

Local Law Filing

(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.

☐County ☐City ☐Town ☒Village
(select one:)

of Washingtonville

Introductory Local Law No. 2 of the year 2021

A LOCAL LAW REGULATING OPEN BURNING

Be it enacted by the Board of Trustees of the Village of Washingtonville as follows:

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

VILLAGE OF WASHINGTONVILLE

INTRODUCTORY LOCAL LAW NO. 2 OF 2021

A LOCAL LAW REGULATING OPEN BURNING

Be it enacted by the Board of Trustees of the Village of Washingtonville, County of Orange, State of New York as follows:

Section 1. Title.

This Local Law shall be referred to as “**A LOCAL LAW REGULATING OPEN BURNING**”.

Section 2. Legislative Intent.

The Board of Trustees of the Village of Washingtonville hereby finds and declares that the open burning of materials on private property and Village owned property is in detriment to the health, safety and general welfare of all Village residents. The Board of Trustees hereby finds that it is necessary to establish a law that prohibits open burning within the Village of Washingtonville to protect the public from unsafe practices and an unhealthy environment that is created by such open burning practices.

Section 3. Definitions.

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

ACQUIRED STRUCTURE

A structure donated or loaned from a property owner for the purpose of conducting fire training.

AGRICULTURAL WASTE

Any waste from naturally grown products such as vines, trees and branches from orchards, leaves and stubble. In addition, any fully organic waste either grown or generated on the premises, including but not limited to paper feed bags, wood shavings used for livestock bedding, bailing twine, and other nonplastic materials. Agricultural waste does not include pesticide containers, fertilizer bags, large plastic storage bags (including bags commonly known as "Ag bags"), offal, tires, plastic feed bags, and other plastic or synthetic materials.

CAMPFIRE

A campfire or any other outdoor open fire in a contained area less than three feet in height, and less than four feet in length and width or diameter.

ON-SITE BURNING

The burning of material, grown or generated on a particular property, in an open fire on the same property. For purposes of this definition, the "same property" shall include only property that is geographically contiguous and under the control or ownership of the same person.

OPEN FIRE

Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open fires include burning in barrels, modified barrels or fire pits. 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.

UNTREATED WOOD

For the purposes of this chapter, any wood or lumber which is not chemically treated, 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.

Section 4. Prohibited acts.

- A. Except as allowed by § 5 or § 6 of this chapter, no person shall burn or cause, suffer, allow or permit the burning of any materials in an open fire within the territorial jurisdiction of the Village of Washingtonville.
- B. Any burning or fire, campfire, bonfire, or any other open fire of any material and description is prohibited in any Village park, Village-designated open space, nature preserve, or any state or county parkland, forest preserve, nature preserve, or Village land or open space without first obtaining a permit pursuant to § 6 of this chapter

Section 5. Exceptions and restricted burning.

Burning in an open fire, provided it is not contrary to other law or regulation, will be allowed on privately owned land, so long as said fire is controlled and supervised at all times, as follows:

- A. Campfires and cooking fires as defined in § 3, provided that only charcoal or untreated wood is used as fuel and the fire is not left unattended until extinguished. If excessive smoke results, causing a nuisance to adjacent property owners, the Code Enforcement Officer or Village Police may require such fire to be extinguished. Failure to obey such an order may result in a violation.
- B. Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.
- C. On-site burning of agricultural wastes as part of a valid agricultural operation, as that term is defined by applicable law, on contiguous agricultural lands five acres or larger, which are actively devoted to agricultural or horticultural use, provided that such waste is actually grown or generated on those lands and such waste is capable of being fully burned within a twenty-four-hour period. The operation must meet the requirements for agricultural exemption from the Village of Washingtonville or other applicable governmental agency. All open burning shall meet the requirements of 6 NYCRR Part 215 of the New York State Environmental Conservation Law.
- D. The use of liquid-petroleum-fueled smudge pots to prevent frost damage to crops.
- E. Prescribed burns performed according to 6 NYCRR Part 194.
- F. 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. For fire training performed on acquired

structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke (such as asbestos, asphalt shingles and vinyl siding or other vinyl products) prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a three-hundred-foot radius (whichever is bigger) may be burned in a training exercise.

- G. Individual open fires as approved by the director of any state agency with jurisdiction.
- H. Propane outdoor patio heaters, including outdoor propane umbrella heaters and smudge pots, so long as such equipment is being in a safe manner, in accordance with the manufacturer's instructions and recommendations and not posing a safety and/or fire risk to any person, building or other property.

Section 6. Permits.

No person shall be permitted to have an open fire of any material and description in any Village park, Village-designated open space, nature preserve, or any state or county parkland, forest preserve, nature preserve, or Village land or open space without first receiving the proper permits as follows:

- A. Village Open Burning Permit:
 - i. Any person or entity shall apply for an Open Burning Permit with the Village Building Department prior to commencing any burning or fire activities. Said permit shall include the date and time that the burning will take place, number of attendees, a safety plan and any other information required by the Village. All Open Burning Permittees shall be required to furnish insurance with the Village named as an additional insured and shall sign an indemnification agreement. All Open Burning Permits shall be reviewed and approved by the Village Building Inspector/Code Enforcement Officer and the Village Fire Chief or their designee(s).

Section 7. Fees; duration of permit.

The fees imposed for each Village burning permit shall be \$25.00, and permits will be issued for a maximum duration of 90 days.

Section 8. Penalties for offenses; enforcement.

- A. Any person found to have violated any of the provisions of this chapter shall be guilty of an offense and shall be subject to a fine of not less than \$100.00, nor more than \$1,500.00, or to a term of imprisonment not to exceed 15 days, or both such fine and imprisonment, for each offense. Each day a violation exists shall constitute a separate offense.
- B. This chapter shall be enforced by the Village Building Department and/or Village Police Department. In addition, Village Police shall enforce this chapter with respect to all parks, preserves, open spaces and other publicly owned land.

Section 9. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the

controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Washingtonville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 10. Repeal.

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 11. Effective Date.

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

(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 Introductory Local Law No. 2 of 2021 of the (County)(City)(Town)(Village) of Washingtonville was duly passed by the Board of Trustees of the Village of Washingtonville on December 22, 2021, in accordance with the applicable provisions of law.

2. ~~(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

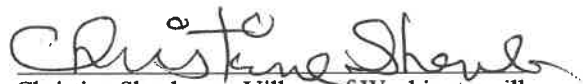
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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.



Christine Shenkman, Village of Washingtonville
Village Clerk

Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal)

Date: December 22, 2021