

ORDINANCE NO. OR01-20

AN ORDINANCE BY TROTWOOD CITY COUNCIL REPEALING OLD SECTION 1501.01 “ADOPTION” AND OLD SECTION 1501.99 “PENALTY” OF THE TROTWOOD CODE OF ORDINANCES AND ADOPTING NEW SECTION 1501.01 “ADOPTION” AND ADOPTING NEW SECTION 1501.99 “PENALTY” TO CONFORM WITH THE STATE OF OHIO FIRE CODE AND THE OHIO ADMINISTRATIVE CODE.

WHEREAS, Section 1501.01 in Chapter 501 (“Ohio Fire Code”) of the Codified Ordinances of the City of Trotwood, Ohio provides language, which adopts the 2011 Ohio Fire Code in the City of Trotwood; and

WHEREAS, the Trotwood City Council has determined that it would be in the best interest of the City to adopt a new Section 1501.01 “Adoption” of the Codified Ordinances of the City of Trotwood, Ohio, to update the language to conform with the current State of Ohio Fire Code; and

WHEREAS, Section 1501.99 “Penalty” in Chapter 501 (“Ohio Fire Code”) of the Codified Ordinances of the City of Trotwood, Ohio, provides language, which adopts penalties for fire code violations in the City of Trotwood; and

WHEREAS, the Trotwood City Council has determined that it would be in the best interest of the City to adopt a new Section 1501.99 “Penalty” of the Codified Ordinances of the City of Trotwood, Ohio, to update the language to be in accordance with Division 1301 of the Ohio Administrative Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROTWOOD, STATE OF OHIO, THAT:

SECTION I: Section 1501.01 “Adoption” in Chapter 501 (“Ohio Fire Code”) of the Codified Ordinances of the City of Trotwood, Ohio be and is hereby repealed.

SECTION II: A new Section 1501.01 “Adoption” in Chapter 501 (“Ohio Fire Code”) of the Codified Ordinances of the City of Trotwood, Ohio be enacted to read as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, with additions in **bold** and underlined and deletions in ~~strikethrough~~.

SECTION III: Section 1501.99 “Penalty” in Chapter 501 (“Ohio Fire Code”) of the Codified Ordinances of the City of Trotwood, Ohio be and is hereby repealed.

SECTION IV: A new Section 1501.99 “Penalty” in Chapter 501 (“Ohio Fire Code”) of the Codified Ordinances of the City of Trotwood, Ohio be enacted to read as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, with additions in **bold** and underlined and deletions in ~~striethrough~~.

SECTION V: It is hereby 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 any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION VI: This Ordinance shall take effect and be in force at the earliest time allows by law.

Passed this ____ day of _____, 2019.

ATTEST:

APPROVED:

SANDY RIEGE FULLER, CMC
DEPUTY CLERK OF COUNCIL

MARY A. MCDONALD
MAYOR

VICE-MAYOR

CERTIFICATE OF RECORDING OFFICER

I, Sandra Riege Fuller, Deputy Clerk of the City of Trotwood, Ohio, do hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance No. OR01-20 passed by the Trotwood City Council on the 6TH day of _____, 2019.

IN TESTIMONY WHEREOF, witness by hand and official seal this _____ day of _____, 2019.

Sandy Riege Fuller, CMC
Deputy Clerk of Council

EXHIBIT A

1501.01 ADOPTION.

There is hereby adopted by the Municipality, the 2011 Ohio Fire Code (OFC) **in its current edition**, as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, **at its** effective **date**, ~~November 1, 2011~~, and as published in Division 1301:7 of the Ohio Administrative Code (OAC).

1501.02 PURPOSE.

The purpose of the Ohio Fire Code as adopted herein is to prescribe minimum standards and regulations governing conditions hazardous to life and property from fire or explosion.

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 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 rules of the Ohio Board of Building Standards including the Ohio Basic Building Code shall supersede and govern any order, standard or rule of the Department of Commerce, Division of State Fire Marshal including the Ohio Fire Code, in all cases where such orders, standards or rules are in conflict with the rules of the Ohio Board of Building Standards, except that rules adopted and orders issued by the State Fire Marshal pursuant to Ohio R.C. Chapter 3743 prevail in the event of conflict. (ORC 3781.11)

(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.

1501.99 PENALTY.

(a) Criminal Penalties.

(1) 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~~ **Fire 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))