

Chapter 68

BURNING PERMITS AND OUTDOOR FIREPLACES

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[HISTORY: Adopted by the Town Board of the Town of Patterson 7-23-2003 by L.L. No. 5-2003. (readopted 4-13-2005 by L.L. No.9-2005); Adopted 10-25-2006 by L.L. No. 9-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Dumps and dumping - See Ch. 79.
Garbage, rubbish and refuse - See Ch. 97

Findings; Definitions; Burning Regulated

§ 68-1. Findings.

The Town Board of the Town of Patterson finds that excessive smoke, smell, airborne sparks or embers from planned outdoor fires may cause a public nuisance by creating negative health effects on neighboring residents, increasing fire exposure hazards, infringing the enjoyment of the use of neighboring properties and generating false fire alarms thus potentially diverting public resources from real emergencies.

§ 68-2. Definitions.

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

CAMPFIRE - Any exposed fire that is built outdoors and is typically contained by a pit or a circle of stone.

CONSTRUCTION AND DEMOLITION DEBRIS - Waste resulting from the construction, remodeling, repair and demolition of structures, road building and land clearing. Such waste includes but is not limited to bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material and tree and brush stumps. "Construction and demolition debris" shall not be construed to include garden and yard waste.

OPEN BURNING - Any outdoor fire or smoke producing process from which air contaminants are emitted to the open atmosphere, including burning in a 55-gallon metal container, but excluding outdoor fireplaces, the operation of welding or similar equipment, road flares, smudgepots and similar devices associated with safety. Any burned debris that continues to emit smoke is considered an active fire.

OUTDOOR FIREPLACE - A non-combustible enclosed container using solid, natural gas or propane fuels, to hold a small fire for religious purposes, or decorative purposes, or for the preparation of food by heat, including but not limited to, a barbeque grill, barbeque pit or chimney.

§ 68-3. Burning Regulated.

No person shall conduct open burning or use an outdoor fireplace within the Town of Patterson except as may be provided in this Chapter.

§ 68-4. Permit required.

- A. No person, firm or corporation shall burn wood, tree branches, sticks, brush or leaves within the Town of Patterson without first obtaining a burning permit from the Town Clerk or an Authorized deputy thereof, which if issued shall be limited to the burning of wood, tree branches, sticks, brush and leaves only.
- B. Any resident, landowner, or contractor for hire within the Town of Patterson must have the permit in their possession, and be present on the site when conducting a burn pursuant to the Permit.

§ 68-5. Application for permit.

Application for a burning permit shall be made to the Town Clerk on forms provided by the Town Clerk and shall contain the following written information:

- A. The full name and address of the owner of the property and the applicant and the names and addresses of their responsible officers, if any of them are corporations.
- B. A brief description of the items of materials to be burned and the amount of same.
- C. The exact location of the fire.
- D. The emergency method of extinguishing the fire.
- E. The date(s) when burning will take place.
- F. The signature of the applicant.
- G. A statement that the burning will be performed in compliance with the rules and regulations as enacted, and as amended from time to time, by the New York State Department of Environmental Conservation for burning permits, and in compliance with this Chapter and all other applicable state and local laws and regulations.

§ 68-6. Issuance of burning permits.

- A. The Town Clerk or his or her authorized deputy shall examine or cause to be examined all applications for permits and documents filed therewith. The Town Clerk shall, in writing, approve, or reject the application within a reasonable time.
- B. Upon approval of the application the Town Clerk shall issue or cause to be issued a burning permit to the applicant upon the appropriate forms and shall affix his or her signature thereto. The authority conferred by such permit may be limited by conditions, if any, contained therein.

§ 68-7. Duration of permit.

A burning permit issued pursuant to this chapter shall only confer the authority to burn on the date(s) stated in the application for said burning permit, however no permit shall be issued for a period of more than thirty (30) days.

§ 68-8. Revocation of burning permit.

A. A burning permit issued pursuant to this chapter may be suspended or revoked if it is determined that the burning that is taking place on the property is not proceeding in conformance with the regulations established by the New York State Department of Environmental Conservation for burning permits and other applicable state and local laws and regulations, this chapter or any condition attached to such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.

§ 68-9. Restrictions.

A. Each person, firm or corporation who or which receives a burning permit shall comply with the regulations established by this Chapter, or those established by the New York State Department of Environmental Conservation for burning permits and other applicable state and local laws and regulations.

B. Burning shall only be conducted from 6:00 a.m. to 6:00 p.m. Monday through Saturday only. No person, firm or corporation that has been issued a burning permit shall burn within the Town of Patterson on Sundays, nor on the following legal holiday including New Years Day, Dr. Martin Luther King Jr. Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day and Christmas Day. A permittee shall stop adding additional material to the burn pile at 3:00 p.m. to allow the fire to burn down completely by 6:00 p.m.

C. No person shall start or maintain a fire within the principal building setback area for the district in which the property is located. Further, no person shall start or maintain a fire within fifty (50) feet of any principal building on the property in which the fire is started or maintained, or within fifty (50) feet of any principal building on any adjoining property.

D. No permit shall be issued for, nor shall any property owner, resident, or contractor for hire be permitted to burn, any paper products, rubber, plastic, paints, varnishes, metals, oil, oil by-products construction and demolition debris, logs, tree stumps, rubbish, household waste or other materials not included in Subsection D, below. Materials permitted to be burned shall further be limited to those materials listed below in accordance with Title 6 of the New York Codes Rules and Regulations Part 190.1 or the New York State Environmental Conservation Law.

