

Chapter 54

OPEN BURNING CONTROL LAW

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[History: Adopted by the Town Board of the Town of Hamlin 10-10-2006 as L. L. No. 7-2006]

§ 54-1. Title.

This Chapter shall be known and cited as the “Open Burning Control Law of the Town of Hamlin”.

§ 54-2. Intent and Purpose.

It is the policy of the Town of Hamlin to control open burning consistent with the public health, welfare and comfort of the residents of the Town and with the protection of property and to protect the air resources of the Town of Hamlin from pollution.

§ 54-3. Definitions.

AGRICULTURAL BURNING – Burning of tree trimmings, insect-infested or diseased vegetation, and material cultivated from land-clearing materials consisting of trees, tree trimmings, leaves or brush from on-premises agricultural operations and wood products, when burning is controlled and does not create a nuisance.

AGRICULTURAL OPERATIONS – An operation that includes the land and on-farm buildings, equipment and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

GARBAGE – Animal and vegetable waste resulting from the handling, preparation, cooking and/or serving of food.

NUISANCE – Consists of conduct or omissions which offend, interfere with or cause damage to the public in the exercise of rights common to all such as to offend public morals, interfere with use by the public of a public place, or endanger or injure the property, health, safety or comfort of the public.

OPEN FIRE and/or OPEN BURNING – Any outdoor fire or outdoor smoke-producing process from which air contaminants are emitted directly into the outdoor atmosphere.

PERSON – Any individual, public or private corporation, political subdivision, agency, board, department or bureau of state, municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is recognized by law as the subject of rights and duties.

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

RUBBISH – Solid or liquid waste material, including, but not limited to, paper and paper products; rags, trees or leaves, needles and branches therefrom; vines; lawn and garden debris; furniture; cans, crockery; plastics; cartons; chemicals; paint; grease; sludge; oils and other petroleum products; wood; sawdust; demolition materials; tires; and automobiles and other vehicles and parts for junk, salvage or disposal. “Rubbish” shall not include garbage, incinerator residue, street sweepings, dead animals or offal.

§ 54-4. Open Fires.

- A. No person shall burn any refuse in any open fire except in conformity with the provisions of Section 54-4(B) and (C) hereof.
- B. When not prohibited by other local laws, ordinances or regulations, or other officials having jurisdiction, the following types of open burning are permissible:
 - 1. Fires in outdoor grills and outdoor fireplaces for the purpose of preparing food.
 - 2. Campfires and fires used solely for recreational purposes and when a nuisance is not created. The burning of leaves and lawn and garden debris shall not be considered recreational burning.
 - 3. Burning of solid or liquid fuels or structures, when conducted under the direct control and supervision of qualified instructors and when done for the instruction and training of firefighters.
- C. Agricultural burning is permissible, provided a burning permit has been obtained in advance from the Town Fire Marshal, when burning is controlled and does not create a nuisance.

- D. The Town Fire Marshal shall be consulted for information on local laws and/or other restrictions.

§ 54.5. Enforcement.

- A. For the purposes of this section, the title “Enforcement Officer” shall mean the Town of Hamlin Fire Marshal/Assistant Fire Marshal, the Town of Hamlin Code Enforcement Officer, the Monroe County Sheriff, the Monroe County Board of Health and any other law enforcement agency operating in the Town of Hamlin.

- B. Any Enforcement Officer or Fire Department responding to open burning not permitted above shall request any/all parties to extinguish all items being burned.

In the event they are unable or refuse to do so, the responding Fire Department will extinguish the fire for them.

- C. If any Fire Department encounters resistance while attempting to follow this policy, an Enforcement Officer should be summoned to assist.
- D. Any person who desires to register a complaint under this section may do so with any appropriate Enforcement Officer.
- E. The decision of any Enforcement Officer shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
- F. The Enforcement Officer, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided by this local law.

§ 54-6. Penalties for Offenses.

- A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation by this policy to fail to comply with any of its provisions.
- B. Any person who violates any provision of this article shall be guilty of a violation, punishable by a civil penalty not to exceed \$1,000.

