

**CITY OF SOUTH LEBANON, OHIO  
ORDINANCE NO. 2022-17**

**AN EMERGENCY ORDINANCE ADDRESSING THE PROVISIONS OF  
AMENDED SUBSTITUTE HB 172 CONCERNING THE RIGHT OF  
MUNICIPALITIES TO RETAIN THE REGULATIONS AND PROHIBITIONS ON  
THE POSSESSION, DISCHARGE, IGNITION, AND EXPLODING OF FIREWORKS  
THAT EXISTED PRIOR TO THE ENACTMENT OF AMENDED  
SUBSTITUTE HB 172.**

**WHEREAS**, on October 27, 2021, the Ohio General Assembly passed Amended Substitute House Bill 172 ("HB 172") concerning among other things, the regulation, possession, discharge, ignition, and exploding of fireworks in the State of Ohio; and

**WHEREAS**, Governor DeWine signed HB 172 into law on November 8, 2021; and

**WHEREAS**, various aspects of HB 172 may, without legislative action by Ohio municipalities and other governmental entities, permit the possession, discharge, ignition, and/or exploding of what are commonly referred to as "fireworks" under certain conditions and on certain days of the year; and

**WHEREAS**, provisions of HB 172 (including what are now R.C. 3743.45(D) and (E) and R.C. 3743.451(B)) expressly reserves municipalities the home rule authority to retain all or any municipal ordinances that regulate and/or prohibit the possession, discharge, ignition, or exploding of fireworks and to retain all Ordinances that regulate noise, disturbance of the peace, and disorderly conduct; and

**WHEREAS**, Council of the City of South Lebanon desires to opt out of HB 172 and reaffirm the existing ban on possessing, discharging, igniting, or exploding fireworks as set forth in Chapter 91 of the Ohio Basic Code, attached hereto as Exhibit A; and

**WHEREAS**, various portions of HB 172 will go into effect on July 1, 2022, including provisions concerning the right to possess, discharge, ignite, and/or explode fireworks, thus making prompt action on this Ordinance an emergency measure in order to preserve the public peace, health, safety, and general welfare of the City.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of South Lebanon, at least two-thirds of all members elected thereto concurring:

**Section 1.** That all provisions of the Ohio Basic Code, adopted by the City of South Lebanon as part of Ordinance No. 2022-08, including, but not limited to, Chapter 91, concerning the possession, discharge, ignition, or exploding of fireworks, and all laws that regulate noise, disturbance of the peace, and disorderly conduct, will remain in full force and effect regardless of the permissions granted in HB 172.


**Section 2.** That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

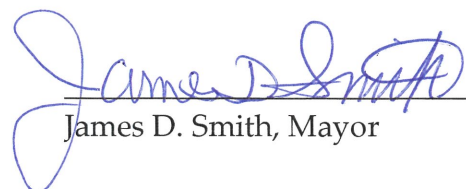
**Section 3.** That it is found and determined that all formal actions of the Council concerning and relating to passing this Ordinance were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**Section 4.** That, because of the upcoming effective date and the dangers posed by the discharge of fireworks in a City such as South Lebanon, this Ordinance is hereby declared to be an emergency measure, in accordance with Section 731.30 of the Ohio Revised Code, for the immediate preservation of the public peace, health, safety and general welfare; and, this Ordinance shall be in full force and effective immediately upon its passage.

Adopted this 19<sup>th</sup> day of May, 2022.

Attest:

  
Petrina Williams, Fiscal Officer/Clerk

  
James D. Smith, Mayor

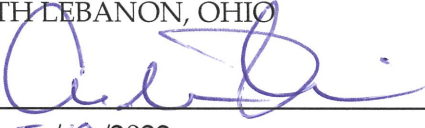
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Rules Suspended: <u>5/19</u> /2022 (if applicable)	Effective Date - <u>5/19</u> /2022
Vote - <u>5</u> Yeas ___ Nays	
First Reading -   /   /2022	Effective Date -   /   /2022
Second Reading -   /   /2022	
Third Reading -   /   /2022	
Vote - ___ Yeas ___ Nays	


Prepared by and approved as to form:

