or rented to another person.

(Ord. No. 9A-3, 11-6-89; Ord. No. 9A-9, 12-10-96)

State law reference-Smoke detectors in certain buildings, Code of Va., § 15.2-922.

Secs. 9-9 - 9-10. Reserved.

ARTICLE III. FEES

Sec. 9-11. False alarms prohibited; penalty.

- (a) It shall be unlawful for any user to send a false alarm.
 - (b) For each false alarm after three false alarms originating from the same premises within a 30-day period, there is hereby, imposed a civil penalty in the amount of \$100.00 for each such false alarm.
 - (c) The fire chief shall bill each user responsible for the false alarm the appropriate amount of penalty as set forth above. All such penalties shall be paid within 30 days of billing.
 - (d) The penalty set forth in this article shall not apply to any premises equipped with a fire alarm system used, owned, or occupied by the Commonwealth of Virginia, its agencies, or political subdivisions, but all the other provisions, including the termination of services, shall apply to them.
- (Ord. No. 9A-8, 7-23-96)

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

Sec. 9-12 – 9-13. Reserved.

Sec. 9-14. Service charge for transport by county emergency medical services vehicle.

- (a) Definitions. The following definitions shall apply to this section:

Advanced life support, level 1 (ALS1). Services shall be medical treatment or procedures provided to a patient beyond the scope of an Emergency Medical Technician-Basic (EMT) as defined by the National EMS Education and Practice Blueprint.

Advanced life support, level 2 (ALS2). Services shall be defined as advanced life support (ALS) services provided to a patient including one or more of the following medical procedures: (i) defibrillation/cardioversion, (ii) endotracheal intubation, (iii) cardiac pacing, (iv) chest decompression, (v) intraosseous line, and/or (vi) the administration of three or more medications.

Basic life support (BLS). Services shall be medical treatment or procedures to a patient as defined by the National Emergency Medicine Services (EMS) Education and Practice Blueprint for the Emergency Medical Technician-Basic (EMT).

Emergency medical services vehicle. Shall have the definition specified in Virginia Code section 32.1-111.1.

Ground transport mileage (GTM). Mileage shall be assessed in statute miles from the Fire/EMS response zone of the incident to a hospital or other facility where a patient is transported.

(b) Except as otherwise provided by subsection (e) of this section, a service charge for BLS, ALS1, ALS2, and for ground transport mileage is imposed on each person being transported by any emergency medical services vehicle that is operated or maintained by the county or for which a permit has been issued to the county by the Virginia Office of Emergency Medical Services. The funds received from the payment of this fee shall be paid into the general fund of the county to aid in defraying the cost of providing such service.

(c) The county administrator is hereby authorized and directed to establish rules and regulations for the administration of the charges imposed by this section, including, but not limited to, payment standards for those persons who demonstrate economic hardship.

(d) The county administrator is hereby authorized and directed to establish rates for mileage and for each level of transport within the county budget document each year.

(e) No charge shall be imposed on persons in the following instances:

- (1) Persons determined to be medically indigent by the county in accordance with administrative policies established by the county administrator;
- (2) Persons in the custody of the sheriff of James City County;
- (3) Persons in the custody of the police department;
- (4) During times of a declared local emergency when the county administrator has suspended the collection of EMS charges;
- (5) Employees and volunteers transported from a county work site for work related injury or illness.

(f) The James City Volunteer Rescue Squad and the James City-Bruton Volunteer Fire Department will receive a proportional share of the actual revenue received from patients transported by EMS vehicles owned by the James City Volunteer Rescue Squad. The proportional share shall be determined each year as part of the county budget.

(Ord. No. 9A-16, 4-24-07)

State law reference - Code of Va., § 32.1-111.14.