

1 **Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia,**
2 **by Amending and Reenacting Chapter 14, Fire Prevention and Protection, Article I,**
3 **In General, Section 14-11, Open Burning Prohibited; Exceptions to Incorporate**
4 **Definitions and Interpretation to this Section, and to Amend the Open Burning**
5 **Exceptions**

6
7 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Section 14-
8 11, Article I, Chapter 14 of the City Code of the City of Hampton, Virginia be amended to
9 read as follows:

10
11 **Chapter 14 - FIRE PREVENTION AND PROTECTION**

12
13 ...

14
15 **ARTICLE I. - IN GENERAL**

16
17 ...

18
19 **Sec. 14-11. - Open burning prohibited; exceptions.**

20
21 (a) **Definitions:** the following local amendments to definitions in the Virginia Uniform
22 **Statewide Fire Prevention Code** apply to this section:

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24 (1) *Open Burning* means the burning of materials wherein products of combustion
25 are emitted directly into the ambient air without passing through a stack or
26 chimney from an enclosed chamber. A chamber shall be regarded as enclosed
27 when during the time combustion occurs; only apertures, ducts, stacks, flues,
28 or chimneys necessary to provide combustion air and permit the escape of
29 exhaust gas are open. Open burning does not include road flares, smudge
30 pots, or similar devices associated with safety or occupational uses. Open
31 burning includes but is not limited to the following types of fires: recreational
32 fires; bonfires; fires involving chimineas and outdoor fireplaces; barrel burning;
33 silvicultural, range, or wildlife management practices; prevention and control of
34 disease or pests; and land clearing operations.

35
36 (2) *Land Clearing Operation* means the clearing or removal of a populated wooded
37 or forest area for land improvement, development, or other approved purpose.

38
39 (3) *Brush* means shrubs and stands of short scrubby and tree species that do not
40 reach merchantable size. Brush shall also mean limbs, branches, and pruning
41 no larger than 5 inches in diameter or 5 feet in length.

42
43 (b) **Interpretation:** this Section constitutes the City of Hampton's local amendment to
44 Section 307 of the Virginia Statewide Fire Prevention Code only as specified
45 herein. All other provisions of Section 307 are in effect and should be read
46 harmoniously with this local amendment.

47

48 ~~(a)~~(c) Except as otherwise provided in this section, **open burning is prohibited**. ~~no person~~
49 ~~shall ignite or maintain, or cause or permit to be ignited or maintained, any open~~
50 ~~fire on public or private property outside any building. Salvage, demolition~~
51 ~~operations, or disposal of waste materials by burning is prohibited.~~

52
53 ~~(b)~~(d) Exceptions.

54
55 (1) Open **burning is permitted** ~~fires may be set~~ in the performance of official duties
56 by the fire code official or ~~his~~ **their** designee when necessary for any of the
57 following purposes:

58
59 a. For the abatement of a fire hazard ~~which~~ **that** cannot be abated by other
60 means;

61
62 b. For training in firefighting or for research in control of fires under
63 supervision of the fire code official or ~~his~~ **their** designee;

64
65 c. In emergency or other extraordinary circumstances when open burning is
66 determined by the fire code official to be in the public interest.

67
68 (2) **Recreational Fires are permitted and may be used for cooking food, provided**
69 **no smoke violation or other nuisance is created. shall not exceed a fuel area**
70 **of three feet by two feet unless a permit has been obtained.**

71
72 (3) ~~Recreational fires may be set provided that no smoke violation or nuisance is~~
73 ~~created. Barrel burning is prohibited unless a permit is obtained from the fire~~
74 ~~code official. Permitted barrel burning shall comply with all permit conditions~~
75 ~~and procedures approved by the fire code official and the department of~~
76 ~~environmental quality (air division), and shall be immediately terminated upon~~
77 ~~revocation of such permit.~~

78
79 (4) ~~Open burning shall be prohibited for~~ ~~Land clearing operations, except~~
80 ~~controlled force-air pit burning of brush, leaves, and trees; silvicultural, range,~~
81 ~~or wildlife management practices; or prevention and control of disease or~~
82 ~~pests, from land clearing operations~~ conducted under authority of a permit
83 issued by the fire code official or ~~his~~ **their** designee ~~is~~ **are** permitted; provided
84 that such burning shall be in conformance with procedures approved by the
85 fire code official and the department of environmental quality (air division), and
86 shall be immediately terminated upon revocation of such permit. Compliance
87 with the provisions of this subsection shall not exempt any person from any
88 damages or liability ~~which~~ **that** may result from such open burning, nor exempt
89 any person from adherence to all applicable laws, ordinance and regulations,
90 and orders of the fire code official and the state forester.

91

- 92 ~~(c)~~(e) Open burning, where permitted by this chapter, shall be constantly monitored until
93 the fire is extinguished. Fire extinguishing equipment shall be available for
94 immediate use.
- 95 (d) The fire code official may prohibit open burning, otherwise lawful, when smoke
96 may cause reduced visibility on any highway; or when emissions or odors **open**
97 **burning** may constitute a hazard **to life, health, or property**; or a nuisance. The fire
98 code official may order the extinguishing by the permit holder or other responsible
99 person, or by the fire department, of any fire **for which a required permit for open**
100 **burning has not been obtained, or that** which creates such or adds to a hazardous
101 **situation or public nuisance**, or if adjacent property is considered to be
102 **endangered**. **If the fire code official orders that a fire be extinguished, it shall not**
103 **be rekindled for 24 hours, or as specified by the fire code official, whichever is**
104 **longer.**
- 105
- 106 (f) Failure to comply with an order of the fire code official issued under the authority
107 of this Section shall constitute a Class 1 misdemeanor.