ANDREW P. MEIER  
CITY SOLICITOR  
SOUTH LEBANON, OHIO

By:   
Date: 5/19/2022

CERTIFICATE OF POSTING

I, Tina Williams, CPA, Fiscal Officer of the City of South Lebanon, Ohio do hereby **certify** I posted a true and accurate copy of this ordinance or resolution, summary of ordinance or resolution, or **statement**, order, proclamation, notice or report, at five **public** places within the City as authorized by Section 731.25 of the Ohio Revised Code and Ordinance 98-08 of the City of South Lebanon, Ohio

5/20/22   
Date Tina Williams, CPA  
Fiscal Officer  
City of South Lebanon, Ohio

## CHAPTER 91: FIREWORKS, EXPLOSIVES, FIRE PREVENTION

### Section

#### *Fireworks and Explosives*

- 91.01 Definitions
- 91.02 Possession, sale, and use of fireworks
- 91.03 Permit to use fireworks
- 91.04 Manufacturing or wholesale sale without a license; prohibitions
- 91.05 Purchasers to comply with law; unauthorized purchases
- 91.06 Exhibition without a license; prohibitions for exhibitions
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- 91.56 Relations to other prohibitions
- 91.57 Open burning in restricted areas
- 91.58 Permission and notice to open burn

- 91.99 Penalty

#### *Cross-reference:*

*Failure to secure dangerous ordnance, see § 137.06*  
*Fire Department, see Chapter 35*  
*Fire Engineer, see § 31.103*  
*License to possess dangerous ordnance, see § 137.10*  
*Vehicles carrying explosives, see § 74.36*

#### *Statutory reference:*

*Fire Marshal, fire safety, see R.C. Chapter 3737*  
*Fireworks, state law provisions, see R.C. Chapter 3743*  
*Ohio Fire Code, see O.A.C. Chapter 1301:7-7*  
*Open burning, see O.A.C. Chapter 3745-19*  
*Power to regulate explosives, see R.C. § 715.60*

## **FIREWORKS AND EXPLOSIVES**

### **§ 91.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**1.3G FIREWORKS.** Display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49 of the Code of Federal Regulations.

**1.4G FIREWORKS.** Consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49 of the Code of Federal Regulations.

**BEER.** Has the same meaning as in R.C. § 4301.01.

**BOOBY TRAP.** A small tube that has a string protruding from both ends that has a friction-sensitive composition and that is ignited by pulling the ends of the string.

**CIGARETTE LOAD.** A small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

**CONTROLLED SUBSTANCE.** Has the same meaning as in R.C. § 3719.01.

**DISCHARGE SITE.** An area immediately surrounding the mortars used to fire aerial shells.

**FIREWORKS.** 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 R.C. § 3743.80.

**FIREWORKS INCIDENT.** Any action or omission that occurs at a fireworks exhibition that results in injury or

death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or R.C. Chapter 3743, or any applicable rule adopted under this chapter or R.C. Chapter 3743.

**FIREWORKS INCIDENT SITE.** A discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found

**FIREWORKS PLANT.** All buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

**HIGHWAY.** Any public street, road, alley, way, lane or other public thoroughfare.

**INTOXICATING LIQUOR.** Has the same meaning as in R.C. § 4301.01.

**LICENSED BUILDING.** A building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

**LICENSED EXHIBITOR OF FIREWORKS** or **LICENSED EXHIBITOR.** A person licensed pursuant to R.C. §§ 3743.50 through 3743.55.

**LICENSED MANUFACTURER OF FIREWORKS** or **LICENSED MANUFACTURER.** A person licensed pursuant to R.C. §§ 3743.02 through 3743.08.

**LICENSED PREMISES.** The real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

**LICENSED WHOLESALE OF FIREWORKS** or **LICENSED WHOLESALE.** A person licensed pursuant to R.C. §§ 3743.15 through 3743.21.

**LIST OF LICENSED EXHIBITORS.** The list required by R.C. § 3743.51(C).

**LIST OF LICENSED MANUFACTURERS.** The list required by R.C. § 3743.03(C).

**LIST OF LICENSED WHOLESALE.** The list required by R.C. § 3743.16(C).

**MANUFACTURING OF FIREWORKS.** The making of fireworks from raw materials, none of which in and of themselves constitute fireworks, or the processing of fireworks.

**NAVIGABLE WATERS.** Any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

**NOVELTIES** and **TRICK NOISEMAKERS.**

(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.

**PARTY POPPER.** A small plastic or paper item that contains not more than 16 milligrams of friction-sensitive explosive composition that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

**PROCESSING OF FIREWORKS.** The making of fireworks from materials all or part of which in and of themselves constitute fireworks, but does not include the mere packaging or repackaging of fireworks.

