

**UNION CITY BOROUGH  
ERIE COUNTY, PENNSYLVANIA  
ORDINANCE NO. 1124**

AN ORDINANCE OF THE BOROUGH OF UNION CITY, COUNTY OF ERIE, COMMONWEALTH OF PENNSYLVANIA, TO BE KNOWN AS THE DISPLAY FIREWORKS ORDINANCE; PROVIDING FOR DEFINITIONS; ESTABLISHING PERMIT AND BOND PROCEDURES, A PROCEDURE TO REQUEST AN EXTENSION, A PERMIT APPLICATION PROCEDURE, FIRE AND EMERGENCY MEDICAL PERSONNEL REQUIREMENTS, PERMIT LIMITATIONS, A PERMIT FEE, INSURANCE REQUIREMENTS, AND REASONS FOR THE DENIAL OR REVOCATION OF A PERMIT; PROVIDING FOR PENALTIES FOR THE VIOLATION OF THE ORDINANCE, AND AN APPEAL PROCESS, PROVIDING FOR A REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

**WHEREAS**, The Commonwealth of Pennsylvania adopted Act 43 of 2017 which regulates the sale and use of fireworks within the Commonwealth of Pennsylvania; and

**WHEREAS**, the Borough of Union City (the "Borough") Borough Council desires to adopt a Display Fireworks Ordinance that is compliant with Act 43 of 2017 to regulate use of Display Fireworks within the Borough; and

**WHEREAS**, the Borough has the power and duty to enact ordinances to promote the health, safety, and general welfare of Borough residents and visitors.

**NOW THEREFORE**, this 12th day of March 2019, **BE IT ORDAINED AND ENACTED** by the Borough Council of the Union City Borough, Erie County, Pennsylvania, the following:

**Section 1. Recitals.**

That the abovementioned recitals are incorporated herein as if more fully set forth.

**Section 2. Definitions.**

1. CONSUMER FIREWORKS.

(a) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) and complies with the provisions for "consumer fireworks" as

defined in APA 87-1, the sale, possession and use of which shall be permitted throughout this Commonwealth.

(b) The term does not include devices as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

2. **DISPLAY FIREWORKS.** Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to: (1) salutes that contain more than two grains or 130 milligrams of explosive materials; (2) aerial shells containing more than 60 grams of pyrotechnic compositions; and (3) other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

3. FIRE CHIEF

The Fire Chief of the Union City Volunteer Fire Department.

**Section 3. Permit and Bond Required.**

1. Display fireworks may be possessed and used by a person holding a permit from the Borough at the Display covered by the permit or when used as authorized by a permit for any of the following:

(a) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

(b) By railroads or other transportation agencies for signal purposes or illumination.

(c) In quarrying or for blasting or other industrial use.

(d) In the sale or use of blank cartridges for a show or theater.

(e) For signal or ceremonial purposes in athletics or sports.

(f) By military organizations or organizations composed of veterans of the armed forces of the United States.

2. Age limitation. A display fireworks permit may not be issued to a person under 21 years of age.

3. Bond. The permittee shall, as a condition of application for a permit issued pursuant to this Part, submit to the Borough Secretary a bond in an amount not less than \$50,000 conditioned for the payment of all damages which may be caused to a person or property by

reason of the Display and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee.

#### **Section 4. Request for Extension.**

1. Authorization. If, because of unfavorable weather, the Display for which a permit has been granted does not occur at the time authorized by the Permit, the person to whom the Permit was issued may within 24 hours apply for a request for extension to the Borough Secretary.

2. Contents of Request. The request for extension shall state under oath that the Display was not made, provide the reason that the Display was not made and request a continuance of the permit for a date designated within the request, which shall be not later than one week after the date originally designated in the permit.

3. Determination. Upon receiving the request for extension, the Borough Secretary, if he or she believes that the facts stated within the request are true, shall extend the provisions of the permit to the date designated within the request, which shall be not later than one week after the date originally designated in the permit.

