

1 AN ORDINANCE TO REPEAL, RECODIFY, AND ENACT CODES RELATED TO
2 FIRE PROTECTION WITHIN THE RAPPAHANNOCK COUNTY CODE
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4 IT IS HEREBY RESOLVED, ADOPTED, AND ORDAINED BY THE BOARD OF
5 SUPERVISORS OF RAPPAHANNOCK COUNTY, VIRGINIA, THAT CHAPTER 21,
6 FIRE PROTECTION, OF THE RAPPAHANNOCK COUNTY CODE SHALL BE
7 RECODIFIED AS CHAPTER 94 AND AMENDED TO INCORPORATE OPEN
8 BURNING PROVISIONS; AND THAT CHAPTER 18, EMERGENCIES, ARTICLE III,
9 OPEN BURNING EMERGENCIES, BE REPEALED AS FOLLOWS:

10
11 *Italicized and underlined* language is language to be added. Language that is ~~stricken through~~ is
12 to be deleted.

13 Chapter 18
14 Emergencies

15 Article III
16 Open Burning Emergencies

17 [Adopted 10-1-2007]

18 ~~§ 18-3 Declarations of local open burning emergencies.~~

19 ~~The County Administrator may, upon recommendation of the local forest warden appointed~~
20 ~~pursuant to § 10.1-1135, if the forestlands, brushlands and fields within the County have become~~
21 ~~so dry as to create a serious fire hazard endangering lives and property within the County,~~
22 ~~declare an open burning emergency and prohibit any person from engaging in any open burning~~
23 ~~until the emergency has terminated; provided, however, such declaration shall be subject to~~
24 ~~ratification by the Board of Supervisors at its next regularly scheduled meeting.~~

25 Chapter ~~21~~94
26 Fire Protection

27 [HISTORY: Adopted by the Board of Supervisors of the County of Rappahannock as
28 indicated in article histories. Amendments noted where applicable.]

29 Article I
30 Fireworks

31 [Adopted 6-6-2022]

32 § ~~9421~~-1 Purpose.

33 The regulations contained in this article are hereby adopted to provide for the issuance of permits
34 for the display of fireworks by fair associations, amusement parks, or by any organization or
35 group of individuals, under the minimum terms and conditions set forth in the Statewide Fire
36 Prevention Code Act, Code of Virginia, § 27-94 et seq., as amended, (VSFPC) and the additional
37 terms and conditions set forth herein or as may be prescribed by the County Administrator at the

38 time of permit issuance. Any association, organization, or group that has been issued a permit
39 may purchase and make use of fireworks under the terms and conditions of such permit.

40 **§ 9421-2 Manufacture, sale, discharge, etc., of certain fireworks prohibited.**

41 Except as otherwise provided in this article, it shall be unlawful for any person to transport,
42 manufacture, store, sell, offer for sale, expose for sale, buy, use, ignite, possess or explode any
43 firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that
44 contains any explosive or inflammable compound or substance, and is intended or commonly
45 known as "fireworks," and which explodes, rises into the air or travels laterally, or fires
46 projectiles into the air, other than sparks, and other than those fireworks excepted under the
47 provisions of § 21-3.

48 **§ 9421-3 Applicability.**

49 The provisions of this article shall not apply to fountains that do not emit sparks or other burning
50 effects to a distance greater than five meters (16.4 feet); wheels that do not emit a flame radius
51 greater than one meter (39 inches); crackling devices and flashers or strobes that do not emit
52 sparks or other burning effects to a distance greater than two meters (78.74 inches); and
53 sparkling devices or other fireworks devices that: i) do not explode or produce a report; ii) do not
54 travel horizontally or vertically under their own power; iii) do not emit or function as a
55 projectile; iv) do not produce a continuous flame longer than 20 inches; v) are not capable of
56 being reloaded; and vi) if designed to be ignited by a fuse, have a fuse that is protected to resist
57 side ignition and a burning time of not less than four seconds and not more than eight seconds
58 when used or exploded on private property with the consent of the owner of such property; nor
59 shall the provisions of this article apply to the sale or use of blank cartridges for a show or
60 theater or for signal or ceremonial purposes in athletics or sports or for use by military
61 organizations.

