

Local Law Filing

162 WASHINGTON AVENUE, ALBANY, NY 12231

NEW YORK STATE DEPARTMENT OF STATE

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Local Law 1 of 2024 Amending Chapter 60, “Burning, Outdoor”, Chapter of the Code of the Village of Penn Yan.

Be it enacted by the Board of Trustees of the Village of Penn Yan, in the County of Yates, as follows:

SECTION 1. SHORT TITLE

This Local Law shall be known as the “Burning, Outdoor” Chapter of the Village Code Amendment of 2023”.

SECTION 2. LEGISLATIVE INTENT

This Local Law provides for amending the “Burning, Outdoor” Chapter of the Code of the Village of Penn Yan by adopting provisions prescribing conditions where outdoor fires are permitted in the Village of Penn Yan..

SECTION 3. LEGISLATIVE AUTHORITY

This Local Law is adopted pursuant to the Municipal Home Rule Law of the State of New York.

SECTION 4. LEGISLATIVE FINDINGS

The Board of Trustees finds that, based upon public comments and complaints, outdoor fires need more specific regulations and accordingly the within regulations are adopted.

SECTION 5. PROVISIONS.

I. Sections 60-1 and 60-2 of Chapter 60 “Burning, Outdoor” are hereby Repealed

**II. The following Sections are adopted as Chapter 60, “Burning, Outdoor”
§ 60-1. Definitions.**

For purposes of this Chapter the following terms are defined as specified:

Campfire -a small fire with burning material emitting flames no higher than three (3') feet above the burning material and not exceeding four (4') feet in width or diameter, utilized for recreational and/or social/family gatherings.

Pit – An area either on the surface of the ground or below the surface of the ground to be utilized for small bonfires or campfires prepared and constructed so as to prevent the spread of a fire from within the pit area to areas and matter outside the pit area.

§ 60-2. Prohibitions and Allowed Exceptions.

Outdoor open burning in the Village of Penn Yan is prohibited except for the following permitted exceptions:

- A. Cooking of food in or on a fireplace on a lot which fireplace has been approved by the Code Enforcement Office of the Village of Penn Yan.
- B. Cooking food in or on a commercially marketed and properly utilized device which has been designed for such purpose;
- C. Fires utilized for ceremonial, celebratory or religious purposes which are contained so as not to produce flames in excess of three (3') feet in height nor four (4') feet in width, which fire shall have been extinguished upon completion of the event for which it had been utilized;
- D. Fires produced by a municipal firefighting entity for training or investigative purposes;
- E. Recreational campfires or small bonfires ignited in a fire pit that is constructed so as to prevent the spread of a fire from within the pit area, use of materials for the fire which will not violate NYS Department of Environmental Conservation regulations, limiting the quantity at all times of combustible material that will at no time permit the fire to produce flames in excess of three (3') feet above the material being burned nor four (4') feet in width or diameter;
- F. A properly utilized LP-gas cooking device;
- G. Commercially manufactured outdoor fire pits.

§ 60-3. Regulations applicable to all fires:

- A. It is prohibited to ignite a fire with gasoline, oil of any type, kerosene or other combustible liquid other than a commercially marketed charcoal lighting fluid;
- B. Fires must be attended at all times by at least one responsible person 14 years of age or older who has the capacity to extinguish the fire, including the presence of an operable fire extinguisher and/or a hose charged with sufficient pressure to extinguish the fire;
- C. Burning or attempting to burn any materials prohibited from burning by NYS Department of Environmental Conservation Regulations is prohibited;

- D. It is prohibited to ignite a campfire, small bonfire or other open fire less than twenty-five (25') feet from any structure or within fifteen (15') feet of any property lot line;
- E. Any fire which begins to or is emitting sparks or embers that travel more than five (5') feet from the fire source shall be suppressed to terminate the emission of such sparks and/or embers;
- F. Any police officer acting in the performance of his/her duties has the authority to order any open fire to be extinguished. Failure to expeditiously extinguish the fire is a violation hereof.

§ 60-4. Enforcement and Penalties:

- A. Any person who violates any provision of this Article shall, upon conviction, be punished by a fine of not less than \$25.00 nor more than \$250.00 or by incarceration of for more than fifteen (15) days or both such fine and incarceration.
- B. As an alternative to or in addition to a fine and/or incarceration, as provided in subsection "A" hereof the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an Order of Conditional Discharge issued by the Court.
- C. Each violation shall be a separate prosecutable offense.

SECTION 6. VALIDITY

In the event that any section, sentence, clause or phrase of this Local Law is held to be invalid or unconstitutional by any Court of competent jurisdiction, said holding shall in no way affect the validity of the remaining portions of this Law.

SECTION 7. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the Secretary of State of the State of New York, subsequent to having been duly adopted by the Board of Trustees of the Village of Penn Yan.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of the year 2024, was duly passed by the Board of Trustees of the Village of Penn Yan on January 16, 2024, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Holly Easling, Village Clerk/Treasurer

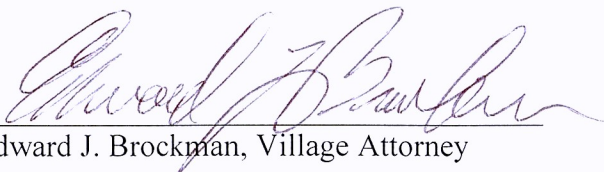
(SEAL)

Date: January 17, 2024

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality)

STATE OF NEW YORK)
COUNTY YATES) ss:

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Edward J. Brockman, Village Attorney

Village of Penn Yan

Date: January 17, 2024