

ORDINANCE NO. 2022-31

Introduced by Joe Dike

AN ORDINANCE REPEALING AND AMENDING AND RESTATING CHAPTER 1519 FIREWORKS; AND DECLARING AN EMERGENCY.

WHEREAS, Ohio Revised Code Section 3743.45, which goes into effect July 1, 2022, will allow Ohioans to legally shoot off 1.4G (consumer grade) fireworks on the following holidays: New Year's Day, Lunar New Year, Cinco de Mayo, Memorial Day Weekend, Juneteenth, July 3, 4 and 5 and Fridays, Saturdays and Sundays before and after July 4, Labor Day Weekend, Diwali and New Year's Eve; and

WHEREAS, although Ohio Revised Code Section 3743.45 provides communities an opportunity to opt out and continue existing bans on fireworks, this Council has determined that it is in the City of Huron's best interest to adopt certain regulations set forth in said statute; and

WHEREAS, this Council hereby determined the changes and amendments set forth within this Ordinance, including Exhibit "B", are in the best interest of the City of Huron and its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

Section 1. That Chapter 1519 (Fireworks) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows: (refer to Exhibit "A" attached), shall be and hereby is repealed in its entirety.

Section 2. That a new revised and restated Chapter 1519 of the Codified Ordinance of the City of Huron (Fireworks), as attached hereto and made a part hereof as Exhibit "B", shall be, and hereby is, adopted and thereafter shall be in full force and effect.

Section 3. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the residents; **WHEREFORE**, this Ordinance shall take effect immediately upon its adoption.

ATTEST:


Clerk of Council


Monty Tapp, Mayor

ADOPTED:

14 JUN 2022



CHAPTER 1519 Fireworks

1519.01	Definitions.	1519.05	Application.
1519.02	Public exhibition permit required; fee; bond; records.	1519.06	Safety requirements for fireworks showroom structures.
1519.03	Unlawful conduct by exhibitor.	1519.99	Penalty.
1519.04	Possession, sale or discharge prohibited; exceptions.		

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)
 Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)
 Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68
 Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Ohio Revised Code.
- (b) "Booby trap" means 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.
- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d) (1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.
 (2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in section 3719.01 of the Ohio Revised Code.

- (f) "Fireworks" means 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 section 3743.80 of the Ohio Revised Code.
- (g) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.
- (h) "Fountain device" means a specific type of 1.4G firework that meets all of the following criteria:
 - (1) It is nonaerial and nonreport producing.
 - (2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).
 - (3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.
 - (4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.
- (i) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.
- (j) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Ohio Revised Code.
- (k) "Licensed fountain device retailer" or "licensed retailer" means a person licensed pursuant to section 3743.26 of the Ohio Revised Code.
- (l) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Ohio Revised Code.
- (m) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Ohio Revised Code.
- (n) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Ohio Revised Code.
- (o) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Ohio Revised Code.
- (p) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Ohio Revised Code.
- (q) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.
- (r) "Navigable waters" means 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.
- (s) "Novelties and trick noisemakers" include the following items:
 - (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.

- (t) **"Party popper"** means a small plastic or paper item that contains not more than sixteen 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.
- (u) **"Processing of fireworks"** means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.
- (v) **"Railroad"** means 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.
- (w) **"Retail sale" or "sell at retail"** means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.
- (x) **"Smoke device"** means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (y) **"Snake or glow worm"** means 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.
- (z) **"Snapper"** means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (aa) **"Trick match"** means 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.
- (bb) **"Wire sparkler"** means 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 one hundred grams of this mixture.
- (cc) **"Wholesale sale" or "sell at wholesale"** means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.
- (dd) **"Licensed premises"** means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.
- (ee) **"Licensed building"** means 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.
- (ff) **"Fireworks incident"** means 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 any applicable rule adopted under this chapter.
- (gg) **"Discharge site"** means an area immediately surrounding the mortars used to fire aerial shells.
- (hh) **"Fireworks incident site"** means 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.

- (ii) "Storage location" means a single parcel or contiguous parcels of real estate approved by the state fire marshal pursuant to division (I) of section 3743.04 of the Ohio Revised Code or division (F) of section 3743.17 of the Ohio Revised Code 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.
(ORC 3743.01)

1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval 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 similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) 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 a designee of such Police Chief or 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 the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or 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 Fire Marshal pursuant to Ohio 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 a designee of such Police Chief or 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 the permit for noncompliance with the rules. (ORC 3743.54)

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee of One Hundred Twenty Five dollars (\$125.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.
(Ord. 2017-6. Passed 3-28-17.)

