

Ordinance #01-2015

AN ORDINANCE OF THE BOROUGH OF ALBION  
ERIE COUNTY, PENNSYLVANIA

An ordinance of the Borough of Albion, in the County of Erie, Commonwealth of Pennsylvania amending Chapter 7 of the Code of Ordinances of the Borough of Albion, codifying burning restrictions.

BE IT RESOLVED by the Borough Counsel of Borough of Albion, in the County of Erie, Commonwealth of Pennsylvania that the provisions of Chapter 7 of the Code of Ordinances of the Borough of Albion are revoked and replaced with the following provisions, to wit:

**7-101. Definitions**

As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

**FLUE-** Any duct, pipe, stack, chimney or conduit which conducts air contaminants into the open air.

**GARBAGE-** All putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**PERSON-** Any individual, natural person, syndicate, association, partnership, firm, corporation, institution, agency, authority, department, bureau or other instrumentality of federal, state, local government or other entity recognized by law as the subject of rights and duties.

**PROPERTY OWNER-** A person.

**REFUSE-** Garbage, rubbish, and trade waste.

**RUBBISH-** Solids not considered to be highly flammable or explosive including, but not limited to : rags, old clothes, leather, rubber, carpets, wood, excelsior, paper, ashes, furniture, tin cans, glass, crockery, masonry and other similar materials.

**SMALL OPEN FIRE or OPEN FIRE-** The use of a grill, outdoor barbecue, fireplace or similar device to cook food with charcoal or wood; or any other fire from which the properties of combustion are emitted directly into the air without first passing through a structural flue, stack or chimney (except through a small integral flue, chimney or stack built into a freestanding grill or residential chiminea-type device using only such materials as authorized hereunder and otherwise complying with this Ordinance) and conducted in such location, conditions, and in a manner which contribute only a negligible amount of air contaminants.

**SMOLDERING-** Smoldering has the same meaning as burning; and any smoldering shall be deemed a burning.

**TRADE WASTE-** All solid or liquid material or rubbish resulting from construction, building operation or the prosecution of any business, trade or industry including, 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, that "trade waste" shall not include any coal refuse associated with the mining or preparation of coal.

**YARD WASTE-**Leaves, tree trimmings, garden residue and other property vegetative material.

**7-102. Open Burning Restricted.**

- A. From and after the effective date of this Ordinance, no person shall burn any materials of any kind in the Borough, except as authorized by this Ordinance.
- B. A fire set for purpose of burning that amount of yard waste generated from the premises of a structure occupied solely as a dwelling by two families or less, when the fire is on the premises of said structure, shall comply with all sections of this Ordinance. Persons burning such waste shall have a supply of water available through a hose or other extinguisher at the site of such fire, for purposes of extinguishing said fire if it should become necessary.

**7-103. Small Open Fires Authorized.**

- A. Subject to rules, regulations, and limitations contained in this Ordinance, an adult property owner or other adult authorized by the property owner may conduct or allow a small open fire on his or her property, solely for the following purposes:
  - (1) Warmth; and
  - (2) Noncommercial preparation of food for human consumption, light, ornament or recreation.
- B. Burning of small open fires will be permitted from 7:00 a.m. to 7:00 p.m. from Monday through Thursday. Friday, Saturday, and Sunday burning will be permitted from 7:00 a.m. through 2:00 a.m., burning on Memorial Day, Fourth of July, and Labor will be permitted from 7:00 a.m. through 2:00 a.m.

## **7- 104. Rules and Regulations.**

### **A. Permitted receptacles/containers.**

- (1) Open fires. All other small open fires authorized under this Ordinance must be contained within one of the following authorized containments: in a grill, barbecue, fireplace, chiminea, stone perimeter, noncombustible fire ring, or in a fire pit no larger than six (6) feet in diameter.

### **B. Permitted locations.**

- (1) Portable grills/barbecues, with the exception of propane or natural gas burning grills, designed for and used strictly for cooking only shall, while in use, be no less than five (5) feet from a house, a structure, combustible materials, a roadway, a utility, or a property line.
- (2) Permanently constructed (non-portable) outdoor stoves, ovens, grills, barbecues and fireplaces, with the exception of propane or natural gas burning grills, used for cooking only shall be no less than five (5) feet from a house, structure, roadway, property line, utility, tree, or other combustible materials.
- (3) Other small open fires shall be maintained only in an authorized containment which, unless otherwise approved by the Fire Marshall or Fire Chief, shall be located not less than ten (10) feet from the nearest house, structure, roadway, property line, utility, tree, or other combustible materials.

