

# CITY OF OBERLIN, OHIO

## ORDINANCE No. 12-15 AC CMS

AN ORDINANCE AMENDING SECTIONS 1505.01 THROUGH 1505.99 OF THE CODIFIED ORDINANCES OF THE CITY OF OBERLIN, OHIO, IN ORDER TO ADOPT REGULATIONS FOR THE CONDUCT OF OPEN BURNING WITHIN THE CITY OF OBERLIN AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That Sections 1505.01 through 1505.99 of the Codified Ordinances of the City of Oberlin, Ohio, are hereby amended to read as set forth in **Attachment A** hereto, in order to adopt regulations for the conduct of Open Burning within the municipal limits of the City of Oberlin.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

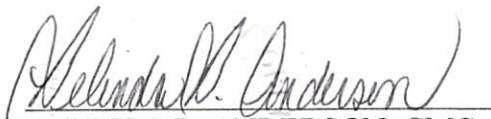
SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

"to update the latest and most current regulations for the conduct of open burning as soon as possible in order to ensure the fire safety of Oberlin residents",

and shall take effect immediately upon passage.

PASSED: 1st Reading – March 5, 2012 (S, E)  
2nd Reading-  
3rd Reading-

ATTEST:

  
BELINDA B. ANDERSON, CMC  
CLERK OF COUNCIL

  
RONNIE J. RIMBERT  
PRESIDENT OF COUNCIL

POSTED: 03/06/2012

EFFECTIVE DATE: 03/05/2012

## ATTACHMENT A

### 1505.01 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) “Economic poisons” include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.

(c) “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.
- (6) A hail storm, a rain storm, or an ice storm.

(d) “Garbage” means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.

(e) “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.

(f) “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.

(g) “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.

## 1505.02 RELATIONS TO OTHER PROHIBITIONS.

- (a) No person or property owner shall cause or allow open burning in a restricted area except as provided in Section 1505.03 and 1505.04 of this chapter.
- (b) 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.
- (c) Open burning that is offensive or objectionable because of smoke or odor emissions, or that is conducted when atmospheric conditions or local circumstances make such fires hazardous, is hereby declared to be a nuisance and shall be prohibited. The fire code official is authorized to order the extinguishment by the permit holder, another person responsible, or by the Fire Department of any open burning that creates or adds to a hazardous or objectionable situation.
- (d) 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.

### 1505.03 PERMITTED FIRES.

Open burning shall be allowed for the following purposes:

- (a) Recreational fires, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:
  - (1) 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;
  - (2) They are not used for waste disposal purposes; and
  - (3) They shall have a total fuel area of three feet or less in diameter and two feet or less in height.
  - (4) They shall not be conducted within 25 feet (7620 mm) of a structure or combustible material.
  
- (b) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers, smudge pots and similar occupational needs.
  
- (c) Fires in approved portable outdoor fireplace containers shall not be conducted within 15 feet (3810 mm) of a structure and do not require a permit.

Fires allowed by this section shall not be used to burn garbage, landscape waste or any other waste material and shall be of minimum size sufficient for their intended purpose. The fuel used shall be chosen to minimize the generation and emission of air contaminants.

Open burning, bonfires, recreational fires and the use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished.

#### 1505.04 PERMITTED FIRES WITH APPROVAL.

Open burning shall be allowed for the following purposes with prior notification to both the Oberlin Fire Department and the Ohio EPA:

(a) Prevention or control of disease or pests, with written or verbal verification 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.

(b) Bonfires. Bonfires or campfires used for ceremonial purposes that do not meet the requirements of Section 1505.03(a), provided the following conditions are met:

- (1) They have a total fuel area no greater than 5 feet (1524 mm) in diameter by 5 feet (1524 mm) in height and burn no longer than three hours;
- (2) They are not to be used for waste disposal purposes; and
- (3) 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.
- (4) They shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbeque pit or other approved container.

Fires allowed by this section shall not be used to burn garbage, landscape waste including trees, tree trimmings, branches and stumps or any other waste material. The fuel used shall be chosen to minimize the generation and emission of air contaminants.

Notification to the Ohio EPA shall be in accordance with Chapter 3745-19-05 (B) of the Ohio Administrative Code.

#### 1505.05 PERMITTED FIRES BY WRITTEN PERMIT.

Open burning shall be allowed for the following purposes upon receipt of permission from the Oberlin Fire Department and the Ohio EPA, provided that any conditions specified in the permit are followed:

- (a) Disposal of hazardous or toxic materials where the Ohio Environmental Protection Agency determines that there is no practical alternate method of disposal.
- (b) Instruction in methods of fire fighting or for research in the control of fire.
- (c) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Ohio Environmental Protection Agency.
- (d) Recognized horticultural, silvicultural, range, or wildlife management practices.
- (e) Fire and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion picture and television.

Receipt of permission shall be obtained from the Ohio EPA in accordance with Chapter 3745-19-05 (A) of the Ohio Administrative Code.

**1505.99 PENALTY.**

(a) Whoever violates or causes or knowingly permits any violation of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) per day of burning plus the cost of proper disposal of the material burned, or imprisoned not more than 180 days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The cost of proper disposal of the materials burned shall be the amount it would have cost to dispose of the materials in a manner that is consistent with the air, water and solid waste laws, ordinances and regulations of the City and the State.

(c) The imposition of at least the minimum fine shall be mandatory in all cases and the fine may not be suspended or waived in any case.