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or 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 persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to 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 subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

- (d) (1) 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 a designee of such Police Chief or 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 a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.
- (2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or 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 a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(e) The governing authority having jurisdiction in the location where an exhibition is to take place 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 Ohio R.C. Chapter 3743. (ORC 3743.54)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(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 Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

**1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED;
EXCEPTIONS.**

(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 Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

(b) Except as provided in Section 1519.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, 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 eighteen years of age. No person under eighteen 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 eighteen 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 Ohio R.C. 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks.
(ORC 3743.65)

1519.05 APPLICATION.

This chapter does not prohibit or 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 fuses, 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 or 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, as recognized by the Adjutant General of Ohio, 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 twenty-five hundredths 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 following:
 - (1) No explosive aerial display is conducted in the exhibition;
 - (2) The exhibition is separated from spectators by not less than two hundred 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.
(ORC 3743.80)

1519.06 SAFETY REQUIREMENTS FOR FIREWORKS SHOWROOM STRUCTURES.

- (a) (1) Except as described in subsection (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 Ohio R.C. Chapter 119. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under Ohio R.C. 3743.51, that the exhibitor possesses a valid exhibition permit issued in accordance with Ohio 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 Ohio 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 Ohio R.C. Chapter 3781 and the Fire Code adopted under Ohio 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 Ohio 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.
 - 1. A fireworks showroom that first begins to operate on or after June 30, 1997, or that resumes operations at any time after a period of inactive status or licensure greater than one year, and to which the public has access for retail purposes shall not exceed 7,500 square feet in floor area.
 - 2. A fireworks showroom that, through construction of a new showroom, expansion of an existing showroom, or similar means, first exceeds 5,000 square feet, to which the public has access for retail purposes, after February 7, 2022, shall be equipped with a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".
 - 3. Notwithstanding subsection (d) of this section, the State Fire Marshal may provide a variance to the requirements of subsection (c)(3)B.2. of this section pursuant to Ohio R.C. 3743.59 for a sprinkler system that matches or exceeds the degree of safety provided by a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".
- 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 Ohio 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 Ohio R.C. 3791.04.

(d) The safety requirements established in subsection (c) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code. (ORC 3743.25)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))

**CHAPTER 1519
Fireworks**

- 1519.01 Definitions.**
- 1519.02 Public exhibition permit required; fee; bond; records.**
- 1519.03 Unlawful conduct by exhibitor.**
- 1519.04 Possession, sale, and use restrictions.**
- 1519.05 Application.**
- 1519.06 Safety requirements for fireworks showroom structures.**
- 1519.07 Purchase, use, and local regulation of consumer-grade fireworks.**
- 1519.99 Penalty.**

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)

Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)

Purchase, use, and local regulation of consumer-grade fireworks - see Ohio R.C. 3743.45

Possession, sale, and use restrictions - see Ohio R.C. 3743.65

Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68

Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

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- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d) (1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.
- (2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in section 3719.01 of the Ohio Revised Code.
- (f) "Fireworks" means 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 section 3743.80 of the Ohio Revised Code.
- (g) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(h) "Fountain device" means a specific type of 1.4G firework that meets all of the following criteria:

(1) It is nonaerial and nonreport producing.

(2) It is recognized and manufactured in accordance with sections 3.1.1 and 3.5 of APA standard 87-1 (2001 edition).

(3) It is a ground-based or hand-held sparkler with one or more tubes containing a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition, with or without additional effects that may include a colored flame, audible crackling effect, audible whistle effect, or smoke.

(4) It contains not more than seventy-five grams of the nonexplosive pyrotechnic mixture in any individual tube and not more than five hundred grams or less for multiple tubes.

(i) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.

(j) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Ohio Revised Code.

(k) "Licensed fountain device retailer" or "licensed retailer" means a person licensed pursuant to section 3743.26 of the Ohio Revised Code.

(l) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Ohio Revised Code.

(m) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Ohio Revised Code.

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(p) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Ohio Revised Code.

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(r) "Navigable waters" means 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.

(s) "Novelties and trick noisemakers" include the following items:

(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;

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(u) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(v) "Railroad" means 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.

(w) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(x) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(y) "Snake or glow worm" means 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.

(z) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(aa) "Trick match" means 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.

(bb) "Wire sparkler" means 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 one hundred grams of this mixture.

(cc) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

(dd) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

(ee) "Licensed building" means 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.

(ff) "Fireworks incident" means 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 any applicable rule adopted under this chapter.

(gg) "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.

(hh) "Fireworks incident site" means 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.

