

**Village of Canton, New York  
Local Law #3 of the Year 2020**

**LOCAL LAW  
To Regulate Burning in the Village of Canton**

Be it enacted by the Board of Trustees of the Village of Canton, New York, as follows:

- A. Chapter 164 of the Canton Village Code is titled “*Fire Prevention.*” Article III of said Chapter is titled “*Burning of Leaves and Trash*”, and is comprised of §164-5 (“*Open Burning*”) and §164-6 (“*Prohibition with Commercial District*”).
1. Said Article III and §164-5 and §164-6 thereof are hereby repealed.
  2. A new Article III is hereby added to Chapter 164, to be titled “*Burning Regulations*”. Said Article III shall include new §164-5 and §164-6, and shall read as follows:

***Article III  
Burning Regulations***

***§164-5: Definitions***

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

*Campfire:*

*A campfire or any other outdoor open fire less than three (3) feet in height, and less than four (4) feet in diameter.*

*Garbage:*

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

*Non-permissible Flammables*

*Any flammable material not defined as untreated wood.*

*Open Fire:*

*Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open fires do not include burning in outdoor furnaces or boilers that are used to heat buildings when the devices are actually used for such purpose.*

*Person:*

*Includes any human being, firm, partnership, association, corporation, and entity of any kind, together with their agents and employees.*

*Refuse:*

*Waste material, including, but not limited to, garbage, incinerator residue, street sweepings, dead animals, and offal.*

Rubbish:

*Solid or liquid waste material, including, but not limited to, building waste material, cans, cartons, chemicals, diapers, foam rubber, furniture, grease, hair, leather, oils and other petroleum products, paint, paper and paper products, plastics, rags, sludge, shingles, Styrofoam, rubber products, tires, and automobiles and other vehicles and parts for junk, salvage or disposal.*

Special Event Fire:

*A bonfire or any other open-air fire kindled to mark a public event, celebration, or similar occurrence not held in an outdoor fireplace or fire pit.*

Trash

*Includes garbage, refuse, rubbish, and any other debris.*

Untreated Wood

*For the purposes of this chapter, any wood or lumber which is not chemically treated, painted, coated, stained, sealed, glued or otherwise adulterated. Untreated wood does not include such materials as pressure treated lumber, plywood, particle board, fiberboard, and oriented strand board.*

**§164-6: Burning Regulations**

- A. *It shall be unlawful for any person to burn, cause, allow, or permit the burning or kindling of any fire for the purpose of burning any leaves, grass, garbage, non-permissible flammables, refuse, rubbish, or trash within the Village of Canton, New York.*
- B. *It shall be unlawful for any person to burn, cause, allow, or permit the burning or kindling of any materials in an open fire, campfire, or other on-site burning within the Village of Canton, New York, except as provided by Paragraph "C" of this section.*
- C. *Exceptions and Restricted Burning*
  - 1. *Outdoor burning in an open fire, provided same is not contrary to any other law, rule, or regulation, shall be allowed as follows:*
    - a. *Barbecue grills and similar outdoor cooking devices when used for cooking or processing food, and the fire is attended by an individual of suitable age until the fire is extinguished.*
    - b. *Small fires less than three (3) feet in height and four (4) feet in diameter, used for cooking and campfires, provided that only charcoal or untreated wood is used as fuel and the fire is attended by an individual of suitable age until the fire is extinguished.*

- c. *Small fires less than three (3) feet in height and four (4) feet in diameter that are used to dispose of a flag or religious item, and small fires or other smoke-producing processes where not otherwise prohibited by law that are used in connection with a religious ceremony, provided that the fire is attended by an individual of suitable age until the fire is extinguished.*
  - d. *Any exception listed in sub-paragraphs 1(a), 1(b), and 1(c) shall be allowed only when:*
    - i. *The burning is located 25 feet from any structure, such as a home, garage, mobile home, wedding tent, etc.; and*
    - ii. *The burning is located 25 feet from any adjacent or neighboring property line; and*
    - iii. *The burning is contained by nonflammable material commonly used as a fire-containing apparatus, or structure. Examples of commonly accepted fire containing structures include (i) a fire pit not less than 10 inches deep, (ii) a stone fire circle not less than 10 inches in height, and (iii) prefabricated fire-burning products, such as a chiminea or other products commonly marketed as outdoor/patio fire-containment units containing a basin and fire-screen.*
2. *The following outdoor burning shall be allowed, under the conditions stated:*
- a. *Burning on an emergency basis of explosive or other dangerous or contraband materials by the police or other public safety organization.*
  - b. *Fire training, including firefighting, fire rescue, and fire/arson investigation training, performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. Fire training performed on acquired structures shall comply with regulations promulgated by the New York State Department of Environmental Conservation for such training fires.*
  - c. *Individual open fires approved by the Director of the Division of Air Resources as may be required in response to an outbreak of a plant or animal disease upon request by the commissioner of the Department of Agriculture and Markets, or for the destruction of invasive plant and insect species.*

