

**ORDINANCE NO.: 2022-27**

**INTRODUCED BY: Mr. Janke**

**AN ORDINANCE ENACTING A NEW CHAPTER 1523 OF THE FIRE PREVENTION CODE, "OPEN BURNING, RECREATIONAL FIRES, AND PORTABLE OUTDOOR FIREPLACES" AND REPEALING SECTION 521.12 OF THE HEALTH, SAFETY AND SANITATION CODE, "OUTDOOR FIRES."**

**WHEREAS**, Section 521.12 of the Health, Safety and Sanitation Code, "Outdoor Fires," sets forth regulations for open fires within the Village, and requires permits from the Police Chief for open fires within the Village; and

**WHEREAS**, this Council desires to update the Codified Ordinances to better address outdoor fires, safety and air quality in a manner consistent with current best practices; and

**WHEREAS**, this Council determines that it is in the best interest of the Village to adopt a new Chapter 1523 of the Fire Prevention Code, "Open Burning, Recreational Fires, and Portable Outdoor Fireplaces," as set forth herein, and to repeal existing Section 521.12 of the Health, Safety and Sanitation Code

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MORELAND HILLS, COUNTY OF CUYAHOGA AND STATE OF OHIO THAT:**

- Section 1.** A new Chapter 1523 of the Fire Prevention Code, "Open Burning, Recreational Fires, and Portable Outdoor Fireplaces," to read as fully set forth in Exhibit A, which is fully incorporated herein by reference, shall be and is hereby enacted.
- Section 2.** Section 521.12 of the Health, Safety and Sanitation Code, "Outdoor Fires," and any other provisions of the Codified Ordinances of the Village of Moreland Hills that are inconsistent with Chapter 1523 of the Fire Prevention Code be and the same are hereby repealed.
- Section 5.** The actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings held in compliance with all legal requirements.

**WHEREFORE**, this Ordinance shall be in full force and effect from and after the earliest time allowed by law.

PASSED: April 13, 2020

  
Mayor

ATTEST:

*Sm Acute*

CLERK

## EXHIBIT A

### **CHAPTER 1523. OPEN BURNING, RECREATIONAL FIRES, AND PORTABLE OUTDOOR FIREPLACES**

#### **1523.01 DEFINITIONS.**

As used in this Chapter 1523 of the Codified Ordinances:

(a) "Open burning" means the burning of materials whereby products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or use of outdoor fireplaces or portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

(b) "Outdoor fireplace" means a stationary, outdoor, solid-fuel-burning fireplace or fire ring that may be constructed of or, if the outdoor fireplace or fire ring is recessed or sunken, lined or bordered with noncombustible material such as steel, concrete, stone, brick, or clay. An outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney operating in the top. Examples include outdoor fireplaces, fire rings, fire pits, stationary fire tables, and other elements designed and manufactured or constructed for use as a stationary outdoor fireplace or fire ring.

(c) "Portable outdoor fireplace" means a portable, outdoor, solid-fuel-burning fireplace that may be constructed of noncombustible material such as steel, concrete, or clay. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney operating in the top. Examples of a portable outdoor fireplace include chimineas, portable outdoor fire pits, and other products manufactured for use as a portable outdoor fireplace.

(d) "Recreational fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of three (3) feet (914 mm) or less in diameter and two (2) feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

(e) "Seasoned firewood" means firewood that has been split and stored to dry for at least six (6) months.

#### **1523.02 PERMIT REQUIRED.**

No person shall commence open burning of a fire with a fuel area exceeding three (3) feet in diameter and two (2) feet in height without first securing an open burning permit from the fire division. Outdoor fireplaces and portable outdoor fireplaces used at one- and two-family dwellings are excepted from this permit requirement; exception from this requirement shall not except outdoor fireplaces from permit, inspection, or other applicable requirements in these Codified Ordinances or other applicable law.

**1523.03 SEASONED FIREWOOD.**

Only 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 may be burned in any recreational fire, outdoor fireplace, or portable outdoor fireplace.

**1523.04 ATTENTION AND EXTINGUISHMENT; SMOKE.**

(a) All open burning, recreational fires, outdoor fireplaces, and portable outdoor fireplaces are to be constantly attended by a responsible party.

(b) All open burning, recreational fires, outdoor fireplaces, and portable outdoor fireplaces shall be conducted only with an adequate means of extinguishment readily available.

(c) Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

**1523.05 DISTANCE FROM STRUCTURES AND COMBUSTIBLES.**

(a) Open burning shall not be located within fifty (50) feet of any structure, and provisions shall be made to prevent the fire from spreading to within fifty (50) feet of any structure.

(b) Recreational fires shall not be located within twenty-five (25) feet of any structure or combustible material.

(c) Portable outdoor fireplaces shall be used in accordance with manufacturer instructions and shall not be operated within fifteen (15) feet of a structure or combustible material. Portable outdoor fireplaces used at one- and two-family dwellings are excepted from this setback requirement.

(d) In all cases, provisions shall be made prior to ignition to eliminate conditions that would allow fire to spread to any structure or combustible material.

**1523.06 EXTINGUISHMENT AUTHORITY.**

The Police Chief or his designee is authorized to order the extinguishment of any recreational fire, outdoor fireplace, portable outdoor fireplace, or open burning that is determined by the Police Chief or his designee to be hazardous to public safety.

**1523.07 PENALTY.**

- (a) No person shall fail to secure a permit in violation of section 1523.02 of this chapter.
- (b) No person shall create or maintain conditions violating sections 1523.03, 1523.04, or 1523.05 of this chapter.
- (c) No person shall fail to comply with any extinguishment order issued pursuant to section 1523.06 of this chapter.
- (d) Whoever violates division (a), (b), or (c) of this section is guilty of a misdemeanor of the first degree.
- (e) Each day upon which a violation of division (a), (b), or (c) occurs or continues shall constitute a separate offense.