

Bill No. 8500-14

No. 19-14-OR

AN ORDINANCE

An Ordinance of the Council of the County of Allegheny ratifying amendments to Allegheny County Health Department Rules and Regulations pursuant to Section 12011 of the Local Health Administration Law, 16 P.S. §12001 et seq.

Whereas, Allegheny County, pursuant to the Local Health Administration Law, 16 P.S. §12001 et seq., created the Allegheny County Health Department, and the Allegheny County Board of Health; and

Whereas, the Local Health Administration Law at Section 12011 provides for the Board of Health to adopt regulations and submit such regulations to Allegheny County for approval or rejection; and

Whereas, on September 3, 2014, the Allegheny County Board of Health adopted the attached amendments to the Allegheny County Health Department Rules and Regulations, Article XXI, "AIR POLLUTION CONTROL;" and

Whereas, it is the desire of Council to ratify the Allegheny County Health Department regulation amendments as approved by the Board of Health.

The Council of the County of Allegheny hereby resolves as follows:

SECTION 1. Incorporation of Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

SECTION 2. Ratification of Regulations.

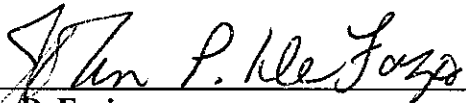
Acting pursuant to the Local Health Administration Law and the Allegheny County Home Rule Charter, County Council hereby ratifies the specific amendments to Article XXI, entitled "AIR POLLUTION CONTROL," of the Allegheny County Health Department Rules and Regulations as set forth in the document attached hereto as Exhibit A."

SECTION 3. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.

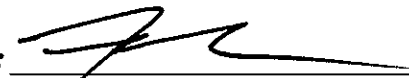
SECTION 4. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.

Enacted in Council, this 5th day of November, 2014.

Council Agenda No. 8500 - 14.

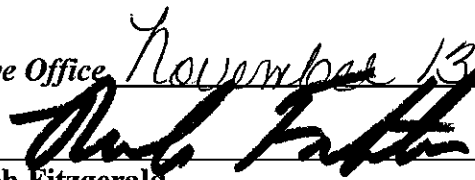


John DeFazio
President of Council

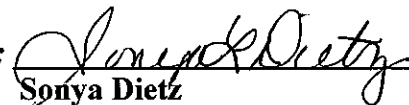
Attest: 

Chief Clerk of Council

Chief Executive Office November 13, 2014

Approved: 

Rich Fitzgerald
Chief Executive

Attest: 

Sonya Dietz
Executive's Secretary

EXHIBIT "A"

PROPOSED REVISION

**Allegheny County Health Department
Rules and Regulations
Article XXI, Air Pollution Control**

§2105.50 Open Burning

And related §2101.20 Definitions

(This proposed revision will also be submitted to the Pennsylvania DEP and U.S. EPA as a revision to Allegheny County's portion of the Pennsylvania State Implementation Plan for the Attainment and Maintenance of the National Ambient Air Quality Standards. Revision Tracking No. 79.)

Proposed Open Burning Regulation Revision

Deletions are shown with strikethroughs.
Additions are shown in **larger font, bolded, and underlined**.

§2105.50 OPEN BURNING *{Subsection amended May 8, 2007, effective, August 17, 2007, and amended July 16, 2009, effective July 26, 2009. Amended Month, Day, 2014, effective Month, Day, 2014}*

a. **General.**

1. No person shall conduct, or allow to be conducted, the open burning of any material, except where the Department has issued an open burning permit to such person in accordance with this Section or where the open burning is conducted solely for the purpose of ~~non-commercial~~ preparation of food for human consumption, recreation, light, **or** ornament, ~~or provision of warmth for outside workers,~~ and in a manner which contributes a negligible amount of air contaminants, **and which is in accordance with Subparagraphs A through C, below.**

A. No material other than clean wood, propane, or natural gas may be burned except as provided for in this subparagraph.

- i. **Charcoal may be used in an outdoor fireplace or grill for the purpose of cooking.**
- ii. **Commercially available fire logs, paraffin logs, or wood pellets may be used in outdoor fireplaces.**
- iii. **Paper or commercial smokeless fire starters may be used with clean wood to start an allowed fire.**

B. Any volume of clean wood being burned shall be no larger than 3' wide x 3' long x 2' high and shall be at least 15 feet from the nearest neighbor's dwelling or inhabited area, any property line, roadway, sidewalk, or public access way.

C. Open burning using chimineas, firepits, or outdoor fireplaces may only be conducted using materials meeting Subparagraph A, above.

2. Any open burning shall be tended by a responsible person at all times.
 3. **Wood burning activities shall not be conducted on Air Quality Action Days, with the exception of conducting such burning for the commercial preparation of food.**
 4. **The Department may prohibit, or reduce, any open burning activity which it determines to be a nuisance. This determination will be based on, but not limited to, the following criteria:**
 - A. **The severity of the amount of air pollutants, or malodorous material;**
 - B. **The duration or frequency of open burning;**
 - C. **The topography of the surroundings; and/or**
 - D. **The meteorological conditions.**
- 53.** This Section shall not allow or permit any open burning which would not otherwise be allowed or permitted under any applicable ~~municipal or local~~ ordinance, or ~~County or local~~ fire code.
- b. **Discovery of Fire.** Immediately upon the discovery of any open burning **that is not being conducted in accordance with this Section**, the person responsible for the property on which such burning occurs shall immediately extinguish, or cause the extinguishment of, such burning.
 - c. **Presumption.** 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 defendant has conducted, or allowed to be conducted, such open burning.

df. Permits.

