

ORDINANCE NO. 738
AS AMENDED BY
ORDINANCE NO: 1108

AN ORDINANCE OF THE BOROUGH OF UNION CITY, ERIE COUNTY, PENNSYLVANIA FOR THE PREVENTION AND CONTROL OF AIR POLLUTION; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR ENFORCEMENT, EXCEPTIONS, AND PROVIDING PENALTIES FOR VIOLATIONS.

SECTION I. TITLE

This ordinance shall be known and may be cited as the Union City Air Pollution Control Ordinance of 1968.

SECTION II. POLICY

Whereas the Council of The Borough of Union City has determined that air pollution from an open fire may be detrimental to the health, comfort; living conditions, welfare and safety of the citizens of the Borough of Union City, it is hereby declared to be the policy of the Borough of Union City to safeguard the citizens of the Borough of Union City from such air pollution.

SECTION III. DEFINITIONS

The following words, terms and phrases, when used in this ordinance, unless the context clearly indicates otherwise, shall have the following meanings ascribed to them:

- (1) PERSON - Any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency or other entity recognized by law as the subject of rights and duties.
- (2) COUNCIL - Borough Council
- (3) GARBAGE - All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.
- (4) RUBBISH - All solids not considered to be highly flammable or explosive including but not limited to rags, old clothes, leather, rubber, carpets, wood (other than clean wood), excelsior, paper, ashes, tree branches, tree leaves, yard trimmings, furniture, tin cans, glass, crockery, masonry and other similar materials. (Amended by Ord. No. 1108; Enacted May 2, 2017).
- (5) TRADE WASTE - All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade, or industry, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials, provided however that trade waste shall not include any coal refuse associated with the mining or preparation of coal.
- (6) REFUSE - Garbage, rubbish, and trade waste.
- (7) SALVAGE OPERATION - Any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including, but not limited to, metals, chemicals, shipping containers or drums.
- (8) OPEN FIRE - A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.
- (9) FURNACE - Any enclosed device specifically designed for the burning of any materials for the production of heat.
- (10) INCINERATOR - Any device specifically designed for the destruction by burning of refuse, sewage sludge or any other combustible material.
- (11) CLEAN WOOD – means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products; wood in its most natural state (Amended by Ord. No. 1108; Enacted May 2, 2017)
- (12) RECREATIONAL FIRE – burning of clean wood (burning of refuse not permitted) where the fuel area is not greater than (3) feet in diameter and (2) feet or less

in height for pleasure, religious, ceremonial, cooking, or other similar purposes. (Amended by Ord. No. 1108; Enacted May 2, 2017).

SECTION IV. ENFORCEMENT

The Borough of Union City chief of police, fire chief, or any other duly authorized agent shall have the power and duty to enforce the provisions of this ordinance.

Upon receiving a complaint or information of a fire, the Police Department will investigate the complaint or information, and, upon finding a probable cause to believe that any person(s) is in violation of the Ordinance, issue or cause to be issued to such person(s), a written warning which shall notify such person(s) of the violation to prevent future violations of this ordinance. (Amended by Ord. No. 1108; Enacted May 2, 2017)

The Police Department shall maintain a record of all warnings served and upon receiving a second complaint or information alleging a violation of this Ordinance, investigate the alleged violation. Upon a finding of probable cause to believe any person(s) in accordance with the Pennsylvania Rules of Criminal Procedure. (Amended by Ord. No. 1108; Enacted May 2, 2017)

SECTION V. REGULATIONS

After September 7, 1958 no person shall:

- (1) Ignite or feed an open fire for the destruction of refuse or in the conduct of a salvage operation in any public or private place outside of any building, or
- (2) Cause, suffer, allow or Permit the maintenance of any open fire for the destruction of refuse or in the conduct of a salvage operation on any Property under his control outside of any building.

Exceptions:

- (1) Open fires may be set in the performance of an official duty of any public officer if the fire is necessary for:
 - (a) The prevention of a fire hazard which cannot be abated by other means.
 - (b) The protection of public health.

(Amended by Ord. No. 1108; Enacted May 2, 2017).

(2) Open fires may be set with the approval of the authorized enforcement agent of this ordinance provided:

- (a) Rubbish only is burned, and
- (b) There is no practical available alternate method for the disposal of the material to be burned, and
- (c) No hazardous or other objectionable condition will be created by such burning; and
- (d) A permit is applied for and approved.

(Amended by Ord. No. 1108; Enacted May 2, 2017).

RECREATIONAL FIRES

Location: Recreational Fires shall not be conducted within twenty-five (25) feet of a structure or combustible material unless contained in a pit.

Conditions which could cause a fire to spread within twenty-five (25) feet of

a structure shall be eliminated prior to ignition. (Amended by Ord. No. 1108; Enacted May 2, 2017).

Fire Extinguishing Equipment: Buckets, shovels, garden hose or a fire extinguisher with a minimum 4-A rating shall be readily available for use at recreational fires as may be necessary for the total control of the fire. (Amended by Ord. No. 1108; Enacted May 2, 2017).

Attendance: Open burning shall be constantly attended and supervised by a competent person of at least sixteen (16) years of age until the fire is extinguished and cold. (Amended by Ord. No. 1108; Enacted May 2, 2017).

Discontinuance: The Borough of Union City Police Officer, Fire Chief, or any other duly authorized agent is authorized to require that any fire be immediately discontinued if such fires are determined to constitute a hazardous condition or are in noncompliance with this Ordinance. (Amended by Ord. No. 1108; Enacted May 2, 2017).

SECTION VI. PENALTIES

Any person violating any of the provisions of this ordinance shall upon the conviction thereof by any justice of the peace, alderman or magistrate be sentenced to pay a fine of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, together with the costs, for the first violation and not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, together with the costs, for the second and subsequent violations. Each day a violation exists shall constitute a separate offense. In default in the payment of any fine, the defendant shall be sentenced to jail for a period not exceeding thirty (30) days.

SECTION VII. REPEALER

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

SECTION VIII. VALIDITY

The provisions of this ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining section, clauses, sentences, part or provisions of this ordinance. It is hereby declared to be the intent of the Council that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provisions had not been included herein.

SECTION IX. EFFECTIVE DATE

This Ordinance shall become immediately effective upon approval of the Mayor.

SECRETARY'S CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 738 enacted by the Borough Council of the Borough of Union City on August 12, 1968, as amended by Ordinance No. 1108 enacted by the Borough Council of the Borough of Union City on May 2, 2017.

Borough Secretary