

## **PART FIFTEEN - FIRE PREVENTION CODE**

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### **CHAPTER 1501**

#### **Ohio Fire Code**

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#### **CROSS REFERENCES**

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Ohio Fire Code - see Ohio R.C. 3737.82 et seq.; OAC Ch. 1301:7-1 et seq.  
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Fireworks exhibitions - see Ohio R.C. 3743.50 et seq.

#### **1501.01 ADOPTION.**

There is hereby adopted by the Village of Newburgh Heights, the Ohio Fire Code as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, in its most recent version or edition, as updated from time to time, and as published in Division 1301:7 of the Ohio Administrative Code. (Ord. 2018-78. Passed 1-2-19.)

#### **1501.02 PURPOSE.**

The purpose of this Code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations.

#### **1501.03 APPLICATION.**

The Ohio Fire Code as adopted herein applies to the use of all lands and properties within the Municipality and such other lands or properties owned by the Municipality which are situated outside the corporate limits thereof.

#### **1501.04 ENFORCEMENT.**

(a) No person shall serve as Municipal Fire Safety Inspector unless he has received a certificate issued by the State Board of Emergency Medical Services under former Ohio R.C. 3303.07 or 4765.55 evidencing his satisfactory completion of a fire safety inspection training program.  
(ORC 3737.34)

(b) For Municipal criminal proceedings, the complaint, warrant or summons, or the issuance of a citation in minor misdemeanor cases shall be, as is prescribed in the Ohio Rules of Criminal Procedure, by referencing the numerical designation of the applicable Municipal ordinance, including the specific provision of the Ohio Fire Code, or any order issued pursuant thereto, provided such order fixes a reasonable time for abatement of the violation. State enforcement proceedings for violation of Ohio R.C. Chapter 3737 or the Ohio Fire Code shall be as is prescribed in Ohio R.C. 3737.41 to 3737.46.

(c) A copy of such complaint or citation shall be prominently posted at or near each place a violation referred to occurs.

(d) Upon request of the Municipal Fire Safety Inspector, the Municipal Legal Officer shall institute and prosecute any necessary action or proceeding to enforce this chapter or Ohio R.C. Chapter 3737.

#### **1501.05 COMPLIANCE.**

(a) No person shall knowingly violate any provision of the Ohio Fire Code as adopted herein or any order issued pursuant thereto.  
(ORC 3737.51(A))

(b) No person shall fail to comply with the fire prevention measures or fire protection activities as prescribed in the Ohio Fire Code, or

fail to obtain a permit or license for the various uses or activities as required by such Code, or fail to comply with the Municipal application and plan submission and processing requirements including payment of the fees designated therefor.

#### **1501.06 POSTING ARSON LAWS.**

The owner, operator or lessee of any transient residential building shall post the provisions of Ohio R.C. 2909.02 and 2909.03 in a conspicuous place in each room occupied by guests in such building. The owner, operator or lessee of any nontransient residential building, institution, school or place of assembly shall post the provisions of such sections in conspicuous places upon such premises. No person shall fail to comply with this section.

(ORC 3737.61)

#### **1501.07 SETTING FIRES WHICH SPREAD.**

No person shall set, kindle or cause to be set or kindled any fire, which through his negligence, spreads beyond its immediate confines to any structure, field or wood lot.

(ORC 3737.62)

#### **1501.08 UNFRIENDLY FIRES IN BUILDING; ALARM DUTIES.**

(a) The owner, operator or lessee, an employee of any owner, operator or lessee, an occupant, and any person in direct control of any building regulated under the Ohio Basic Building Code, upon the discovery of an unfriendly fire, or upon receiving information that there is an unfriendly fire on the premises, shall immediately, and with all reasonable dispatch and diligence, call or otherwise notify the Fire Department concerning the fire, and shall spread an alarm immediately to all occupants of the building.

(b) For the purposes of this section, "unfriendly fire" means a fire of a destructive nature as distinguished from a controlled fire intended for a beneficial purpose.

(c) No person shall fail to comply with this section.

(ORC 3737.63)

#### **1501.09 DISCLOSURE OF TRUE FIRE SAFETY INSPECTOR STATUS.**

No person who is not a certified Fire Safety Inspector shall act as such or hold himself out to be such, unless prior to commencing any inspection function, he discloses the purpose for which he is making such inspection and the fact that he is not employed by any state or local fire service or agency, and that he is not acting in an official capacity for any governmental subdivision or agency.