1. The Department may issue a permit for open burning during a period specified by the Department, but only where the open burning is solely for:
 - A. The abatement of a fire or public health hazard ~~or the annual disposal of Christmas trees~~ when the burning is conducted under the supervision of a public officer;
 - B. The instruction of personnel in fire fighting, **except that instruction using only propane does not require a permit;**
 - C. The fostering of agriculture;
 - D. The conducting of a ceremony; or,
 - E. ~~Any other purpose contributing a negligible amount of air contaminants; or~~
 - EF.** Clearing and grubbing wastes subject to, at a minimum, the following requirements:
 - i. Air curtain incineration units shall be used at all times when burning clearing and grubbing wastes.
 - ii. The use of air curtain incineration units shall not be permitted unless approved by the Department in writing with respect to equipment arrangement, design, and existing environmental conditions prior to commencement of burning.
 - iii. Approval for use of an air curtain incineration unit at one site may be granted for a specified period not to exceed three months, but may be extended for additional limited periods upon further written approval by the Department.
 - iv. The application for said permit must be accompanied by a non-refundable permit application fee, by check or money order payable to the "Allegheny County Air Pollution Control Fund," to cover the costs associated with processing, reviewing, and acting upon the application. The amount of the fee shall be set by the Board of Health.

- v. If operated at commercial, industrial, or institutional facilities, the air curtain incinerator may also be subject to the NSPS requirements of 40 CFR 60 Subpart CCCC or EEEE.

FG. Any fees approved by the Board of Health under the terms of this section shall not become effective until approved by Allegheny County Council.

- 2. The permit application shall be submitted on forms prepared by the Department at least 15 days prior to the proposed burning date(s) and shall specify the types of materials to be burned, and only those types of materials which are approved by the Department in the permit shall be burned.
- 3. The Department may issue a permit subject to any additional terms and conditions as are appropriate to further the purposes of this Article, and may deny a permit application or rescind any such permit when it determines that an actual or potential air pollution problem exists.
- 4. An approved permit shall be in the possession of the applicant or an authorized representative at the site of the permitted open burning at all times during said open burning and shall be available for inspection upon request by any County personnel, law enforcement officer, or fire protection officer.
- 5. Any open burning permit issued by the Department shall immediately be suspended upon the declaration of an alert or localized incident pursuant to Part F of this Article and shall remain suspended for the duration of the alert or localized incident. If the open burning permit expires during such period of suspension, an extension of such permit shall be obtained from the Department prior to burning any materials.

6. Open burning activities requiring a permit shall not be conducted on Air Quality Action Days.

- ed. Coal Refuse Piles.** In the case of a fire at any coal refuse pile or dump, the person responsible shall:
1. Report such fire immediately to the Department upon discovery;
 2. Immediately extinguish such fire, or demonstrate to the Department's satisfaction that all necessary steps are being taken to extinguish such fires as expeditiously as possible; and
 3. Report the status of such fire to the Department at such intervals as required by the Department.
- fe. Enforcement.** Notwithstanding any other provision of this Article the prohibitions of this Section may be enforced by any municipal or local government unit having jurisdiction over the place where the burning occurs. Such enforcement shall be in accordance with the laws governing such municipal or local government unit and the Pa. Air Pollution Control Act. In addition, the Department may pursue the remedies provided by §2109.02 of this Article for any violation of this Section.
- g. Violations.** The open burning of any material (except as provided in Paragraph a.1 above) without a permit under this Section or in violation of any condition contained in such permit, or the failure by the person responsible to immediately report and take all reasonable steps to extinguish a coal refuse pile fire, shall be a violation of this Article giving rise to the remedies provided in §2109.02 of this Article.

REVISED DEFINITION

§2101.20 DEFINITIONS *{ Amended Month, Day, 2014, effective Month, Day, 2014 }*

"Open burning" means any fire or combustion from which air contaminants pass directly into the open air without passing through a flue. **The term includes any fire or combustion which occurs in a chiminea, fire pit, outdoor fireplace or grill.**

Executive Summary

Article XXI Regulation Changes for Open Burning Regulations (State Implementation Plan (SIP) Revision 79)

The ACHD Air Quality Program is proposing to update its regulation restricting “open burning” to clarify and codify various new regulatory needs and existing policies realized and developed by the Program from its experience with this regulation.

The proposed revisions to Article XXI, §2105.50, include specifying details related to:

- Materials that may be burned;
- Size of “burn piles;”
- Setback requirements;
- Provisions covering the use of chimineas, firepits and outdoor fireplaces;
- Restrictions on open burning activities on Air Quality Action Days; and
- Nuisance provisions.

The incorporation of these regulation updates covering specific situations encountered in Allegheny County, will allow the ACHD to address the concern of emissions from open burning, and benefit the health of the citizens of this County.

Finally, ACHD will submit this regulation as a revision to the County’s portion of the Pennsylvania State Implementation Plan.

MEMORANDUM
OFFICE OF THE COUNTY MANAGER

TO: Jared E. Barker
Allegheny County Council

FROM: William D. McKain CPA
County Manager

DATE: September 18, 2014

RE: Proposed Ordinance

Attached is a Ordinance Allegheny ratifying amendments to Allegheny County Health Department Rules and Regulations pursuant to Section 12011 of the Local Health Administration Law, 16 P.S. §12001 et seq.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.

SEP1814 11:48AM

ALLEGHENY COUNTY

COUNCIL