

**TOWN OF AMSTERDAM, NEW YORK**

**LOCAL LAW \_\_\_ OF THE YEAR 2024**

**A LOCAL LAW CONTROLLING OPEN FIRES**

**SECTION 1. Legislative intent.**

The Town Board recognizes that outdoor open burning of material poses a threat to life and property and may create a nuisance. It is the purpose of this chapter to ensure that the safety, health, and welfare of the residents and property in the Town are protected by prohibiting open fires except as specifically permitted herein.

**SECTION 2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**BONFIRE** — An outdoor fire utilized for ceremonial purposes.

**CODE ENFORCEMENT OFFICER (CEO)**— The Town’s appointed Building Inspector and Fire Inspector

**FARM OPERATION** — Commercial enterprises, through the use of land, buildings, equipment and practices, to carry out an agricultural enterprise as defined in the NYS Agriculture and Markets Law, including start-up farms, as defined by NYS Department of Agriculture and Markets, on land located within a county-adopted, State-certified agricultural district..

**FIRE DEPARTMENT** — Cranesville Volunteer Fire Department, Fort Johnson Volunteer Fire Co Inc., Hagaman Volunteer Fire Department, Tribes Hill Volunteer Fire Dept., as applicable.

**GARBAGE** — The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

**OPEN BURNING** — The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudgepots and similar devices associated with safety or occupational uses typically considered open flames or recreational fires. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

**PORTABLE FIREPLACE** — A structure or device intended to contain and control outdoor wood fires. This shall include a structure, which may or may not be a portable, manufactured fireplace or similar device, is designed to contain and control outdoor wood fires.

**RECREATIONAL FIRE** — An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three feet or less in diameter and two feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

**REFUSE** — All waste material, including but not limited to garbage, rubbish, incinerator residue, street sweepings, dead animals, and offal.

**SECTION 3. Open burning prohibited.**

- A. No person, firm, or corporation shall build any outdoor fire within the corporate limits of the Town of Amsterdam, excepting as set forth in Section 4 of this local law, or as prohibited by any federal, state or other local law, rule, or regulation.
- B. The applicable Fire Chief or Fire Department command personnel, or the CEO, are permitted to

prohibit any or all bonfires and outdoor fires when atmospheric conditions or local circumstances make such fires hazardous. If, in the opinion of the applicable Fire Chief or Fire Department command personnel, or the CEO, such conditions or circumstances exist, then he/she shall have the authority to declare that any and all burning shall cease and desist immediately until further notice.

#### **SECTION 4. Exceptions.**

- A. Outdoor cooking over a fire contained in a device or structure designed for such use.
  - (1) Material used to make a cooking fire cannot be construction debris, trash, or rubbish.
  - (2) All cooking devices must be in good working condition to prevent the possible spread of fire.
  - (3) For all multifamily dwellings, more than one story in height, the use and/or storage of any propane or charcoal portable cooking device or any portable fireplace device is strictly prohibited above the first-floor occupancy.
  - (4) For all multifamily dwellings more than one story in height, the use of any open or closed outdoor cooking device, any portable fireplace device, or any open flame device is prohibited within 25 feet of the structure on the ground floor or any combustible material on the ground.
- B. Use of a portable fireplace.
- C. Use of a recreational fire.
- D. Open burning by farm operations located within a county adopted, State certified, agricultural district and consistent with applicable guidelines and regulations, such as those set forth at 6 NYCRR Part 215 and as may be considered by the NYS Department of Agriculture and Markets to be a practice that is part of a “farm operation,” inclusive of burning of downed limbs and branches (including branches with attached leaves or needles) less than six inches in diameter and eight feet in length between May 15<sup>th</sup> and the following March 15<sup>th</sup>. If there shall be open burning, the individual conducting such open burning shall contact the County Dispatch Center to notify them of the open burning.

#### **SECTION 5. Control and restrictions on permitted fires.**

- A. It is the intent of the Town of Amsterdam that citizens have the opportunity to have recreational fires, provided that such fires are in strict compliance with the restrictions relating to recreational fires. It is further the intent of the Town of Amsterdam that the applicable Fire Department or CEO shall strictly enforce these restrictions so as to ensure that such fires do not compromise safety or annoy neighbors. Such enforcement shall require an investigation into any complaint and an independent determination by the CEO and/or Fire Department as to whether a particular recreational fire is in compliance with these regulations.
- B. No recreational fire may be started or allowed to continue burning unless such recreational fire is contained in an approved fireplace or similar device.
- C. All recreational fires shall not have a fuel diameter larger than three feet nor a height greater than two feet, nor may the fire extend more than one foot above the burning surface. The fireplace or similar device shall be surrounded on the outside by a noncombustible material such as concrete block or rocks and placed upon a noncombustible surface. Manufactured devices must be used in accordance with the manufacturer's specifications and these regulations.
- D. No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials. Smoke from any recreational fire shall not create a nuisance for neighboring property owners. The fire shall be completely extinguished immediately upon the

complaint of any nuisance smoke.

- E. Material for recreational fires, portable fireplaces or similar devices shall not include rubbish, garbage, refuse, recyclable items, paper/cardboard (other than what is needed to start the fire), yard debris, construction debris, pressure-treated wood, trash or any material made of petroleum-based materials and shall not contain any flammable or combustible liquids, except for devices which are designed to burn LP gas. Such LP gas devices shall not use the LP gas as an accelerant for other flammable materials.
- F. Adequate fire suppression equipment shall be immediately available to control or extinguish the recreational fire, such as a fully functioning fire extinguisher or garden hose connected to an unlimited water source.
- G. The property owner and/or person who has started any recreational fire, portable fireplace or similar device shall hold the Town harmless from any damages caused by a recreational fire.
- H. Any party who has started or maintains a recreational fire, portable fireplace or similar device as defined shall pay any and all costs incurred by the applicable Fire Department for any service-related call as a result of a recreational fire not in compliance with these requirements, if deemed necessary by the applicable Fire Chief.

#### **SECTION 6. Prior written approval.**

- A. Ceremonial campfires or bonfires are allowed with prior written approval of the Fire Chief or his/her designee.
- B. Whenever approval is granted by the applicable Fire Chief or Fire Department command personnel under Subsection A, the approval may specify and be conditioned on observance of safety restrictions and insurance requirements set forth therein.

#### **SECTION 7. Burning on streets.**

No materials may be burned upon any street, curb, gutter, sidewalk, or other public place.

#### **SECTION 8. Liability.**

Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by his/her fire.

#### **SECTION 9. Penalties for offenses; enforcement.**

- A. Any person who violates any provision of this chapter shall, upon conviction thereof, be guilty of a violation and shall be subject to a fine not to exceed \$250 or imprisonment for a term not to exceed 15 days, or both.
- B. This chapter shall be enforced by the Town's CEO, sworn law enforcement officers, and applicable Fire Department personnel.