**RAILROAD.** Any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry or plant.

**RETAIL SALE** or **SELL AT RETAIL.** A sale of fireworks to a purchaser who intends to use the fireworks and not to resell them.

**SMOKE DEVICE.** A tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

**SNAKE** or **GLOW WORM.** 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.

**SNAPPER.** A small paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand and that, when dropped, implodes.

**STORAGE LOCATION.** A single parcel or contiguous parcels of real estate approved by the Ohio Fire Marshal pursuant to R.C. § 3743.04(I) or R.C. § 3743.17(F) that are separate from a licensed premises containing a retail

showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

**TRICK MATCH.** 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.

**WHOLESALE SALE or SELL AT WHOLESALE.** A sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

**WIRE SPARKLER.** A sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than 100 grams of this mixture.  
(R.C. § 3743.01) (Rev. 2022)

## § 91.02 POSSESSION, SALE, AND USE OF FIREWORKS.

(A) No person shall possess fireworks in this municipality or shall possess for sale or sell fireworks in this municipality, except a licensed manufacturer of fireworks as authorized by R.C. §§ 3743.02 through 3743.08, a licensed wholesaler of fireworks as authorized by R.C. §§ 3743.15 through 3743.21, a shipping permit holder as authorized by R.C. § 3743.40, an out-of-state resident as authorized by R.C. § 3743.44, a resident of this state as authorized by R.C. § 3743.45, or a licensed exhibitor of fireworks as authorized by R.C. §§ 3743.50 through 3743.55, or as authorized by any municipal ordinance that is substantially equivalent to any of these statutes, and except as provided in R.C. § 3743.80 or a substantially equivalent municipal ordinance.

(B) Except as provided in R.C. § 3743.80 or a substantially equivalent municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to R.C. §§ 3743.50 through 3743.55 or a substantially equivalent municipal ordinance, no person shall discharge, ignite, or explode any fireworks in this municipality.

(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 of any kind to a person under 18 years of age. No person under 18 years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under 18 years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(E) Except as otherwise provided in R.C. § 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks in this municipality.  
(R.C. § 3743.65(A) - (E)) (Rev. 2016) Penalty, see § 91.99  
*Statutory reference:*

*Felony offense for disabling a fire suppression system, see R.C. § 3743.65(F)*

## § 91.03 PERMIT TO USE FIREWORKS.

(A) An exhibitor of fireworks licensed under R.C. §§ 3743.50 through 3743.55 who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(B) The approval required by division (A) of this section shall be evidenced by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the State Fire Marshal or, if available, from the Fire Chief, a fire prevention officer, the Police Chief or other similar chief law enforcement officer, or a designee of the Police Chief or other similar chief law enforcement officer.

(C) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his or her license as an exhibitor of fireworks to the Fire Chief or fire prevention officer.

(D) The Fire Chief or fire prevention officer and the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer or with the designee of the Police Chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(E) If the Legislative Authority has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.

(F) Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars with surety satisfactory to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to person or property emanating from the fireworks exhibitor, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss of persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the Legislative Authority.

(G) Each permit for a fireworks exhibition issued by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipality, and identify the certified fire safety inspector, Fire Chief, or fire prevention officer who will be present before, during and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, issuing it to the State Fire Marshal. A permit is not transferable or assignable.

(H) The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, fire prevention officer, Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall list the name of the exhibitor, his or her license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(I) The Legislative Authority shall require that a certified fire safety inspector, Fire Chief or fire prevention officer be present before, during and after the exhibition,

and shall require the certified fire safety inspector, Fire Chief or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and R.C. Chapter 3743.

(R.C. § 3743.54(B) - (F)) (Rev. 2002) Penalty, see § 91.99

**Statutory reference:**

*Notice of fireworks incident, see R.C. § 3743.541*

**§ 91.04 MANUFACTURING OR WHOLESALE SALE WITHOUT A LICENSE; PROHIBITIONS.**

(A) No licensed manufacturer or licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to R.C. §§ 3743.05 and 3743.18 or the requirements of R.C. §§ 3743.06 and 3743.19.

(B) No licensed manufacturer or licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by R.C. §§ 3743.07 and 3743.20, or to permit an inspection of these records or the premises of a fireworks plant or the wholesaler pursuant to R.C. §§ 3743.08 and 3743.21.