(ii) "Storage location" means a single parcel or contiguous parcels of real estate approved by the state fire marshal pursuant to division (I) of section 3743.04 of the Ohio Revised Code or division (F) of section 3743.17 of the Ohio Revised Code 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.

(ORC 3743.01)

1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval 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 similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) 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 a designee of such Police Chief or 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 the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or 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 Fire Marshal pursuant to Ohio 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 a designee of such Police Chief or 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 the permit for noncompliance with the rules.

(ORC 3743.54)

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee of One Hundred Twenty Five dollars (\$125.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

(Ord. 2017-6. Passed 3-28-17.)

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or 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 persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to 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 subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

(d) (1) 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 a designee of such Police Chief or 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 a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.

(2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or 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 a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(e) The governing authority having jurisdiction in the location where an exhibition is to take place 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 Ohio R.C. Chapter 3743. (ORC 3743.54)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(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 Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

1519.04 POSSESSION, SALE, AND USE RESTRICTIONS.

(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 Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, a licensed fountain device retailer as authorized by Ohio R.C. 3743.27, a person as authorized by Ohio R.C. 3743.44 to 3743.45 and Section 1519.07, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

(b) Except as provided in Sections 1519.05 and 1519.07, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, 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 eighteen years of age. No person under eighteen 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 eighteen 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 Ohio R.C. 3743.44, no person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks.

(f) No person shall negligently discharge, ignite, or explode fireworks while in possession or control of, or under the influence of, any intoxicating liquor, beer, or controlled substance.

(g) No person shall negligently discharge, ignite, or explode fireworks on the property of another person without that person's permission to use fireworks on that property.
(ORC 3743.65)

1519.05 APPLICATION.

This chapter does not prohibit or 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 or 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, as recognized by the Adjutant General of Ohio, 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 twenty-five hundredths 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 following:

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

(2) The exhibition is separated from spectators by not less than two hundred 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.

(ORC 3743.80)

1519.06 SAFETY REQUIREMENTS FOR FIREWORKS SHOWROOM STRUCTURES.

(a) (1) Except as described in subsection (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 Ohio R.C. Chapter 119. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under Ohio R.C. 3743.51, that the exhibitor possesses a valid exhibition permit issued in accordance with Ohio 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 Ohio 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 Ohio R.C. Chapter 3781 and the Fire Code adopted under Ohio 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 Ohio 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. 1. A fireworks showroom that first begins to operate on or after June 30, 1997, or that resumes operations at any time after a period of inactive status or licensure greater than one year, and to which the public has access for retail purposes shall not exceed 7,500 square feet in floor area.

2. A fireworks showroom that, through construction of a new showroom, expansion of an existing showroom, or similar means, first exceeds 5,000 square feet, to which the public has access for retail purposes, after February 7, 2022, shall be equipped with a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".

3. Notwithstanding subsection (d) of this section, the State Fire Marshal may provide a variance to the requirements of subsection (c)(3)B.2. of this section pursuant to Ohio R.C. 3743.59 for a sprinkler system that matches or exceeds the degree of safety provided by a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)".

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 Ohio 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 Ohio R.C. 3791.04.

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

(ORC 3743.25)

1519.07 PURCHASE, USE, AND LOCAL REGULATION OF CONSUMER-GRADE FIREWORKS.

(a) Any person who intends to obtain possession in this Municipality of 1.4G fireworks shall obtain possession of the 1.4G fireworks only from a licensed retailer, licensed manufacturer, or licensed wholesaler and shall be subject to this subsection.

(b) Any person authorized under this section to possess 1.4G fireworks in this Municipality may discharge, ignite, or explode those fireworks on private property, with authorization from the property owner, on the following days each year:

- (1) The first day of January;
- (2) Chinese new year's day;
- (3) The fifth day of May;
- (4) The last Monday in May, and the Saturday and Sunday immediately preceding that day;
- (5) The nineteenth day of June;
- (6) The third, fourth, and fifth days of July;
- (7) The first Friday, Saturday, and Sunday before and after the fourth day of July;
- (8) The first Monday of September, and the Saturday and Sunday immediately preceding that day;
- (9) Diwali;
- (10) The thirty-first day of December.

(c) Fireworks discharged, ignited, or exploded pursuant to this section shall not be considered a public exhibition.

(d) Pursuant to Ohio R.C. 3743.45(D)(1), the Municipality is authorized to restrict the dates and times a person may discharge, ignite, or explode fireworks purchased pursuant to this section.

(e) This section does not limit the enforcement of any ordinance, resolution, or statute that regulates noise, disturbance of the peace, or disorderly conduct, including but not limited to Chapter 509 of the Codified Ordinances.

(ORC 3743.45)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))