E. Materials permitted to be burned, pursuant to a duly issued permit shall include brush, tree limbs less than eight inches in diameter, dry leaves, dry grass, dry shrubbery or plants and clean,

untreated scraps of lumber. Untreated lumber is lumber that has not been treated with chemicals, preservatives, paints or varnishes of any kind.

F. Piles of burning material shall be of an appropriate size that can be properly managed at all times. Only one pile of burnable material may be ignited, sustained or burned at any one time per each residential property. Burning of more than one pile at the same time is not allowed under this permit.

G. The Permittee must be in attendance of the permitted fire at all times. No fire will be left unattended until it is completely extinguished.

H. A permitted fire is allowed only when prevailing winds are light and the transmission of smoke is away from populated areas. The Permittee must immediately and completely extinguish the fire if prevailing winds change in direction, or increase in intensity, to a point that jeopardizes control of the fire or directs smoke to the surrounding population.

I. The Permittee will have sufficient means to control or extinguish the fire at all times. A working garden hose, buckets of water with brooms and hand tools such as shovels, rakes and hoes or heavy equipment are considered necessary control measures at the site of any open burn.

J. Materials to be burned will be isolated to prevent the fire from escaping from the pile of material to be burned. All flammable material shall be cleared away from the edge of the burn pile a minimum of five feet from the base of the fire. The pile of material to be burned shall be kept small enough to maintain control at all times.

K. The Permittee shall be liable for any damage to property of another, or injury to a person resulting from fires ignited by them, or smoke generated by any fire ignited or sustained by the Permittee. Should it become necessary for the Town to extinguish any fire started, maintained or caused by the Permittee, the Permittee may be held civilly and/or criminally liable for any suppression costs and of any and all damages resulting therefrom.

L. Any permit issued pursuant to this Chapter shall be considered suspended during any stage of an air pollution episode or period of high fire danger as announced by the New York State Department of Environmental Conservation and applicable to Putnam County, and shall remain suspended until such time as the condition no longer exists as announced by said Department.

§ 68-10. Fees.

The fee for the issuance of a burning permit shall be set from time to time by resolution of the Town Board and shall be included in the Schedule of Fees.

Article IV **Outdoor Fireplaces and Campfires.**

§ 68-11. Limitations on Use.

- A. No Outdoor Fireplace or campfires shall be operated in a manner inconsistent with the requirements of this Article or of the New York State Fire Code, or in a manner inconsistent with any other applicable state and local laws and regulations.
- B. The use of any outdoor patio stoves, outdoor fire places, outdoor grills, chimneys, campfires, or factory built metal novelty stoves shall be permitted on property used for residential purposes in any zoning district without the necessity of a permit, provided that they shall be operated in a manner consistent with the requirements contained herein.
- C. This Article shall not apply to not-for profit organizations conducting a charitable event or Commercial barbeques that have obtained all necessary legal permits and approvals.

§ 68-12. General Requirements.

- A. Open Burning, Outdoor Fireplaces or campfires shall be operated only outside of any structure, and shall meet all of the setback requirements of the New York State Fire Code.
- B. Open Burning, Outdoor Fireplaces or campfires shall not be used for the burning of any material which may produce an offensive or toxic odor or smoke including but not limited to household trash, books magazines, drywall, plastic products, insulation material, upholstered furniture, garbage, dead animals, human and animal excrement, human and animal hair, rubber products including tires, hydrocarbon products or flammable liquids, asphalt or tar shingles or roofing materials, bedding, foam rubber, nylon, rayon, cotton, wool, polyester or other synthetic material, insulation from copper or other wiring, solid waste and/or construction waste.
- C. Open Burning, Outdoor Fireplaces or campfires are strictly prohibited when such open burning will be offensive or objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous.
- D. A fire extinguisher with a minimum 4-A rating shall be readily available and easily accessible at all times during open burning.
- E. Any outdoor fireplace, campfire or open air burning while in operation shall be constantly attended by a person who is knowledgeable in the use of the fire-extinguishing equipment referred to in Section 68-12(D) hereof.

Article V
Enforcement and Penalties

§ 68-13. Enforcement.

A. The provisions of this Chapter may be enforced by the Codes Enforcement Officer, or any deputy thereto, the Fire Inspector and the Code Compliance Officer (hereinafter referred to as the "Enforcement Official").

1. The Enforcement Official may suspend the operation of any open burning or outdoor fireplace (i) if smoke, ash, or smell omitting from open burning or an outdoor fireplace becomes objectionable or offensive to neighboring properties, or (ii) if the Enforcement Official determines the open burning or outdoor fireplace constitutes a hazardous condition.

2. A Permittee's right to burn may be suspended or revoked for violations of permit conditions.

B. Subsection A shall not prohibit any Department of Environmental Conservation Forest Ranger or Environmental Conservation Officer from acting pursuant to his or her special duties with regard to any violation which may also be deemed a violation of this Chapter. When an above mentioned Officer has extinguished an open burn or ordered the Permittee to extinguish an open burn, no further open burning is authorized by this Permit for the next 48 hours.

§ 68-14. Penalties for offenses.

Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, which violates any of the provisions of this chapter or permits any such violation or fails to comply with any of the requirements thereof shall be guilty of a violation, punishable by a fine not exceeding two hundred fifty dollars or imprisonment for a period not to exceed 15 days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars not more than one thousand dollars or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof shall be deemed misdemeanors. Each day's continued violation shall constitute a separate additional violation.