(C) No licensed manufacturer or licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. §§ 3743.01(B)(1) and 3743.21(B)(1) within the specified period of time.

(D) No licensed manufacturer or licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to R.C. §§ 3743.08(B)(2) and 3743.21(B)(2) until the nonconformities are eliminated, corrected or otherwise remedied or the 72 hour period specified in those divisions has expired, whichever occurs first.

(E) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant or on the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer or wholesaler pursuant to R.C. § 3743.06(C) or R.C. § 3743.19(D).

(F) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises of the fireworks plant or on the premises of a wholesaler of fireworks.

(R.C. §§ 3743.60(E) - (J), 3743.61(E) - (J)) (Rev. 1998) Penalty, see § 91.99

**Statutory reference:**

*Felony provisions, see R.C. §§ 3743.60(A) through (D) and 3743.61(A) through (D)*

### § 91.05 PURCHASERS TO COMPLY WITH LAW; UNAUTHORIZED PURCHASES.

(A) No person who resides in another state and purchases fireworks in this municipality shall obtain possession of the fireworks in this municipality unless the person complies with R.C. § 3743.44.

(B) No person who resides in another state and who purchases fireworks in this municipality shall obtain possession of fireworks in this municipality other than from a licensed manufacturer or wholesaler, or fail, when transporting 1.3G fireworks, to transport them directly out of the state within 72 hours after the time of their purchase. No such person shall give or sell to any other person in this municipality fireworks that the person has acquired in this state.

(C) No person who resides in this state and purchases fireworks in this municipality shall obtain possession of the fireworks in this municipality unless the person complies with R.C. § 3743.45.

(D) No person who resides in this state and who purchases fireworks in this municipality under R.C. § 3743.45 shall obtain possession of the fireworks in this municipality other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of the state within 48 hours after the time of their purchase. No such person shall give or sell to any other person in this municipality fireworks that the person has acquired in this state. (R.C. § 3743.63) (Rev. 2016) Penalty, see § 91.99

### § 91.06 EXHIBITION WITHOUT A LICENSE; PROHIBITIONS FOR EXHIBITIONS.

(A) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.53(B) and (E) or to comply with R.C. § 3743.53(C) and (D).

(B) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to R.C. § 3743.54 or a substantially equivalent municipal ordinance, or if a permit so secured is revoked by a Fire Chief or fire prevention officer, in consultation with a Police Chief or other similar chief law enforcement officer, or with a designee of a Police Chief or other similar chief law enforcement officer, pursuant to those sections.

(C) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with R.C. §§ 3743.54 and 3743.55, or a substantially equivalent municipal ordinance.

(D) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of,

any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(E) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the State Fire Marshal under R.C. § 3743.56.

(R.C. § 3743.64(C) - (G)) (Rev. 2002) Penalty, see § 91.99  
*Statutory reference:*

*Felony provisions, see R.C. § 3743.64(A), (B), and (H)*  
*Notice of fireworks incident, see R.C. § 3743.541*

### § 91.07 UNAUTHORIZED TRANSPORTATION OR SHIPPING.

(A) No person shall transport fireworks in this municipality except in accordance with the rules adopted by the State Fire Marshal pursuant to R.C. § 3743.58.

(B) As used in this division, **FIREWORKS** includes only 1.3G and 1.4G fireworks. No person shall ship fireworks into this municipality by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under R.C. § 3743.40, and the fireworks are shipped directly to the holder of a license issued under R.C. § 3743.03, 3743.16 or 3743.51.

(C) No person shall ship fireworks within this municipality by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under R.C. § 3743.01, 3743.16 or 3743.51. (R.C. § 3743.66) (Rev. 1998) Penalty, see § 91.99

### § 91.08 APPLICATION OF SUBCHAPTER.

This subchapter does not apply to the following:

(A) The manufacture, sale, possession, transportation, storage, or use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;

(B) The manufacture, sale, possession, transportation, storage or use of fusees, torpedoes, or other signals necessary for the safe operation of railroads;

(C) 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;

(D) The manufacture for, the transportation, storage, possession or use by, or the sale to the armed forces of the United States and the militia of this state of pyrotechnic devices;

(E) 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 0.25 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;

(F) 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;

(G) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

(H) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges; provided, that the exhibition complies with all of the following:

(1) No explosive aerial display is conducted in the exhibition;

(2) The exhibition is separated from spectators by not less than 200 feet;

(3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition. (R.C. § 3743.80) (Rev. 2008)

#### **§ 91.09 ARREST OF OFFENDER; SEIZURE AND FORFEITURE OF FIREWORKS; DISTRIBUTION OF FINES.**

(A) The Fire Marshal, an assistant fire marshal, or a certified fire safety inspector may arrest, or may cause the arrest of, any person whom he or she finds in the act of violating, or who he or she has reasonable cause to believe has violated, any provision of this subchapter. Any arrest shall be made in accordance with statutory and constitutional provisions governing arrests by law enforcement officers.

