

**CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE 2021-10

**AN ORDINANCE IN FURTHERANCE OF THE PREVENTION OF DISTURBANCES
AND DANGERS RESULTING FROM THE USE OF PYROTECHNICS WITHIN THE
CITY OF UNION CITY**

WHEREAS, in 2020, Union City received an overwhelming amount of noise complaints, and other quality of life and safety complaints arising from the use of pyrotechnics both lawful and unlawful within the City at all hours of the day and night often in a manner that would cause annoyance, alarm and injury to persons and the dangers of fires and explosions to property and obstruction of the public rights of way; and

WHEREAS, pursuant to N.J.S.A. 40:48-1, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, to preserve the public peace and order and disorderly assemblages and prevent disturbing noises and the annoyance of persons in the public streets and protect property from fires, explosions or other dangers; and

WHEREAS, the dangers, disturbances and annoyances that may arise due to the improper and/or illegal denotation of pyrotechnic devices, both legal and illegal, within the City is made all the more acute as the City is the most densely populated city in the United States; and

WHEREAS, furthermore, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, pursuant to N.J.S.A. 40:61-1 a municipality may by ordinance make and enforce rules and regulations for the government, use and policing of all such public parks, open spaces, playgrounds, beaches, water fronts and places for public resort and recreation and to provide penalties for violations thereof; and

WHEREAS, the City of Union City ("City") is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, the Board of Commissioners has determined that it must act to preserve the public peace and order and prevent disturbing noises and the annoyance of persons in the public streets and parks and protect property from fires, explosions or other dangers in the manner set forth in this Ordinance; and

WHEREAS, the Board of Commissioners has determined that the regulations set forth in this Ordinance comply with the provisions of N.J.S.A. 21:3-2, in that they are not intended to

regulate the sale or use of sparkling devices and novelties, but are instead intended to prevent the improper use thereof, and prevent disturbing noises, and the annoyance of persons in the public streets and parks, protects persons from injuries, and protect property from fires, explosions or other dangers in the manner set forth in this Ordinance, powers that necessarily remain reserved to municipalities under N.J.S.A. 21:3-2;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey that the Code of the City of Union City is hereby amended and revised as follows:

SECTION ONE

The following are hereby declared to be examples of loud, disturbing and unnecessary noise in violation of Chapter 296 entitled "Noise and Order"

Fireworks and sparkling devices and novelties as defined in N.J.S.A. 21:2-2 The sound caused or resulting from any firework or sparking device or novelty as defined in N.J.S.A. 21:2-2: (a) between the hours of 8:00 p.m. and 10:00 a.m. that may annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity; or (b) at any other time or place, which annoys or disturbs the quiet, comfort or repose of persons in any office, dwelling, hotel, motel or other type of residence or of any persons in the vicinity.

SECTION TWO

The following subparagraph shall be added to § 366-5 of the Code of the City of Union City entitled "Obstruction Prohibited":

- C. At no time may any person obstruct any public sidewalk, alley, street, avenue, boulevard, road, or other right of way within the City for the purpose of utilizing any fireworks and/or sparkling devices and novelties as defined in N.J.S.A. 21:2-2 thereupon.

SECTION THREE

The following subparagraph shall be added to § 290-2 of the Code of the City of Union City entitled "Proper Conduct":

- O. Utilize sparkling devices and novelties as defined in N.J.S.A. 21:2-2 et seq.

SECTION FOUR

The following language of Chapter 171 entitled "Fire Prevention" Article III entitled "Fire Restrictions" shall be amended to read as follows:

Definition

Open burning: The burning of any materials wherein products of combustion are emitted directly into the ambient air with-out passing through a stack or chimney from an enclosed chamber. For the purpose of this definition, a chamber shall be regarded as enclosed, when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open, and shall include the burning or combustion resulting from or associated with fireworks and sparkling devices and novelties as defined in N.J.S.A. 21:2-2.

Open Burning Prohibited.

It shall be unlawful for a person or entity to make, continue or cause to be made or continued any Open Burning at any location throughout the City, except for any Open Burning resulting from sparkling devices and novelties as defined in N.J.S.A. 21:2-2 utilized more than fifty (50) feet from any structure.

SECTION FIVE

The following subparagraph shall be added to § 87-1 of the Code of the City of Union City entitled "Duties of owners and tenants":

C. Suffer or permit the use of any fireworks as defined in N.J.S.A. 21:2-2; or suffer or permit the improper use of sparkling devices and novelties as defined therein.

SECTION SIX:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION SEVEN:

Repealer. To the extent that any provision of the Code of the City of Union City is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control. In all other respects, the Code of the City of Union City shall remain unchanged.

SECTION EIGHT:

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section

numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION NINE:

This Ordinance shall take effect upon passage and publication as required by law.

| Commissioners | Yea | Nay | Abstain/Present | Absent |
|-----------------------|-----|-----|-----------------|--------|
| Lucio P. Fernandez | | | | |
| Wendy Grullon | | | | |
| Celin J. Valdivia | | | | |
| Maryury A. Martinetti | | | | |
| Mayor Brian P. Stack | | | | |

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, adopted on _____ and will be further considered after a Public Hearing held on _____.

INTRODUCED:

ADOPTED:

ATTEST:

Erin Knoedler

DATE

SUMMARY OF ORDINANCE

This ordinance is in furtherance of the prevention of disturbances and dangers resulting from the use of pyrotechnics within the City of Union City as set forth herein.