4. Conditions. The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of the Display occurring at the extended date and in the same manner and to the same extent as if the Display had occurred at the date originally designated in the permit.

#### **Section 5. Permit Application.**

1. A person seeking issuance of a Display Fireworks Permit shall file an application with the Borough Secretary, or designee, on a form provided by the Borough.

2. An application for a Display Fireworks Permit shall be filed with the Borough Secretary, or designee, no less than twenty-eight (28) days in advance of the proposed event date. Where good cause is shown, the Borough Secretary, or designee, shall have the authority to consider any application hereunder and/or any revision to a previously submitted application which is filed less than twenty-eight (28) days in advance of the proposed Display date.

3. The following information shall be included on a Display Fireworks Permit application:

(a) Name, address, and telephone number of the person seeking to conduct such Display and requesting the Display Fireworks Permit.

(b) If the Display is proposed to be conducted for, on behalf of or by any organization, the name, address, and telephone number of the headquarters of the organization and the names of the individuals responsible for the organization.

(c) The date when the Display is to be conducted and the hours when such Display will start and terminate.

(d) A list of all vendors who will be present at and/or participate in the Display.

(e) A Certificate of Insurance, naming the Borough as an additional insured.

(f) The name, address and any certifications of the operator who will be conducting the Display.

(g) Any additional information which the Borough Secretary shall find reasonably necessary in order to make a fair determination as to whether a Display Fireworks Permit should be issued.

4. The Display Fireworks Permit application shall be submitted to the Borough Secretary, or his designee, who, after reviewing the application for completeness, shall submit it to the Fire Chief. The Fire Chief shall review the application and any other information he may require and make a determination as to whether the Display is of a character and is to be so located, discharged or fired, so as to not be hazardous to property or endanger any person.

#### **Section 5. Fire Personnel and Emergency Medical Personnel.**

The Display Operator shall separately contract with the Union City Volunteer Fire Department to ensure that proper emergency medical and fire personnel are in attendance at the Display for the purpose of providing aid as may be needed. The Display is to be conducted under the supervision of the Fire Chief, or his designee, who may require, at any time, and based on his or her sole opinion, that the Display not occur if it is determined that the discharge or fire any Display Firework would be hazardous to property or endanger any person.

#### **Section 6. Limitations on Permit.**

No Display Fireworks Permit issued hereunder shall authorize or excuse any breach of the law or any trespass upon the rights of the citizens of the Borough or render the Borough liable whatsoever for any damage committed and/or caused by any organization in receipt of a Display Fireworks Permit.

#### **Section 7. Permit Fee.**

The Borough Council shall have the express authority to pass a Resolution which shall set the fee for issuance of a Display Fireworks Permit. The Borough Council shall have the express authority and sole discretion to waive said fee for any events that are held for a charitable purpose.

#### **Section 8. Insurance.**

Each person filing an application for a Display Fireworks Permit shall provide the Borough with a Certificate of Insurance, from an insurance company authorized to do business in the

Commonwealth of Pennsylvania, evidencing that said person maintains insurance for personal injury claims, including accidental death, as well as claims for property damages which may arise from the conduct of the Display. The Certificate of Insurance shall name the Borough as an additional insured. The minimum coverage of such insurance required for each Display Fireworks Permit shall be determined by the Borough Secretary, or designee, on a case-by-case basis.

**Section 9. Denial or Revocation of Permit.**

1. The Borough Secretary shall have the authority to deny the issuance of a Display Fireworks Permit for any of the following reasons:

- (a) The application for Display Fireworks Permit is not fully completed and executed.
- (b) The applicant has not tendered the required Certificate of Insurance or the required Bond.
- (c) The application for Display Fireworks Permit contains a confirmed material falsehood or representation.
- (d) The applicant is legally unable to contract or to sue or be sued.
- (e) The applicant or the person on whose behalf the application for Display Fireworks Permit was made has on prior occasions damaged property of the Borough or has outstanding and unpaid debts to the Borough.
- (f) The proposed Display would conflict with previously planned programs organized and conducted by the Borough and previously scheduled for the same time and location.
- (g) The proposed Display would present an unreasonable danger to the health or safety of the citizens of the Borough.
- (h) The proposed Display is prohibited by law.