(B) If the Fire Marshal, an assistant fire marshal, or certified fire safety inspector has probable cause to believe that fireworks are being manufactured, sold, possessed, transported, or used in violation of this subchapter, he or she may seize the fireworks. Any seizure of fireworks shall be made in accordance with statutory and constitutional provisions governing searches and seizures by law enforcement officers. The Fire Marshal's office or certified fire safety inspector's office shall impound at the site or safely keep seized fireworks pending the time they are no longer needed as evidence. A sample of the seized fireworks is sufficient for evidentiary purposes. The remainder of the seized fireworks may be disposed of pursuant to an order

from a court of competent jurisdiction after notice and a hearing.

(C) Fireworks manufactured, sold, possessed, transported, or used in violation of this subchapter shall be forfeited by the offender. The Fire Marshal's office or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in R.C. §§ 2981.11 to 2981.13 for the disposal of forfeited property by law enforcement agencies, and the Fire Marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.

(D) This section does not affect the authority of peace officers, as defined in R.C. § 2935.01, to make arrests for violations of this subchapter or to seize fireworks manufactured, sold, possessed, transported, or used in violation of this subchapter.

(E) Any fines imposed for a violation of this subchapter relating to the sale, purchase, possession, or discharge of fireworks shall be distributed as set forth in R.C. § 3743.68(D). (R.C. § 3743.68) (Rev. 2008)

#### **§ 91.10 SAFETY REQUIREMENTS FOR FIREWORKS SHOWROOM STRUCTURES.**

(A) (1) Except as described in division (A)(2) of this section, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Ohio Revised Code and rules adopted by the State Fire Marshal under R.C. Chapter 119. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under R.C. § 3743.51, that the exhibitor possesses a valid exhibition permit issued in accordance with R.C. § 3743.54, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the Fire Marshal under R.C. Chapter 119.

(C) (1) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

(2) A representative sample showroom shall consist of a structure constructed and maintained in accordance with the Nonresidential Building Code adopted under R.C. Chapter 3781 and the Fire Code adopted under R.C. § 3737.82 for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the State Fire Marshal pursuant to R.C. Chapter 119.

(3) If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(a) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the Superintendent of Industrial Compliance in the Department of Commerce.

(b) A fireworks showroom that first begins to operate on or after June 30, 1997, and to which the public has access for retail purposes shall not exceed 5,000 square feet in floor area.

(c) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to R.C.

§ 3791.04, shall comply with a graphic floor plan layout that is approved by the State Fire Marshal and Superintendent of Industrial Compliance showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the State Fire Marshal and Superintendent of Industrial Compliance.

(d) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the State Fire Marshal and Superintendent of Industrial Compliance, and that are submitted under seal as required by R.C. § 3791.04.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

(R.C. § 3743.25) (Rev. 2013) Penalty, see § 91.99

## § 91.11 STORAGE OF EXPLOSIVES.

It shall be unlawful to store at any time within the municipality a quantity of gunpowder or other similar explosive weighing in excess of 100 pounds.

Penalty, see § 91.99

### *Statutory reference:*

*Illegal manufacture or processing of explosives, felony provisions, see R.C. § 2923.17*

## § 91.12 BLASTING PERMIT.

No person shall cause a blast to occur within the municipality without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the Mayor or other proper municipal officer. The Mayor or other proper municipal officer before granting such permit may require the applicant to provide a bond to indemnify the municipality and all other persons against injury or damages which might result from the proposed blasting.

Penalty, see § 91.99

## FIRE PREVENTION

### § 91.30 REMOVAL OF FLAMMABLE MATERIALS OR OBSTRUCTIONS.

Any flammable or combustible materials not arranged or stored in such a manner as to afford reasonable safety against the danger of fire, or any matter stored or arranged in such a manner as to impede or prevent access to, or exit from, any premises in case of fire, shall be ordered by the