(ORC 3737.64)

#### **1501.10 FIRE EQUIPMENT SALE OR USE; CERTIFICATION OF INSTALLERS.**

(a) No person shall sell, offer for sale, or use any fire protection or fire fighting equipment that does not meet the minimum standards established by the Ohio Fire Marshal in the Ohio Fire Code.

(b) Except for public and private mobile fire trucks, no person shall service, test, repair or install for profit any fire protection or fire fighting equipment without a certificate or a provisional certificate issued by the Ohio Fire Marshal. (ORC 3737.65)

#### **1501.11 COPIES.**

Copies of Codes as adopted in this chapter are on file with the Council Clerk for inspection by the public, and also on file in the County Law Library, and the Clerk has copies available for distribution to the public at cost.

#### **1501.12 CONFLICT.**

(a) The provisions of the Ohio Fire Code shall not be deemed to nullify any provisions of state or federal law. Municipal corporations, under Ohio R.C. 3781.01, may make further and additional regulations, not in conflict with Ohio R.C. Chapters 3781 and 3791 or with the rules of the Ohio Board of Building Standards. However, under Ohio R.C. 3781.12, approval by the Board of Building Standards of any fixture, device, material, system, assembly or product of a manufacturing process, or method or manner of construction or installation shall constitute approval for their use anywhere in Ohio.

As provided in Ohio R.C. 3781.11(b), the rules of the Board of Building Standards shall supersede and govern any order, standard, or rule of the Division of Fire Marshal or Industrial Compliance in the Department of Commerce, and the Department of Health and of counties and townships, in all cases where such orders, standards or rules are in conflict with the rules of the Board of Building Standards, except that rules adopted and orders issued by the Fire Marshal pursuant to Ohio R.C. Chapter 3743 prevail in the event of a conflict.

The rules of the Board of Building Standards adopted pursuant to Ohio R.C. 3781.10 and known as the "Ohio Building Code" (OBC) shall govern any rule or standards adopted by the Board pursuant to Ohio R.C. 4104.02 and 4105.011.

(OAC 4101:1-1(102.2))

(b) In all other cases of conflict between the Ohio Fire Code and any other Municipal ordinance or technical code adopted thereby, the more restrictive provision shall govern.

#### **1501.13 FIRE AND SMOKE DAMPER INSPECTIONS.**

(a) Adoption By Reference. Pursuant to Ohio R.C. 731.233, there is hereby adopted by the Village, for the purposes of prescribing regulations governing conditions hazardous to life and property from fire, smoke and explosion, the requirement for fire and smoke damper inspections conducted in accordance with NFPA standards as adopted, published and recommended by the NFPA, entitled "Standards for Smoke Door Assemblies and Other Opening Protectives," save and except such portions as may be hereinafter deleted or amended. Said NFPA standards are incorporated in this chapter by reference as if fully set forth at length herein as it relates to Fire and Smoke Damper Inspections.

(b) Regularity, Monitoring and Costs of Inspections. All fire and smoke damper units in "Village Owned and Operated buildings" shall be inspected every four (4) years. Compliance with this inspection requirement shall be monitored by the Building Department and the Mayor.

(c) Regulations Governing Inspections and Requirements for Inspectors. The inspections shall be conducted in accordance with NFPA standards. The inspections shall be conducted by technicians and contractors who have been certified by the International Certification Board (hereinafter referred to as "ICB") and American National Standards Institute (hereinafter referred to as "ANSI") to

ensure the quality of the inspection process.

(d) Record of Inspections and Repairs. The results of the inspections are to be given to the Building Department within thirty (30) days of the completion of the inspection. The Building Department will keep those inspection reports until the next inspection is completed four (4) years later. If the fire and smoke damper systems are found to be faulty, repairs must be completed and approved by an ICB and ANSI certified contractor and technicians within sixty day (60) days from the date the system was found to be faulty. (Ord. 2017-57. Passed 11-20-17.)

#### **1501.99 PENALTY.**

(a) Criminal Penalties.