2. If a Display Fireworks Permit is denied, the denial shall clearly explain the reason for the denial and any steps necessary to remediate a future application.

3. The Fire Chief or designee, shall have the authority to withdraw permission to conduct any Display if they feel that, due to severe adverse weather and/or other conditions, the event would be unsafe for the citizens of the Borough.

1. The Borough Secretary, or Fire Chief, or their respective designees, may, at any time, revoke any Display Fireworks Permit if there has been a breach of any of the terms and conditions under which the Display Fireworks Permit was issued or a violation of the provisions of this Part has occurred. Said revocation shall become effective upon giving of a Notice of Revocation, in writing, to the person to whom the permit was issued. Said

Notice of Revocation shall clearly state the reasoning for the revocation and the necessary steps, if any, that must be taken to correct the Notice of Revocation. The Borough Secretary, or the Fire Chief, or their respective designees, may rescind a revocation and reinstate a Display Fireworks Permit at any time.

**Section 10. Violations and Penalties.**

Any violations of this Ordinance may result in action being brought before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The fine for such violations shall not be less than \$100.00 nor more than \$1,000 for each violation. A separate offense shall arise for each day in which a violation is found to exist. Any person found guilty of violating this Ordinance shall be assessed court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings brought in accordance with this Ordinance.

**Section 11. Appeal from Denial or Revocation of Permit.**

Any applicant for a Display Fireworks Permit or renewal, who is aggrieved by the denial, refusal or revocation of a permit, may submit a written appeal to the Borough Council of the Borough of Union City within five (5) days from the date of the denial, refusal or revocation. After a reasonable opportunity for the appellant and the Borough to be heard, the Borough Council shall consider such appeal at the next regularly scheduled meeting of the Borough Council.

**Section 12. Repealer.**

Any ordinances, rules of resolutions, or parts or ordinances, rules or resolutions, in conflict herewith shall be, and the same are hereby repealed.

**Section 13. Severability.**

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Borough Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

**Section 14. Repealer.**

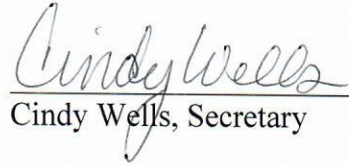
All ordinances, rules, or regulations, or parts of ordinances, rules or resolutions in conflict herewith and the same are hereby repealed in their entirety.

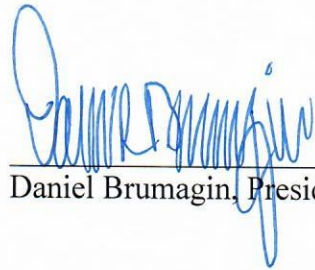
**Section 15. Effective Date.**

This Ordinance shall be effective upon approval by the Mayor and all calendar years thereafter unless repealed or modified by Ordinance of the Borough Council.

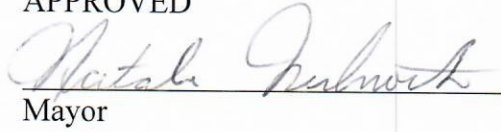
**DULY ORDAINED AND ENACTED** this 12th day of March 2019, by the Borough Council of the Borough of Union City, Erie County, Pennsylvania, in lawful session duly assembled.

ATTEST:

  
Cindy Wells, Secretary

  
Daniel Brumagin, President.

APPROVED

  
Mayor

I certify that the above is a true copy of the Borough of Union City, Erie County, Pennsylvania, Ordinance No.1124 adopted by the Union City Borough Council on March 12, 2019 and advertised in the Corry Journal on February 25, 2019.

  
Union City Borough Secretary

# 2025474.v1