### **C. Permitted and prohibited materials.**

- (1) Permitted materials. All open fires authorized by this Ordinance shall be conducted using only charcoal, natural gas, or other clean burning fuel, dry, clean logs, twigs, or other untreated wood products. Only smokeless fuels, or small kindling, if any, may be used to start a fire.
- (2) Prohibited materials. The use of any material(s) to start or maintain a fire other than those specifically permitted under Subsection C(1) hereof, including but not limited to any of the following materials, is strictly prohibited: no paints; painted or chemically treated woods; railroad ties; telephone poles; plastic; cardboard boxes; paper or paper products; garbage, or any other household or residential wastes; construction waste or demolition/salvage debris; commercial or industrial materials or waste; oil, grease, gasoline, asphalt product, or any other petroleum products; rubber; tires; tar or tar paper; dead animals; animal or human waste; pathogenic waste; insulated wire; or toxic or noxious materials.

- D. **Maximum size.** In all cases, the fire shall be of such size that the combustible material and flame are contained completely within the perimeter of the authorized containment receptacle.



- E. **No excessive smoke, Odors or Malodorous Emissions.** No persons shall allow or maintain a fire which creates excessive smoke, excessive odor, or malodorous emissions. Smoke and odors shall be considered excessive if they contribute more than a negligible amount of air contaminants perceptible beyond the property line of the source of the fire.
- F. **Adult Supervision, Control, and Extinguishment.** Only an adult property owner or other adult authorized by the property owner shall authorize or conduct a small open fire. The adult property owner or other adult authorized by the property owner to conduct such a fire shall at all times be present at and shall tend to the fire from the time it is lit through the time of total extinguishment. Adequate means to control and extinguish the open fire shall be readily available at all times during any burning. Suitable covering or means of disposal of ashes shall be provided to prevent them from becoming airborne. The adult property owner or other authorized person supervising the fire shall be responsible to assure that all aspects of the fire comply with this Ordinance and shall assure that the fire is completely extinguished before that person leaves the site. Immediately upon the discovery of any unauthorized or noncompliant fire or burning, the property owner or other person responsible for the property on which such burning occurs shall immediately extinguish, or cause the extinguishment of, such burning. Proof that the defendant in any enforcement action owns or controls the property on which open burning occurs shall be prima facie evidence that such person has conducted, or allowed to be conducted, such open burning.

**7-105. Order to Extinguish, Abate or Correct.**

A police officer, or other duly authorized law or code enforcement officer of the Borough of Albion, may, upon investigation, order that any fire be immediately extinguished, abated, diminished, or corrected (in his or her sole discretion) if, in the officer's sole judgment, the fire:

- A. Is emitting excessive smoke, excessive odor, or malodorous emissions;
- B. Contains prohibited materials or is using a prohibited or inadequate containment device or mechanism;
- C. Is in a prohibited location or of a prohibited size;
- D. Is emitting sparks or hot ashes that may pose a threat to nearby structures, trees, other combustible materials, or to the safety of persons or property;
- E. Where its size, materials, containment, location, emissions, proximity to structure, tree, other combustible materials, conduct of participants, weather conditions (including but not limited to wind, drought, dry or other conditions) or air quality, or other circumstances, are such that continuation of the fire poses a risk of harm to persons or property, or a public attractive nuisance;
- F. Where a complaint of noise has been made.

#### **7-106. Prohibited Acts.**

- A. No person, firm or corporation shall permit, authorize, conduct, or participate in the burning of any open fire except in compliance with this Ordinance.
- B. No person, firm or corporation shall refuse to comply immediately and fully with any order of an Albion Borough police officer, or other duly authorized law enforcement officer or code official, to contain, control, correct, or extinguish any fire or burning due to drought or burning ban during such period.

#### **7-107. Burning of Rubbish, Refuse or Other Waste Materials.**

It shall be unlawful to burn or cause to be burned any rubbish, refuse, or other waste materials in the Borough; unlawful to burn or cause to be burned any rubbish, refuse or other waster material, upon any private property, including private roadways or drives at any time in the Borough.

#### **133-8. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than the greater of \$25-\$1,000 or the maximum amount per offense permitted under law, plus costs, and, in default of payment of said provision of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each violation of any provision of this Ordinance shall constitute a separate offense. In addition, in any civil enforcement action brought by the Borough to collect unpaid fines or penalties imposed pursuant to this Ordinance, the Borough shall also be entitled to collect all costs, expenses, and attorneys' fees associated with such action. Residents will be given a one-time warning.

#### **7-109. Effective Date.**

This Ordinance shall take effect March 19, 2015