62 **§ 9421-4 Permit required; fee.**

63 A. Issuance of permits; application.

64 (1) The display of fireworks by fair associations, amusement parks, or by any
65 organization, or group of individuals, may be authorized, provided that a permit is
66 obtained from the County Administrator. Any permit so issued shall be subject to the
67 minimum terms and conditions set forth in the VSFPC and additional terms and
68 conditions as may be prescribed by the provisions of this article or prescribed at the
69 time of permit issuance.

70 (2) Complete applications for permits shall be made on forms issued by the County
71 Administrator at least 45 days prior to the date of the fireworks display. Upon receipt
72 of a complete fireworks application, the County Administrator shall confirm that the
73 applicant is properly qualified under state law to present a fireworks display and that,
74 in his opinion, such display can be held without endangering persons, animals, or
75 property. Permit issuance shall consider the topography of the site and its proximity to
76 forested, business, historical, residential, and agricultural areas.

77 (3) A nonrefundable \$500 permit application fee shall be paid at the time of application.

78 The County Administrator may waive the permit application fee for non-profit
79 agencies that are principally funded by the County of Rappahannock. The issuance of
80 any such permit by the County is made solely under the authority granted by the Code
81 of Virginia and shall not constitute approval or sponsorship in any manner of the
82 permitted fireworks display.

83 (4) Upon approval of an application for a permit to display fireworks, the County
84 Administrator shall write across such application the wording "Approved," and the
85 application shall be dated and signed by him. Beginning as soon as fireworks have
86 been delivered to the display site, they shall not be left unattended.

87 (5) After it has been signed, dated, and approved by the County Administrator, the
88 application shall constitute the permit. One copy of each permit to display fireworks
89 shall be kept on file by the County Administrator until after the date the fireworks are
90 displayed. A second copy of the permit will be returned to the applicant and shall be in
91 the possession of the person(s) designated on the permit as being in charge of
92 displaying the fireworks at the time and place they are being displayed.

93 (6) After the issuance of a permit, to inform the public of the fireworks display, the
94 County Administrator shall cause a public notice to be included in a newspaper of
95 record for two successive weeks prior to the date of display and cause a temporary sign
96 to be posted, concurrently with the newspaper notice, on the parcel upon which the
97 fireworks display is permitted.

98 B. Any association, organization, or group that has been issued a permit may purchase and
99 make use of fireworks under the terms and conditions of such permit.

100 C. Fireworks displays permitted pursuant to this section shall occur not more than two times
101 per calendar year on any one parcel of land or any contiguous parcels held under common
102 ownership. Fireworks use or displays are permitted only between the hours of 8:00 a.m. and
103 11:00 p.m.; except that fireworks use or displays are permitted between the hours of 8:00
104 a.m. on December 31 and 12:15 a.m. on January 1 of each year. Displays shall not exceed
105 45 minutes in duration.

106 D. No permit shall be issued until the applicant, association, organization, or group provides to
107 the County Administrator evidence of a bond or certificate of commercial general liability
108 insurance in the amount of not less than \$1,000,000 available to cover any damages
109 resulting from such fireworks display. All insurance policies shall be with insurers qualified
110 to do business in the Commonwealth of Virginia, with an A-1 or better rating of insurance
111 by Best's Key Rating Guide, Property/Casualty Edition.

112 E. Whenever certification is required by § 107.2 of the VSFPC to conduct a fireworks display,
113 no permit shall be issued until evidence of such certification is provided to the County
114 Administrator.

115 F. All permit holders shall provide advanced written notice of fireworks displays to all
116 abutting property owners, including those across the street, at least 10 days prior of the
117 event. No fireworks use or displays shall be permitted closer than 1,000 feet to a residential
118 use unless the owner of the residential use grants express written permission in a form that
119 can be reviewed and validated by the County Administrator.