3. *Special event fires may be allowed, provided they are not contrary to any other law, rule or regulation, under the following regulations:*
- a. *No person shall kindle or maintain any special event fire without first obtaining a special event fire permit issued by the Code Enforcement Officer upon approval by the Fire Chief. Copies of the special event fire permit shall be available and ready for inspection on site for the duration of the special event fire.*
  - b. *Permitted special event fires shall not be located less than fifty (50) feet from any structure.*
  - c. *The duration of the special event fire and the allowable quantity of permissible material to be burned shall be determined by the Code Enforcement Officer and the Fire Chief, in their sole discretion, based upon the fire safety considerations of the situation.*
  - d. *A competent adult of at least twenty one (21) years of age shall be designated as the contact person to meet with the Code Enforcement Official and Fire Chief for any issue pertaining to the special event fire.*
  - e. *The special event fire shall be continually monitored by a competent adult at least twenty one (21) years of age, who is specifically designated for that purpose.*
  - f. *The base of the special event fire shall not be larger than ten (10) feet in diameter. The fire must be enclosed by an approved barrier set at a distance sufficient to provide maximum safety. An approved adequate fire suppression source must be immediately available, and must be sufficient to totally extinguish the fire.*
  - g. *The Fire Chief, Code Enforcement Officer, and their respective designees are each allowed entry upon the property where the special event fire is located, at all times for the duration of the said fire and until it has been completely extinguished, in order to ascertain and ensure compliance with all required safety measures.*
  - h. *The Fire Chief, Code Enforcement Officer, and their respective designees are each authorized, in their sole discretion, to order that a special event fire be immediately extinguished.*
  - i. *Upon completion of the special event, or upon the direction of the Fire Chief, Code Enforcement Officer, or their respective designees, the fire must be completely extinguished, and an approved fire watch must be provided for a duration of time*

*directed or approved by the Fire Chief, to ensure that the fire does not rekindle.*

- j. The Code Enforcement Officer and the Fire Chief shall each have the authority to impose any other restriction and/or safety precaution pertaining to the special event fire.*

*D. Authority and Enforcement*

- 1. In any situation where the Code Enforcement Officer, Fire Chief, or police and fire department personnel determines that a fire poses a danger to persons or property, or is contrary to any provision of this Article, the said Code Enforcement Officer, Fire Chief, or police and fire department personnel, as the case may be, shall be and hereby are authorized to issue such directions as they may deem necessary to protect the safety of persons and property, and to ensure compliance with this Article, including a direction that the fire be extinguished.*
- 2. The Code Enforcement Officer, the Fire Chief, and police and fire department personnel may each restrict, prohibit, or direct the extinguishment of any fire within the Village of Canton upon determining that atmospheric or local circumstances make such fire hazardous to persons or property.*
- 3. Any person who is burning, causing, allowing, or permitting the burning or kindling of any fire within the Village of Canton shall comply with the directions of the Code Enforcement Officer, of the Fire Chief, and of any police or fire department personnel, regarding such fire, including a direction that the fire be extinguished.*

*E. Violations and Penalties*

- 1. Any complaint alleging a violation of this Article shall be filed with the Code Enforcement Officer, who shall promptly undertake an investigation. The Code Enforcement Officer may issue a code violation ticket based upon said investigation. The Code Enforcement Officer may also issue a code violation ticket based solely on the report of any other enforcement official or agency, including the Fire Chief and the police and fire departments.*
- 2. Any person who is found to have violated any provision of this Article shall be subject to pay a mandatory fine in an amount to be fixed by the court as provided at §164-20 of this Chapter.*

- F. If any section or specific part or provision of this Article, or the application thereof to any person or circumstance, is found to be invalid by a court for any reason, the court's decision shall not affect or impair the validity of the remainder*

*of this Article, and any other section or provision of this Article not affected by the court's decision shall remain in full force and effect.*

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B. Article VI of Chapter 164 of the Canton Village Code is titled “*Violations and Penalties*”, and includes §164-20 (“*Penalties for Offenses*”).

1. §164-20 (“*Penalties for Offenses*”) is hereby repealed and is replaced with a new §164-20 titled “*Penalties for Offenses*”, which shall read:

*Any person who is found to have violated any provision of Part 1 of this Chapter shall be subject to pay a mandatory fine in an amount to be fixed by the court subject to the following parameters:*

- A. *For the first such violation, the fine shall in the minimum amount of One Hundred Dollars (\$100) and up to but shall not exceed Two Hundred Fifty Dollars (\$250).*
  - B. *For the second such violation, the fine shall be in the minimum amount of Two Hundred Fifty Dollars (\$250) and up to but shall not exceed Five Hundred Dollars (\$500).*
  - C. *For the third and each subsequent violation, the fine shall be in the minimum amount of Five Hundred Dollars (\$500) and up to but not to exceed One Thousand Five Hundred Dollars (\$1,500).*
  - D. *The fine assessed for a violation of any provision of Article III of this Chapter shall double if the violation occurs during a “no burn” period established by any New York State or local regulatory agency or authority.*
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C. Article VII of Chapter 164 of the Canton Village Code is titled “*Conduct at Fires*”, and includes §164-34 (“*Penalties for Offenses*”).

1. §164-34 (“*Penalties for Offenses*”) is hereby repealed.

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D. Chapter 221 of the Canton Village Code is titled “*Nuisances*.” Article III of said Chapter is titled “*Nuisances on Private Property*”, and includes §221-11(B), which defines as a nuisance, “*The burning of an open fire, whether leaves, grass, trash, wastepaper, rubbish, garbage or other materials within the Village of Canton. Specifically excepted from this provision is the use of outside barbecues/fireplaces/grills for cooking.*”

1. The current wording of §221-11(B) is hereby deleted, and said §221-11(B) is amended to read, “*The burning of an open fire within the Village of Canton, except as allowed by §164-6(C) of the Canton Village Code*”.

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E. Effective Date: This local law shall take effect immediately upon its filing with the Secretary of State.

The votes are as follows (*Yes or No*):

Mayor Michael Dalton	voting	_____
Trustee Carol Pynchon	voting	_____
Trustee Elizabeth Larrabee	voting	_____
Trustee Klaus Proemm	voting	_____
Trustee Anna Sorensen	voting	_____

Date: \_\_\_\_\_

\_\_\_\_\_  
Sally Noble, Village Clerk