

ORDINANCE 12-12

AN ORDINANCE REGARDING OPEN BURNING STANDARDS AND REGULATIONS AND DECLARING AN EMERGENCY.

WHEREAS, these guidelines for Open Burning, as defined herein, are established to prevent fire damage resulting from Open Burning activities that get out of control, prevent the discharge of pollutants into the atmosphere and to protect residents of Jackson Center, Ohio and others from hazardous or undesirable smoke conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF JACKSON CENTER, STATE OF OHIO:

SECTION 1.

DEFINITIONS

- 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; 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) "Bonfire" means an outdoor fire utilized for ceremonial purposes that is larger than a recreational fire.
- c) "Economic Poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliant.
- d) "Emergency burning" means the burning of clean wood waste or deceased animals caused by a natural disaster or an uncontrolled event such as the following;
 - (1) A tornado,
 - (2) High winds,
 - (3) An earthquake,
 - (4) An explosion,
 - (5) A flood, and
 - (6) A hail storm, a rain storm, or an ice storm.
- e) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.
- f) "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.
- g) "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.
- h) "Ohio EPA" means the Ohio Environmental Protection Agency director or agencies delegated authority by the director of the Ohio Environmental Protection Agency pursuant to section 3704.03 of the Ohio Revised Code or the chief of any Ohio Environmental Protection Agency district office.
- i) "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 rule 3745-17-09 or 3745-17-10 of the Ohio Administrative Code.

- j) "Patio Appliances" means any devices designed to burn wood and have a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, cooking, warmth or similar purposes. Patio appliances may be portable or stationery and includes outdoor fireplaces.
- k) "Recreational Fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. Recreational fires include campfires and any fires burned in makeshift devices for the above purposes.
- l) "Residential Waste" means any waste material, including landscape wastes, generated one a one-, two-, or three-family residence as a result of residential activities, but not including garbage.
- m) Incorporation by reference. This Ordinance includes references to certain matter or materials. The text of the incorporated materials is not included in the Ordinance. The materials are hereby made a part of this Ordinance. For materials subject to change, only the specific versions specified in the Ordinance are incorporated. Material is incorporated as it exists on the effective date of this Ordinance. Except for subsequent annual publication of existing (unmodified) code of federal regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this Ordinance has been amended to specify the new dates.

(1) Availability. The materials incorporated by reference are available as follows:

- a) National Fire Protection Association. Information on the National Protection Association Codes may be obtained by contacting the Association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, 617-770-3000. Codes may be ordered at www.nfpa.org/catalog/home/index.asp. Copies of the Code are at most public libraries.

(2) Incorporated materials.

- a) NFPA publication 1403; "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures;" November 2001 Edition.

SECTION 2.

RELATION TO OTHER PROHIBITIONS

- a) Notwithstanding any provision in Chapter 3745-19 of the Administrative Code or this Ordinance, no Open Burning shall be conducted in an area where an air alert, warning, or emergency under Chapter 3745-25 of the Administrative Code is in effect. Open Burning that is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.
- b) No provisions of Chapter 3745-19 of the Administrative Code or this Ordinance, 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 Revised Code, or any regulation of any state department, or any local ordinance or regulation dealing with Open Burning.
- c) Any Police Official of the Village of Jackson Center, in addition to issuing citations for violation of this Ordinance, is also authorized to order the extinguishment of the fire by a permit holder or any other person responsible for Open Burning that is in violation of this Ordinance. If the permit holder or person responsible for Open Burning will not extinguish said fire upon the request of the Police Official of the Village of Jackson Center, the Police Official is hereby authorized to extinguish said fire by any means necessary, and the permit holder or person responsible for Open Burning shall be responsible for the cost of extinguishing the fire.

SECTION 3.