120 G. The County Administrator may specify, in any permit issued pursuant to this section,
121 additional conditions necessary to protect persons, animals, and property. Such conditions
122 may include, but shall not be limited to, the type of fireworks to be used, required fire-
123 extinguishing equipment, the presence of trained firefighters and law enforcement officers,
124 and any other requirements deemed necessary to protect public health and safety. The
125 applicant shall be responsible for the cost of any equipment usage and personnel required as
126 a condition of the permit.

127 H. The County Administrator may revoke a permit if he determines that any condition of the
128 permit, state law, or this article, has been violated, or if he finds any misrepresentation as to
129 any material fact in the permit application. The County Administrator may also revoke the
130 permit when necessary to prevent danger to persons and/or property from fire hazards. Such
131 conditions include, but are not limited to, periods of drought in which forest lands, brush
132 lands, and fields have become so dry or parched as to create an extraordinary fire hazard or
133 hazardous weather, such as high winds or low humidity.

134 I. With the exception of final permit approval and revocation, the County Administrator may
135 designate responsibilities and authorities granted herein to the emergency services
136 coordinator.

137 **§ 9421-5 Violations and penalties.**

138 Any person who violates any provision of this article shall be guilty of a Class 1 misdemeanor.

139 **Article II**
140 **Open Burning**

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142 **§ 94-6 Purpose.**

143 The regulations contained in this article are hereby adopted to enforce those provisions of the
144 Statewide Fire Prevention Code Act, Code of Virginia, § 27-94 et seq., as amended, (SFPC)
145 relating solely to open burning pursuant to Code of Virginia, § 27-98 as further defined by
146 regulations promulgated as Virginia Administrative Code, 13VAC5-52-40.

147 **§ 94-7 Enforcing agency.**

148 The County Administrator and his designees shall serve as the enforcing agency for the sole
149 purposes of this article as that term is used in the SFPC.

150 **§ 94-8 Right of Entry and Inspections.**

151 The enforcing agency may enter any premises at any reasonable time to inspect to ensure
152 compliance with this article, subject to constitutional restrictions on unreasonable searches and

153 seizures. If entry is refused or not obtained, the enforcing agency may pursue recourse as
154 provided by law.

155 **§ 94-9 Permits.**

156 A permit shall be obtained from the enforcing agency prior to kindling a fire for recognized
157 silvicultural or range or wildlife management practices, prevention or control of disease or
158 pests, or a bonfire. Application for such approval shall only be presented by and permits issued
159 to the owner of the land upon which the fire is to be kindled.

160 **§ 94-10 Open burning regulations.**

161 A. OPEN BURNING shall mean the burning of materials wherein products of combustion are
162 emitted directly into the ambient air without passing through a stack or chimney from an
163 enclosed chamber. Open burning does not include road flares, smudgepots and similar
164 devices associated with safety or occupational uses typically considered open flames,
165 recreational fires or use of portable outdoor fireplaces. For the purpose of this definition, a
166 chamber shall be regarded as enclosed when, during the time combustion occurs, only
167 apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit
168 the escape of exhaust gas are open. RECREATIONAL FIRE shall mean an outdoor fire
169 burning materials other than rubbish where the fuel being burned is not contained in an
170 incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill or barbecue pit
171 and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for
172 pleasure, religious, ceremonial, cooking, warmth or similar purposes. BONFIRE shall
173 mean an outdoor fire utilized for ceremonial purposes.

174 B. Open burning prohibitions. The enforcing agency is empowered to prohibit open burning
175 when atmospheric conditions or local circumstances make such fires hazardous (ref. §
176 370.1.1 of the SFPC).

177 C. Extinguishment authority. Where open burning creates or adds to a hazardous situation,
178 the enforcing agency is authorized to order the extinguishment of the open burning
179 operation and if not extinguished, cause the open burning to become extinguished without
180 notice.

181 D. General Open Burning. The location for open burning shall be not less than 50 feet from
182 any structure, and provisions shall be made to prevent the fire from spreading to within 50
183 feet of any structure. Exceptions include:

184 (1) Fires in approved containers that are not less than 15 feet from a structure.

