

Chapter 145. Open Burning

[HISTORY: Adopted by the City Council of the City of Corning 6-4-2018. Amendments noted where applicable.]

§ 145-1. Findings.

The City Council finds that the health, safety, and welfare of the citizens is promoted by the absence of fire in the community. The City Council has recognized that the residents of the City of Corning wish to, from time to time, enjoy outdoor recreational fires on their premises.

§ 145-2. Purpose.

The purpose of this chapter is to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Corning due to the air pollution and fire hazards of open burning, outdoor burning and refuse burning by regulating the conduct of all outdoor fires.

§ 145-3. Statutory authority.

This chapter is made and enacted pursuant to the legislative authority vested in the City Council of the City of Corning by the provisions of General City Law, Municipal Home Rule Law, and the City Charter of the City of Corning, as amended.

§ 145-4. Applicability.

The provisions of this chapter shall apply to all outdoor burning, open burning and refuse burning within the City of Corning. The provisions of this chapter shall apply in addition to the provisions of any other local, state, or federal law or regulation. Where there is a conflict with any applicable law or regulation, the more restrictive provision shall apply. This chapter shall not apply to:

- A. Grilling or cooking using charcoal, propane or natural gas in cooking or grilling appliances provided that it does not become a nuisance.
- B. Burning in a stove, furnace, fireplace or other heating device within a building or an outdoor fireplace constructed in accordance with the New York State Uniform Fire Prevention and Building Code, unless the material being burned includes rubbish, garbage or refuse as defined in § 145-5 of this chapter.
- C. The use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.
- D. Fire training, including firefighting, fire rescue and fire/arson investigation training, performed under applicable rules and guidelines of the NYS Department of State's Office of Fire Prevention and Control.

§ 145-5. Definitions.

Except where specifically defined in this section, all words used in this chapter shall carry their customary meanings. The word "shall" is always mandatory, and the word "may" denotes a use of discretion in making a decision. The following words and phrases used in this chapter shall have the following meanings:

BONFIRE

An outdoor fire utilized for religious, ceremonial, or similar purposes having a total fuel area greater than three feet in diameter and greater than three feet in height. Any open burning that exceeds the provision of this chapter shall be deemed a bonfire.

CITY

The City of Corning, New York.

ENFORCEMENT OFFICIAL

The Chief of the Fire Department, or his/her designee, the Code Enforcement Officer, or his/her designee, the Police Department of the City of Corning.

GARBAGE

All animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including the container in which packaged.

NUISANCE

Suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- A. Unreasonably injures or endangers the comfort, repose, health or safety of others; or
- B. Offends public decency; or
- C. Is offensive to the sense of reasonable persons; or
- D. In any way renders other persons insecure in life or use of property.

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.

PERSON

Includes individuals, firms, partnerships, corporations, and all associations of natural persons, whether acting by themselves or by an agent or employee.

PERSON RESPONSIBLE FOR VIOLATION

Either the person who caused the violation and/or the owner, lessor, tenant, or other person entitled to control, use, and/or occupy property where a violation occurs.

RECREATIONAL OUTDOOR FIRE

A small outdoor fire or open burning on residential property confined to a commercially designed and manufactured freestanding portable outdoor fireplace, or manufactured fire pit.

REFUSE

Solid or liquid waste materials including, but not limited to, rags, furniture, cartons, chemicals, paint, grease, sludges, oils, any petroleum products other than legitimate home heating and cooking products, construction materials including, but not limited to, sheetrock, chip board, asphalt or fiberglass shingles, or treated or painted lumber, automobile parts, rubber, including tires and rubber-like products, dead animals or animal parts, biohazard waste products, metal goods including, but not limited to, refrigerators, stoves and like appliances, diapers, yard grass

clippings, paper and paper products, packaging materials, styrofoam, mattresses, cigarette filters, glass, plastic of any kind and furniture.

RESPONSIBLE PARTY

An individual, age 18 or older, who is not under the influence of drugs or alcohol or suffering from any other disability which would impair his or her ability to properly supervise a fire.

RUBBISH (TRASH) AND DEBRIS

Ordinary household or commercial trash such as, but not limited to, food wastes, paper and paper products, boxes, cardboard, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, tires, lumber, construction debris or waste and any and all tangible personal property no longer intended or in condition for ordinary and customary use.

§ 145-6. General prohibition on open burning, outdoor burning and refuse burning.

Open burning, the use of burn barrels, outdoor fires, rubbish and refuse burning are prohibited in the City of Corning except as specifically permitted by this chapter.

§ 145-7. Prohibited acts.