OPEN BURNING

- a) No person or property owner shall cause or allow Open Burning in the Village of Jackson Center except as provided in paragraphs (b) to (d) of this Ordinance or in Section 3704.11 of the Revised Code.
- 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) Campfires, Recreational Fires, including outdoor fires in fireplace equipment or Patio Appliances, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:
 - a) The fires 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) The fires are not used for waste disposal purposes; and
 - c) The fires shall have a total fuel area of three feet or less in diameter and two feet or less in height.
 - d) The fires are constantly attended by a person at least 18 years of age 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.
 - e) If the fire is a campfire, Recreational Fire or outdoor fire in fireplace equipment, the fire must be located no closer than 25 feet from any structure and provisions are made to prevent the fire from spreading to within 25 feet of a structure.
 - f) If the fire is in a Patio Appliance, then in addition to the requirements of (a)(b)(c)(d) above, the following condition must also be met:
 - (1) The fire may not be within 15 feet of a structure including a combustible deck or patio, excepting Patio Appliances that incorporate a screen encompassing all open areas of the burn chamber and are designed to prevent ignition through conduction through its base may be placed on a combustible deck. However, the appliance shall be at least 15 feet from any other structure including the structure that it is attached to.
- c) Open Burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Administrative Code:
 - (1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, 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 standards of paragraph (b)(2) of this Section, provided the following conditions are met:

- a) Bonfires 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) Bonfires are not used for waste disposal purposes; and
 - c) Bonfires 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.
 - d) Bonfires shall not be conducted within 50 feet of a structure or combustible material unless the fire is in a barbeque pit. Conditions which could cause a fire to spread within 50 feet of a structure shall be eliminated prior to ignition.
- (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 staked and dried to provide the best practicable condition for efficient burning; and
 - e) No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.
- d) Open Burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with paragraph (A) of rule 3745-19-05 of the Administrative Code, provided that any conditions specified in the permission are followed:
- (1) Disposal of ignitable or explosive materials where the Ohio EPA determined that there is no practical alternate method of disposal, excluding those materials identified in paragraph (B)(3) of this rule;
 - (2) Instruction in methods of firefighting or for research in the control of fires 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 paragraph (A)(1) of rule 3745-19-05 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. 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; and
 - (4) Recognized horticultural, silvicultural, 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.

SECTION 4.

PERMISSION TO INDIVIDUALS AND NOTIFICATION TO THE OHIO EPA

a) Permission:

- (1) An application for permission to Open Burn, if required, 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 a working day. It shall be in such form and contain such information as required by the Ohio EPA.
- (2) Except as provided in paragraph (a)(6) and (a)(7) of this section, such application shall contain, as a minimum information regarding:
 - a) The purpose of the proposed burning;
 - b) The nature of quantities of material 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; 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 Administrative Code.
- (4) Except as provided in paragraph (A)(6) of this rule, 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 paragraph (A)(1) of this rule shall contain information as required in paragraph (A)(2) of this rule, except the information required in paragraphs (A)(2)(c) and (A)(2)(d) of this rule 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 a working day.
- (7) For Open Burning defined under paragraph (D)(2) of rule 3745-19-03 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 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 a

working day. 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.

SECTION 5.

PENALTY

Whoever violates any provision of this Ordinance is guilty of a Minor Misdemeanor and shall be fined not more than one hundred and fifty dollars, if a person is charged with a violation of this Ordinance twice in one year then said person 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.

Council hereby declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, safety, and welfare; such an emergency arising out of the need to provide guidelines for Open Burning and establishing the enforcement of the guidelines. Wherefore, this Ordinance shall take effect and be in full force from and after its adoption by Council and approval by the Mayor.

Adopted this 10th day of September, 2012.



Scott Klopfenstein, Mayor

Attest:



Beverly A. Wren, Fiscal Officer

CERTIFICATE OF FISCAL OFFICER AS TO POSTING

I certify that the above Ordinance 12-12 has been posted as required by law. Posted in the Village Office, U.S. Bank NA, Allenbaugh Insurance, People's Federal Savings and Loan Association and the Jackson Center Library.

Date of Posting: September 11, 2012.

Signed: 

Beverly A. Wren, Fiscal Officer