185 (2) The minimum required distance from a structure shall be 25 feet where the pile size is
186 3 feet or less in diameter and 2 feet or less in height.

187 E. Bonfires. A bonfire shall not be conducted within 50 feet of a structure or combustible
188 material unless the fire is contained in a barbecue pit. Conditions that could cause a fire to
189 spread within 50 feet of a structure shall be eliminated prior to ignition.

190 F. Recreational Fires. Recreational fires shall not be conducted within 25 feet of a structure
191 or combustible material. Conditions that could cause a fire to spread within 25 feet of a
192 structure shall be eliminated prior to ignition.

193 G. Attendance. Open burning, bonfires, and recreational fires shall be constantly attended
194 until the fire is extinguished. Not fewer than one portable fire extinguisher complying with
195 Section 906 of the SFPC with a minimum 4-A rating or other approved on-site fire-
196 extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall
197 be available for immediate utilization.

198 H. Burning permitted under the provisions of this article does not exempt or excuse any owner
199 or other person from the consequences, liability, damages or injuries which may result from
200 such conduct; nor does it excuse or exempt any owner or other person from complying with
201 other applicable laws, ordinances, regulations and orders of the governmental entities
202 having jurisdiction, even though the open burning is conducted in compliance with this
203 article. In this regard special attention should be directed to Code of Virginia, § 10.1-1142,
204 the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board,
205 and the state air pollution control board's regulations for the control and abatement of air
206 pollution.

207 **§ 94-11 Violation.**

208 A. Notice. A written notice citing the section allegedly violated, describing the condition
209 deemed unsafe and specifying time limitations for the required abatements to be made to
210 render the premises safe and secure, shall be sent or mailed to the owner of the premises
211 where the violation took place.

212 B. Right of appeal. Notices of violation shall indicate the right of appeal by referencing the
213 opportunity to make an appeal to the Local Board of Building Code Appeals set out in § 71-
214 9.

215 C. Pursuant to Code of Virginia, § 27-100, after exhaustion of any appeals, any such violation
216 of this article shall be deemed a Class 1 misdemeanor, and any owner, or any other person,
217 firm, or corporation convicted of such violation shall be punished in accordance with the
218 provisions of Code of Virginia § 18.2-11 such person shall, in addition to the above penalty,
219 be liable to the state, the county, and/or the responding fire departments, whether paid or
220 volunteer, for the full amount of all expenses incurred respectively in suppressing such fire.

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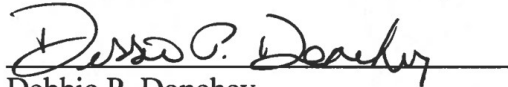
222 The foregoing Ordinance was adopted by the Board of Supervisors of Rappahannock County,
223 Virginia, on March 4, 2024 at its regular monthly public meeting held at the Rappahannock County
224 Courthouse, 250 Gay Street, Washington, Virginia, after having advertised that it proposed to do
225 so in accordance with § 15.2-1427 of the Code of Virginia, and after holding a public hearing. The
226 roll-call vote of the Board of Supervisors on a motion to adopt the Ordinance was as follows:
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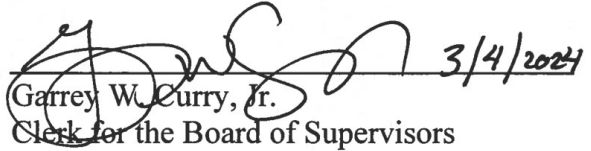
	MOTION	SECOND	ABSENT/ ABSTAIN	AYE	NAY
Debbie P. Donehey				✓	
Keir A. Whitson				✓	
Van C. Carney	✓			✓	
Donna D. Comer		✓		✓	
Christine Smith				✓	

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I certify the foregoing accurately reflects the actions of the Rappahannock County Board of Supervisors taken at the time and place stated above.



Debbie P. Donehey
Chair, Board of Supervisors



Garrey W. Curry, Jr.
Clerk for the Board of Supervisors