

ORDINANCE RECORD

VILLAGE OF NEWBURGH HEIGHTS, OHIO

ORDINANCE NO. 2022- 18

INTRODUCED BY: Mayor Trevor Elkins

AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 1519 ENTITLED "FIREWORKS," AND DECLARING AN EMERGENCY

WHEREAS, the Village wishes to regulate the practice possession, sale, and use of fireworks;

WHEREAS, the Village wishes to enact regulations to preserve the citizens' quiet enjoyment of their residential properties and ensure the safety of dense residential and business areas;

WHEREAS, Governor DeWine recently signed House Bill 172 into law, allowing any person authorized to possess consumer grade fireworks to discharge them on their own property or on another person's property with permission on the certain designated days, and further allowing local municipalities to restrict the dates and times that individuals may discharge consumer-grade fireworks or to impose a complete ban on the use of consumer-grade fireworks; and

WHEREAS, the Council wishes to impose a complete ban on the use of consumer grade fireworks, and further wishes to except from said ban on fireworks certain categories of toy or trick devices that contain minute levels of combustible materials;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE VILLAGE OF NEWBURGH HEIGHTS, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1. The Council hereby enacts Codified Ordinance Chapter 1519 entitled "Fireworks," which shall read in its entirety as follows:

CHAPTER 1519 -- FIREWORKS

- 1519.01 Adoption**
- 1519.02 Definitions**
- 1519.03 Possession, Sale or Discharge Prohibited**
- 1519.04 Exceptions**
- 1519.99 Penalty**

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.

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.

1519.03 POSSESSION, SALE OR DISCHARGE PROHIBITED.

(a) No person shall possess fireworks in the Village or shall 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 1615.03 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 of at least eighteen years of age.

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.

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.

Section 2. Codified Ordinance Chapter 1519 in existence immediately prior to the passage of this ordinance is hereby repealed.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in such formal action occurred in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of public peace, health and safety of the inhabitants of the Village of Newburgh Heights, such emergency being the need to immediately clarify what activities are

prohibited prior to the effective date of provisions set forth in H.B. 172 of the 134th General Assembly of the State of Ohio; wherefore, provided it receives the affirmative vote of four (4) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

PASSED: _____, 2022

Approved as to Form

Trevor Elkins, Mayor
Village of Newburgh Heights, Ohio

Solicitor

Cathleen Nagorski, Fiscal Officer
Village of Newburgh Heights, Ohio

1ST Reading: 3/1/22
2ND Reading: 4/5/22
3RD Reading: * Amended version presented