

ORDINANCE NO. 1640

**AN ORDINANCE CONTROLLING OPEN BURNING WITHIN THE CORPORATE LIMITS OF THE VILLAGE OF COLDWATER, OHIO; SETTING FORTH THE PENALTIES FOR VIOLATIONS THEREOF; AND DECLARING AND EFFECTIVE DATE.**

**SECTION ONE**

**Definitions**

- A) "Agricultural waste" means any matter generated by crop, horticultural, or livestock production practices, and includes such items as bags, cartons, and landscape wastes that are generated in agricultural activities but does not include land clearing waste; garbage; dead animals; motor vehicles and parts thereof; nor economic poisons and containers therefore, unless the manufacturer has identified open burning as a safe disposal procedure.
- B) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.
- C) "Garbage" means any matter resulting from the handling, processing preparation, cooking, and consumption of food or food products.
- D) "Landscape waste" means any plant matter, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, and crop residues.
- E) "Land clearing waste" means plant matter which is removed from land for the purpose of rendering the land useful for residential, commercial, or industrial development. This also includes plant matter removed from stream banks during projects involving more than one property owner.
- F) "Ohio EPA" means the Ohio environmental protection agency director or agencies delegated authority by the director of the Ohio environmental protection agency pursuant to Section 3704.03 of the Revised Code or the chief of any Ohio environmental protection agency district office.
- G) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of Rule 3745-17-09 or 3745-17-10 of the Ohio Administrative Code.
- H) "Residential waste" means any matter, including landscape wastes, generated on a one-, two-, or three-family residence as a result of residential activities but not including garbage.
- I) "Restricted area" means the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Revised Code, plus a zone extending one thousand (1,000) feet beyond the boundaries of any such municipal corporation having a population of one thousand (1,000) to ten thousand (10,000) persons according to the latest federal census.
- J) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in paragraph (I).

## SECTION TWO

No person or real property owner shall cause or allow open burning within the Village of Coldwater, Ohio, except as provided in Sections Three, Four, and Five of this ordinance. All allowable open burnings shall be subject to the following:

- A. If the fire is contained in a container such as an outdoor fireplace, barbecue pit, etc. the fire must be at least fifteen feet (15') from a structure or combustible material.
- B. For an open fire that is not contained, the fire must be at least twenty feet (20') from a structure, wood fence, neighboring structure, or combustible material.
- C. The fire must be attended while burning and must be extinguished if it is not attended.
- D. A portable fire extinguisher, garden hose, bucket of sand or other suitable means for extinguishing the fire must be provided.
- E. All fires shall be limited to three hours per twenty four hour time period.

## SECTION THREE

Open burning shall be allowed for the following purposes:

- A. Cooking food for human consumption.
- B. Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers, and similar occupational needs.

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

## SECTION FOUR

Open burning shall be allowed for the following purposes with prior notification to both the Village of Coldwater, Ohio, Police Department and the Northwest District Office of the Ohio Environmental Protection Agency.

Ceremonial purposes: Ceremonial fires shall be less than 5' x 5' x 5' and shall burn no longer than three hours.

Fires allowed by this section shall not be used to burn garbage, landscape waste, or any other waste. The fuel used shall be a clean fuel; that is, a fuel chosen to minimize the generation and emission of air contaminants.

## SECTION FIVE

Open burning shall be allowed for the following purposes upon receipt of written permission from the Northwest District Office of the Ohio Environmental Protection Agency provided that any conditions specified in the permit are followed:

- 1. Disposal of hazardous or toxic materials where the Ohio Environmental Protection Agency determines that there is no practical alternate method of disposal.
- 2. Instruction in methods of fire fighting or for the research in the control of fire.
- 3. In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Ohio Environmental Protection Agency.

4. Recognized horticultural, silvicultural, range or wildfire management practices; and
5. Prevention or control of disease or pests, with written verification from the local health department, county agricultural extension agency, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.

Receipt of written permission shall be obtained as provided by Ohio Environmental Protection Agency Regulation 3745-19-05.

### SECTION SIX

Notwithstanding any provision in Chapter 3745-19 of the Ohio Administrative Code, no open burning shall be conducted in an area where an air alert, warning, or emergency under Chapter 3745-25 of the Ohio Administrative Code is in effect.

No provision of Chapter 3745-19 of the Ohio Administrative Code permitting open burning and no permission to open burn granted by the Ohio EPA shall exempt any person from compliance with any section of the Revised Code or any regulation of any state department.

### SECTION SEVEN

Whoever causes or allows open burning in violation of this ordinance is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100) per day of burning plus the cost of proper disposal of the materials burned. Each day of burning in violation of this ordinance shall constitute a separate offense.

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

### SECTION EIGHT

Any legislation inconsistent herewith be and the same is hereby repealed

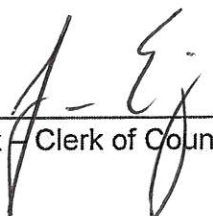
### SECTION NINE

This ordinance shall take effect and be in force from and after DEC 23, 2015

Adopted this 23 day of NOVEMBER, 2015.

  
Joseph H. Knapschaefer – Mayor

Attest:

  
Jason Eyink – Clerk of Council

Approved as to form:

  
Judy A. Koesters – Law Director