- (1) Except as otherwise provided in Ohio R.C. Section 3737.99(B), whoever violates Section 1501.05(a) is guilty of a misdemeanor of the first degree. (ORC 3737.99(B))
- (2) Whoever violates Sections 1501.05(b) or 1501.06 is guilty of a minor misdemeanor. (ORC 3737.99(C))
- (3) Whoever violates Sections 1501.07 or 1501.09 is guilty of a misdemeanor of the fourth degree. (ORC 3737.99(D))
- (4) Whoever violates Sections 1501.08 or 1501.10 is guilty of a misdemeanor of the third degree. (ORC 3737.99(E))

(b) Civil Penalties.

- (1) Any person who has received a citation for a serious violation of the Ohio Fire Code or any order issued pursuant to it, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.
- (2) Any person who has received a citation for a violation of the Ohio Fire Code or any order issued pursuant to it, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.
- (3) Any person who fails to correct a violation for which a citation has been issued within a period permitted for its correction, may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each day during which such failure or violation continues.
- (4) Any person who violates any of the posting requirements, as prescribed by Section 1501.04(c), shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each violation.
- (5) Due consideration to the appropriateness of the penalty with respect to the gravity of the violation, the good faith of the person being charged, and the history of the previous violations shall be given whenever a penalty is assessed under this chapter.
- (6) For purposes of this section, a serious violation shall be considered to exist if there is a substantial probability that an occurrence causing death or serious physical harm to persons could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, unless the person did not and could not with the exercise of reasonable diligence, know of the presence of the violation.
- (7) Civil penalties imposed by this chapter shall be paid to the Municipal Chief Fiscal Officer for deposit into the General Revenue Fund. Such penalties may be recovered in a civil action in the name of the Municipality brought in the Court of Common Pleas. (ORC 3737.51(B) to (H))

### **CHAPTER 1509**

#### **Emergency Response Knox Box Unit**

##### **1509.01 Knox box.**

##### **1509.99 Penalty.**

#### **1509.01 KNOX BOX.**

(a) All commercial, industrial and public/municipal buildings located within the Village of Newburgh Heights shall maintain a “knox box” approved by the Fire Chief or his designee which shall contain keys to the building(s) and/or the facility.

(b) The “knox box” shall be placed at a location approved by the Fire Chief or his designee and shall be clearly identified by a highly visible reflective tape or paint.

(c) For larger facilities or facilities with multiple buildings or entrance drives, the Fire Chief or his designee shall determine the number and location of “knox boxes”.

(d) All buildings under construction shall be equipped with a temporary “knox box” to be maintained during construction. The location of such temporary “knox box” shall be approved by the Fire Chief or his designee.

(Ord. 2001-22. Passed 6-19-01.)

#### **1509.99 PENALTY.**

Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor of the first degree.

(Ord. 2001-22. Passed 6-19-01.)

### **CHAPTER 1511**

#### **Open Burning**

##### **1511.01 Definitions.**

##### **1511.02 Relations to other prohibitions.**

**1511.03 Open burning in restricted areas.**

**1511.04 Permission to individuals and notification to the Ohio EPA.**

**1511.05 Open burning; recreational fires; portable outdoor fireplaces.**

**1511.06 Use of grills, hibachis, barbecue pits, smokers and similar cooking devices.**

**1511.99 Penalty.**

**CROSS REFERENCES**

See sectional histories for similar State law

Air pollution control - see Ohio R.C. Ch. 3704

Permit to burn construction debris - see Ohio R.C. 3704.11(C)

Spreading fire through negligence - see Ohio R.C. 3737.62

Open burning - see OAC Ch. 3745

**1511.01 DEFINITIONS.**

As used in Chapter 3745-19 of the Ohio Administrative Code and this chapter:

- (a) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings (including dismantled/fallen barns); garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.
- (b) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.
- (c) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.
- (d) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.
- (e) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.
- (f) "Ohio EPA" means the Ohio Environmental Protection Agency Director or agencies delegated authority by such Director pursuant to Ohio R.C. 3704.03 or the Chief of any Ohio Environmental Protection Agency district office.
- (g) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of Ohio Administrative Code 3745-17-09 or 3745-17-10.
- (h) "Residential waste" means any waste material, including landscape waste, generated on the property of a one-, two- or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics.
- (i) "Restricted area" means the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Ohio Revised Code, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest federal census.
- (j) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in subsection (i) hereof.  
(OAC 3745-19-01)
- (k) "Bonfire" means an outdoor fire utilized for ceremonial purposes.
- (l) "Recreational fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.  
(OAC 1301:7-7-03)

**1511.02 RELATIONS TO OTHER PROHIBITIONS.**

- (a) Notwithstanding any provision in Ohio Administrative Code Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under Ohio Administrative Code Chapter 3745-25 is in effect.
- (b) No provisions of Ohio Administrative Code Chapter 3745-19, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any State department, or any local ordinance or regulation dealing with open burning.  
(OAC 3745-19-02)

**1511.03 OPEN BURNING IN RESTRICTED AREAS.**

- (a) No person or property owner shall cause or allow open burning in a restricted area except as provided in subsections (b) to (d) hereof; in Ohio R.C. 3704.11 and in compliance with Section 1511.05 of this chapter.
- (b) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:
  - (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.
  - (2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

- A. They are fueled with clean seasoned firewood, natural gas, or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;
  - B. They are not used for waste disposal purposes; and
  - C. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.
  - (3) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of Rule 3745-50-45 of the Ohio Administrative Code.
  - (4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.
  - (5) Fires set at the direction of federal, state, and local law enforcement officials for the purpose of destruction of cannabis sativa (marijuana) plant vegetation, processed marijuana material and/or other drugs seized by federal, state or local law enforcement officials.
- Fires allowed by subsections (b)(1), (b)(2) and (b)(4) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.
- (c) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with subsection (b) of Section 1511.04:
    - (1) Prevention or control of disease or pests, with written or oral verification to the Ohio EPA from the Ohio Department of Health or local health department, the centers for disease control and prevention, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.
    - (2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of subsection (b)(2) hereof, provided the following conditions are met:
      - A. They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;
      - B. They are not to be used for waste disposal purposes; and
      - C. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
    - (3) Disposal of agricultural waste generated on the premises if the following conditions are observed:
      - A. The fire is set only when atmospheric conditions will readily dissipate contaminants;
      - B. The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;
      - C. The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises;
      - D. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and
      - E. No materials are burned which contain rubber, grease, asphalt, liquid petroleum products, plastics or building materials.
    - (d) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with subsection (a) of Section 1511.04, provided that any conditions specified in the permission are followed:
      - (1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in subsection (b)(3) hereof;
      - (2) Instruction in methods of fire fighting or for research in the control of fire as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in subsection (a)(1) of Section 1511.04 is submitted by the commercial or public entity responsible for the instruction;
      - (3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and, if required, performed as identified in the appendix to Rule 3745-19-03 of the Ohio Administrative Code. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval;
      - (4) Recognized horticultural, silvicultural (forestry), range or wildlife management practices; and
      - (5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television. (OAC 3745-19-03)

#### **1511.04 PERMISSION TO INDIVIDUALS AND NOTIFICATION TO THE OHIO EPA.**

##### **(a) Permission.**

- (1) An application for permission to open burn shall be submitted in writing to Ohio EPA. The applicant shall allow Ohio EPA at least ten working days to review the permit. Applicant may proceed with burn upon receipt of written permission from Ohio EPA. Saturday, Sunday and legal holidays shall not be considered working days. The application shall be in such form and contain such information as required by the Ohio EPA.
- (2) Except as provided in subsection (a)(6) and (a)(7) hereof, such applications shall contain, as a minimum, information regarding:
  - A. The purpose of the proposed burning;
  - B. The quantity or acreage and the nature of the materials to be burned;
  - C. The date or dates when such burning will take place;
  - D. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and
  - E. The methods or actions which will be taken to reduce the emissions of air contaminants.
- (3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants, when atmospheric conditions are appropriate; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of Chapter 3745-19 of the Ohio Administrative Code.

- (4) Except as provided in subsection (a)(6) hereof, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.
  - (5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.
  - (6) The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio fire academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to subsection (a)(1) hereof shall contain information as required in paragraph (a)(2) of this rule, except the information required in subsections (a)(2)C. and (A)(2)D. hereof need not be provided unless it is available at the time of submittal of the application. The academy shall contact the appropriate Ohio EPA district office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday and legal holidays shall not be considered working days.
  - (7) For open burning defined under subsection (d)(2) of Section 1511.03, and paragraph (C)(2) of Rule 3745-19-04 of the Administrative Code, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received by the appropriate Ohio EPA field office in accordance with Rule 3745-20-03 of the Ohio Administrative Code.
- (b) Notification.
- (1) Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered working days. It shall be in such form and contain such information as shall be required by the Ohio EPA.
  - (2) Such notification shall inform the Ohio EPA regarding:
    - A. The purpose of the proposed burning;
    - B. The nature and quantities of materials to be burned;
    - C. The date or dates when such burning will take place; and
    - D. The location of the burning site.
  - (3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect.
- (OAC 3745-19-05)

#### **1511.05 OPEN BURNING; RECREATIONAL FIRES; PORTABLE OUTDOOR FIREPLACES.**

- (a) General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.
- (b) Prohibited Open Burning. Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.
- (c) Permit Required. A permit shall be obtained from the Fire Code Official in accordance with Rule 1301:7-7-01 of the Ohio Fire Code prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
- (d) Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.
- (e) Extinguishment Authority. The Fire Code Official is authorized to order the extinguishment by the permit holder, another person responsible or the Fire Department of open burning that creates or adds to a hazardous or objectionable situation.
- (f) Location. The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.
- (g) Exceptions.
- (1) Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
  - (2) The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
    - A. Bonfires. A bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15,240 mm) of a structure shall be eliminated prior to ignition.
    - B. Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.
    - C. Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.  
Exception: Portable outdoor fireplaces used at one- and two-family dwellings.
- (h) Attendance. Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with paragraph (F)(906) of rule 1301:7-7-09 of the Administrative Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. (OAC 1301:7-7-03)

#### **1511.06 USE OF GRILLS, HIBACHIS, BARBECUE PITs, SMOKERS AND SIMILAR COOKING DEVICES.**

- (a) The use of any grill, hibachi, barbecue pit, smoker and/or other similar cooking device on any porch or deck structure is prohibited.
  - (b) The use or storage of any LP tank, propane tank or similar fuel or fuel source on any porch or deck structure is prohibited.
- (Ord. 2018-76. Passed 1-2-19.)

#### **1511.99 PENALTY.**

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both.

## **CHAPTER 1519**

### **Fireworks**

- 1519.01** Adoption.
- 1519.02** Definitions.
- 1519.03** Possession, sale or discharge prohibited.
- 1519.04** Exceptions.
- 1519.99** Penalty.

#### **CROSS REFERENCES**

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)  
Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)  
Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68  
Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

#### **1519.01 ADOPTION.**

There is hereby adopted by the Village of Newburgh Heights, for the regulation of explosives and fireworks, that portion of the Ohio Fire Code set forth in Ohio Administrative Code Section 1301:7-7-56 et seq., as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, in its most recent version or edition, and as updated from time to time, and except as otherwise set forth herein in this Chapter 1519 of Codified Ordinances.  
(Ord. 2022-18. Passed 6-7-22.)

#### **1519.02 DEFINITIONS.**

As used in this chapter, terms shall have the meaning set forth below:

- (a) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in the Ohio Fire Code.
- (b) "Novelties and trick noisemakers" include the following items:
  - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;
  - (2) Snakes or glow worms;
  - (3) Smoke devices;
  - (4) Trick matches.
- (c) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.
- (d) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (e) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
- (f) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (g) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(Ord. 2022-18. Passed 6-7-22.)

#### **1519.03 POSSESSION, SALE OR DISCHARGE PROHIBITED.**

- (a) No person possess for sale or sell fireworks in the Village, except as permitted by licensure under applicable Ohio law.
- (b) Except as specifically authorized by Section 1519.03 hereof, no person shall discharge, ignite or explode any fireworks in the Village.
- (c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.
- (d) No person shall sell fireworks, novelties and trick noisemakers of any kind to a person under eighteen years of age.
- (e) No person under eighteen years of age shall discharge, ignite or explode novelties and trick noisemakers or sparklers of any kind unless in the company of a person at least eighteen years of age. (Ord. 2022-18. Passed 6-7-22.)

#### **1519.04 EXCEPTIONS.**

This chapter does not prohibit or apply to the following:

- (a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for aviation or highway use.
- (b) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals for ceremonial purposes.
- (c) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps.
- (d) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models.
- (e) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(Ord. 2022-18. Passed 6-7-22.)

#### **1519.99 PENALTY.**

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. (Ord. 2022-18. Passed 6-7-22.)