- A. No person shall kindle or maintain or authorize to be kindled or maintained any bonfire, open burning, or recreational fire except as specifically permitted by this chapter.
- B. The burning of garbage, rubbish, refuse, trash, debris or yard waste is prohibited as defined in § 145-5 of this chapter.
- C. Bonfires shall be prohibited.
- D. Open burning or recreational fires that will be, or become, offensive or objectionable due to smoke or odor emissions, or when atmospheric conditions or local circumstances make such fires hazardous, offensive, objectionable, or unreasonably interferes with the comfortable enjoyment of life or property shall be prohibited.
- E. Open burning is prohibited on commercial or industrial sites or sites with construction activities.
- F. No person shall kindle or maintain any bonfire or rubbish fire or authorize any such fire to be kindled or maintained on or in any public street, alley, road or other public property.
- G. Open burning is prohibited when the Director of Public Safety or his/her designee has duly posted a fire prohibition.
- H. Fires shall not be ignited with oil, gas, petroleum products or any other flammable or combustible liquid, or accelerant, unless using a commercial product for grilling.

§ 145-8. Restricted residential recreational outdoor fires.

Residential recreational outdoor fires shall be allowed, provided that it is not contrary to the provisions of § 145-7 or any state law, rule or regulation, under the following regulations:

- A. Open burning shall be conducted in a safe nuisance-free manner, when weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on surrounding property and roadways. Burning shall be conducted in conformance with all local and state fire protection regulations.

- B. The fire must be constantly attended and supervised by a responsible party until the fire has been completely extinguished.
- C. A means of extinguishing the fire (i.e., water hose, water in container or fire extinguisher) must be readily available. Adequate fire protection shall be on site for extinguishing purposes at all times during burning.
- D. Open burning shall only be in a commercially designed and manufactured freestanding portable outdoor fireplace or manufactured fire pit. Such fireplaces or pits shall have screens, lids, or spark arrestors and shall be constructed of noncombustible materials and put together and used in accordance to the manufacturer's instructions.
- E. Open burning shall only be conducted between the hours of 7:00 a.m. and 11:00 p.m.
- F. Fuel for the fire shall consist only of natural, seasoned, and dry firewood and shall be ignited with a small quantity of paper. Trash, rubbish, treated wood, furniture, scrap building materials, leaves and other similar combustible materials shall not be burned.
- G. Fires shall not be ignited with oil, gas, petroleum product or any other flammable or combustible liquid accelerant.
- H. Open burning shall not be conducted during unfavorable meteorological conditions, including, but not limited to, temperature inversions, high winds, and extremely dry conditions when the smoke may create a nuisance for nearby neighbors.
- I. A safe area of at least 10 feet shall be maintained around the fire and from any structure, building or combustible materials including, but not limited to, houses, garages, sheds, patios, fences, decks, and woodpiles.

§ 145-9. Enforcement.

The Fire Department shall bear primary responsibility for enforcement of the provisions of this article.

- A. The Fire Chief, Police Chief, Code Enforcement Officer and their designees are authorized to enforce the provisions of this chapter.
- B. The Fire Chief, Police Chief, Code Enforcement Officer and their designees are authorized to issue appearance tickets for a violation of this chapter as provided in Chapter 5 of the Code of the City of Corning.

§ 145-10. Right of entry and inspection.

In any situation where any fire utilized or maintained by a person poses an imminent danger to public health, safety, and welfare, the Fire Department, Police Department and Code Enforcement personnel may enter onto the property and inspect any property for the purpose of ascertaining compliance with the provisions of this chapter.

§ 145-11. Extinguishment of fires.

- A. All open burning in violation of this chapter may be summarily extinguished by the Fire Department at the sole discretion of the Fire Chief or his/her designee.
- B. Fires determined to be producing excessive smoke or noxious fumes or otherwise creates a nuisance will be ordered immediately extinguished by the Fire Chief, his/her designee or other enforcement official.

- C. Any person ordered to extinguish a fire by the Fire Chief, his/her designee or other enforcement official, shall immediately extinguish such fire.

§ 145-12. Penalties for offenses.

Those individuals who fail to comply with this chapter will be guilty of a violation, punishable by a fine not to exceed \$250 per violation. For the purposes of this chapter, each occurrence of a violation shall constitute a separate violation.

§ 145-13. Conflicts.

In the event of a conflict between this chapter and any other provision of the City of Corning Code providing for a civil penalty, the more specific or restrictive provision or penalty shall apply.

§ 145-14. Severability.

If any one or more sections, subsections or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect.