

CODIFIED ORDINANCES OF CLARKSBURG
PART FIFTEEN - FIRE PREVENTION CODE

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CODIFIED ORDINANCES OF CLARKSBURG
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ARTICLE 1505
Fire Prevention Bureau

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| 1505.02 | Fire Marshal. | 1505.05 | Annual report to City Manager. |
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1505.01 ESTABLISHED; SUPERVISION; PURPOSE.

There is hereby established the Clarksburg Fire Prevention Bureau. Such Bureau shall be operated under the supervision of the Chief of the Fire Department, under the direction of City Manager. The purpose of the Bureau shall be the enforcement of applicable fire prevention and such other fire and life safety codes within the City and to perform investigations thereunder, including arson investigations.
(Ord. 08-14. Passed 6-19-08.)

1505.02 FIRE MARSHAL.

There is hereby established the position of Fire Marshal, which shall not be a rank for civil service purposes. The Fire Marshal in charge of the Bureau of Fire Prevention shall be appointed by the Chief of the Fire Department, and the rank normally shall not exceed that of Captain.
(Ord. 08-14. Passed 6-19-08.)

1505.03 ASSISTANT FIRE MARSHALS; INSPECTORS.

There is hereby established the position of Assistant Fire Marshal, which shall not be a rank for civil service purposes. The Chief of the Fire Department may detail such members of the Fire Department as assistant fire marshals as shall from time to time be necessary, who shall be supervised by the Fire Marshal. The Chief of the Fire Department shall recommend to the City Manager the employment of technical inspectors who, when such authorization is made, shall perform such duties as may be required of them by the Bureau of Fire Prevention or the provisions of the Fire Prevention Code.
(Ord. 08-14. Passed 6-19-08.)

1505.04 ENFORCEMENT OF FIRE PREVENTION CODE.

The Fire Prevention Bureau shall enforce the Fire Prevention Code adopted in Article 1515, as well as related fire and life safety codes as may be established by law, and to issue citations for violations thereof returnable to the City's municipal court. The Fire Chief and the Fire Marshal shall be responsible to determine the appropriate training required for each assistant fire marshal, and to establish such operating procedures, rules and regulations as may be necessary for the operation of the Bureau of Fire Prevention, which procedures, rules and regulations shall be submitted by the Chief under the direction of the City Manager, submitted to Council for approval on appropriate Resolution.
(Ord. 08-14. Passed 6-19-08.)

1505.05 ANNUAL REPORT TO CITY MANAGER.

A report of the Bureau of Fire Prevention shall be made annually and transmitted to the City Manager, who shall forward such report to Council. It shall contain all proceedings under the Fire Prevention Code and this Part Fifteen, with such statistics as the Chief of the Fire Department may wish to include therein. In such report, the Chief of the Fire Department may also recommend any amendments to the Fire Prevention Code which he deems desirable.
(Ord. 08-14. Passed 6-19-08.)

ARTICLE 1507
Flammable Liquids

- 1507.01 Storage of volatile flammable liquids.
 1507.02 Sale in glass or breakable containers.
 1507.99 Penalty.

CROSS REFERENCE
 Authority to regulate - see W. Va. Code 8-12-5(14)

1507.01 STORAGE OF VOLATILE FLAMMABLE LIQUIDS.

The storage of volatile flammable liquids, with a flash point of seventy degrees Fahrenheit or less, shall comply with the following schedule; except, that the Chief of the Fire Department may impose a quantity limitation or require greater protection where unusual hazards to life or property is involved, or he may authorize increase of these amounts where the type of construction, fire protection provided or other factors substantially reduce the hazard.

- (a) Single and Multiple Family Dwellings and Accompanying or Detached Garages. No person shall store in any single family or multiple family dwelling or accompanying or detached garage, gasoline or any other volatile flammable liquid that has a flash point of seventy degrees Fahrenheit or below in glass containers. Such flammable liquid shall be stored only in closed metal containers and shall not exceed five gallons for single family dwellings and ten gallons for multi-family dwellings. Fuel oil is excepted from this subsection.
- (b) Schools, Hospitals, Institutional Buildings and Laboratories. Storage of volatile flammable liquids having a flash point of seventy degrees Fahrenheit or under, shall be limited to that required for maintenance, demonstration, treatment and laboratory work and shall be in an inside storage room, preferably at ground level, with at least one exterior wall. Flammable liquids in laboratories, etc., shall be in small containers, not exceeding one thousand cubic centimeters, or in closed metal containers or in storage cabinets.
- (c) Retail Stores and Department Stores. In rooms or areas accessible to the public in retail stores, storage of volatile flammable liquids having a flash point of seventy degrees Fahrenheit or less shall be closed in containers and limited to quantities needed for display and normal merchandising purposes. Additional stock shall be stored in rooms or portion of buildings that complies with the construction requirements of the State fire law.
- (d) Public Assembly Buildings, Apartments, Hotels, Theaters and Office Buildings. Storage of volatile flammable liquids having a flash point of seventy degrees Fahrenheit or less is prohibited, except that which is required for maintenance and operation of building and operation of equipment. Such storage shall be only in metal

closed containers stored in a storage cabinet or in safety cans or in an inside storage room not having a door that opens into that portion of the building used by the public. (1969 Code §9-1)

1507.02 SALE IN GLASS OR BREAKABLE CONTAINERS.

No person, filling station, garage or other retail or wholesale dealer in gasoline or other volatile flammable liquids having a flash point of seventy degrees Fahrenheit or under shall sell, place for sale, distribute or prepare for sale, gasoline or other volatile flammable liquids having a flash point of seventy degrees or under, in glass or breakable containers of any kind. (1969 Code §9-2)

1507.99 PENALTY.

Whoever violates any provision of this article shall be fined not more than five hundred dollars (\$500.00).

ARTICLE 1509
Woodburning Stoves and Chimneys

1509.01	Permit required.	1509.07	Applications.
1509.02	Installation of stoves.	1509.08	Conflicts with other laws or ordinances.
1509.03	Chimney connections.	1509.09	Jurisdictional liability.
1509.04	Chimneys and fireplaces.	1509.99	Penalty.
1509.05	Exceptions.		
1509.06	Repairs and alterations.		

1509.01 PERMIT REQUIRED.

No owner, agent or tenant in the City shall commence with the installation of any chimney, fireplace, stovepipe or wood- or coal-burning stove or appliance unless such person first obtains a fire inspection permit from the Fire Chief or his authorized representative. Following completion of the installation and before putting the stove, appliance, chimney or fireplace into use, the permittee shall notify the Fire Chief, who shall forthwith inspect the installation to determine that it is in compliance with the requirements of this article. If found to be in compliance with the article, the Fire Chief or his authorized representative shall countersign the permit and note the date of his inspection. If found to be in noncompliance, the Fire Chief or his authorized representative shall notify the permittee, in writing, of the nature of the noncompliance, and the stove, chimney, fireplace or appliance shall not be put into use until the condition has been corrected and reinspected by the Fire Chief or his authorized representative and the permit countersigned by him.
(Ord. 81-17. Passed 8-6-81.)

1509.02 INSTALLATION OF STOVES.

All wood- or coal-burning stoves or appliances shall be at least thirty-six inches from all combustible materials. Where clearance is less than thirty-six inches but more than eighteen inches, the combustible surface shall be protected by five-eighths inch drywall or its equivalent spaced one inch or more from the combustible surface. Adequate space shall be provided to permit air circulation. If clearance is less than eighteen inches but more than twelve inches, the combustible wall shall be protected with a four-inch brick veneer wall extending two feet above and two feet beyond each side.

All other installation shall be as follows:

- (a) All wood- or coal-burning stoves or appliances that have circulating devices shall be at least twenty-four inches from a combustible surface unless the appliance has a rating for lesser distance from the combustible surface.
- (b) If the distance of any circulating wood- or coal-burning stove or appliance is twelve inches to twenty-four inches from the noncombustible surface, the surface shall be protected by five-eighths inch drywall or its equivalent spaced one inch or more from the walls.

- (c) If the circulating wood- or coal-burning stove or appliance is eight inches to twelve inches from the noncombustible surface, the surface shall be protected by five-eighths inch drywall or its equivalent.
- (d) Noncombustible floor material shall extend at least eighteen inches beyond the opening from which ashes are removed and at least six inches beyond the side and rear.
- (e) Where stove legs are at least eighteen inches above a combustible surface, a No. 24 gauge sheet metal or its equivalent shall be used.
- (f) Where stove legs are between six and eighteen inches above a combustible surface, a No. 24 gauge sheet metal over five-eighths inch layer of drywall or other approved noncombustible material shall be used.
- (g) Where stove legs are six inches or less above a combustible-surface, a four-inch hollow masonry pad should be laid on an approved noncombustible surface of an inch thickness shall be used. (Ord. 81-17. Passed 8-6-81.)

1509.03 CHIMNEY CONNECTIONS.

- (a) All stovepipes shall be equal to or larger than the appliance flue connector.
- (b) All connector pipe shall be of a minimum of No. 16 gauge black pipe or heavier.
- (c) All connector pipe shall rise from the stove toward the chimney at least one-fourth inch per foot or more.
- (d) Crimped end of chimney connector pipe shall point toward stove. Adapters may be used to permit crimped end to point toward stove.
- (e) Single wall connector pipe shall not pass through the floor or wall. However, when necessary, a connector may pass through a wall under the following conditions.
 - (1) Where a ventilated-type metal thimble is used and is twelve inches greater in diameter than the chimney connector.
 - (2) Where a metal or burned fireclay thimble is used and the thimble is surrounded on all sides by not less than eight inches of brickwork or equivalent fireproofing material.
 - (3) When all combustible material is removed for a sufficient distance to provide not less than eighteen inches clearance on all sides of the connector. Any materials used to close this opening must be noncombustible insulating material.
 - (4) When the section of connector pipe passing through the combustible material is replaced by a properly installed section of factory built insulated triple wall or equivalent pipe for solid fuels.
- (f) All stovepipe shall be a minimum of eighteen inches from a combustible surface.
- (g) If stovepipe is twelve to eighteen inches from combustible surface, the surface shall be covered with five-eighths inch drywall or its equivalent.
- (h) If stovepipe is nine to twelve inches from combustible surface, the surface shall be covered with five-eighths inch drywall or its equivalent, with a No. 28 gauge sheet metal spaced one inch from wall or ceiling. (Ord. 81-17. Passed 8-6-81.)

1509.04 CHIMNEYS AND FIREPLACES.

- (a) Except as herein provided, all chimneys in every building hereafter erected and all chimneys hereafter altered or rebuilt shall be constructed of brick, stone or reinforced concrete or Underwriters' Laboratories-listed approved chimney. No masonry chimneys shall have walls less than four inches in thickness, and all chimneys shall be lined on the inside with fireclay chimney tile set in Portland cement mortar or its equivalent. The lining shall be continuous from the bottom of the flue to its

extreme height. No chimney shall be corbeled out more than six inches from a brick wall, and such corbeling shall consist of not less than five courses of brick, unless the chimney requires special construction, and then any specially constructed chimney shall not be corbeled out to such extent that the center of gravity of the chimney would be located so as to endanger the structure.

(b) All chimneys shall project at least three feet above the point of contact with a flat roof or two feet above any roof surface within ten feet horizontally of the chimney.

(c) The fireback of every fireplace hereafter erected shall not be less than eight inches in thickness of solid brickwork or air cell construction, nor less than twelve inches of stone lined with firebrick. When a grate is set in a fireplace a lining of firebrick at least two inches in thickness shall be added to the fireback, or soapstone, fireclay or cast iron may be used if solidly backed with brick or concrete. All smokepipes shall enter the chimney through a flue thimble or its equivalent such that the construction shall make a fire-tight joint with the chimney tile flue liner.

(d) All flue holes when not in use shall be closed with tight-fitting metal covers. No wooden beams or joists shall be placed within one inch of the outside face of the chimney or flue, whether the same be for smoke, air or any purpose, except for hot-air flues for heating purposes. No woodwork shall be within four inches of the back wall of any fireplace except if a chimney is built such that the thickness from the flueline is eight inches or more. Necessary woodwork may be placed against the chimney by using drywall sheeting or its equivalent between and around the wood so placed under the approval of the Fire Chief or his authorized representative. (Ord. 81-17. Passed 8-6-81.)

1509.05 EXCEPTIONS.

Technical requirements under this article may be waived or modified by the Fire Chief or his authorized representative whenever manufacturer's recommendations provide for equally safe and fire-resistant methods of installation, repair or alteration. Any such waiver or modification shall be at the discretion of the Fire Chief or his authorized representative and shall be in writing. (Ord. 81-17. Passed 8-6-81.)

1509.06 REPAIRS AND ALTERATIONS.

Any repair, reinstallation or alteration made to a structure or appliance previously installed under an approved permit authorized herein, shall continue to conform to the requirements of this article. An additional permit, as described in Section 1509.01, shall be required for each repair, reinstallation, or alteration, except that the permit shall be for no fee. (Ord. 81-17. Passed 8-6-81.)

1509.07 APPLICATIONS .

The Fire Chief is hereby authorized to design written applications for the issuance of permits under this article and shall have the right to promulgate reasonable rules and regulations for the implementation of such applications. (Ord. 81-17. Passed 8-6-81.)

1509.08 CONFLICTS WITH OTHER LAWS OR ORDINANCES.

In any case where a provision or requirement of this article is found to be in conflict with another provision or requirement of any other code or ordinance of the City, that provision or requirement which establishes the higher standard with regard to the same subject matter shall prevail. (Ord. 81-17. Passed 8-6-81.)

1509.09 JURISDICTIONAL LIABILITY.

The City and the Fire Department shall not assume risk, responsibility or liability for any damage to persons or property, by reason of inspection authorized herein, or failure to inspect, or by reason of approval or disapproval of a permit authorized herein. The owner, those doing work at the instance of any owner, or any other permittee, shall assume full and ultimate responsibility for the workmanship, quality of construction materials, and compliance with the technical standards for installations and repairs mandated herein. (Ord. 81-17. Passed 8-6-81.)

1509.99 PENALTY.

(a) Whoever violates the terms of a permit issued under this article, or submits a false application, shall be subject to the revocation of such permit and/or the issuance of a stop work order. Stop work orders and revocation notices shall be issued by and in the discretion of the Fire Chief or his authorized representative upon proper investigation of facts and circumstances.

(b) No person making application for a permit shall willfully make false statements with the intent of evading the requirements of this article. No person shall commence with the installation of any chimney, fireplace, stovepipe or wood- or coal-burning stove or appliance without first obtaining a permit from the Fire Chief or his authorized representative, or shall proceed to make such installation when a stop work order is issued. Each day a violation continues shall constitute a separate misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00). (Ord. 81-17. Passed 8-6-81.)

ARTICLE 1511
Open Burning

1511.01	Definitions.	1511.05	Applications.
1511.02	Open burning prohibited; general provisions.	1511.06	Fee. (Repealed)
1511.03	Prohibition during atmospheric stagnation.	1511.07	Right of entry upon premises.
1511.04	Permits.	1511.08	Special fire service charge for failure to extinguish.
		1511.99	Penalty.

CROSS REFERENCES

Authority to regulate - see W. Va. Code 8-12-5(15)

1511.01 DEFINITIONS.

(a) "Open burning" means the combustion of refuse whereby the gaseous products of combustion are not conveyed through man-made means from one point to another and are discharged directly to the open air.

(b) "Refuse" means the useless and/or unwanted or discarded solid, liquid and/or gaseous waste materials resulting from community, commercial, industrial or residents' activities.

(c) "Construction and demolition wastes" means combustible waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures.
(Ord. 81-20. Passed 7-16-81.)

1511.02 OPEN BURNING PROHIBITED; GENERAL PROVISIONS.

The open burning of refuse for the purpose of volume reduction, elimination or product recovery by any person, firm, corporation, association or public agency is prohibited except for the following exemptions, subject to the applicable permit requirements in Section 1511.04:

(a) Vegetation grown on the premises of a home or farm, provided consideration is given to the effect of such emission on the air quality of the area affected by such burning, and the health, safety, comfort and property of persons are protected from the effects of such burning.

- (b) Fires set for the purpose of bona-fide instruction and training of public and industrial employees in the methods of fighting fires, provided that approval to conduct such burning is received from the Director of the West Virginia Air Pollution Control Commission or his duly authorized representative .
- (c) Open burning of construction and demolition wastes, provided that all the following conditions are met:
 - (1) There is no practical alternate method for the disposal of the material to be burned.
 - (2) The health, safety, comfort and property of persons are protected from the effects of such burning.
 - (3) Such burning shall not be conducted for salvage purposes.
 - (4) In nonrural areas approval to conduct such burning is received from the Director of the West Virginia Air Pollution Control Commission or his duly authorized representative.
(Ord.81-20. Passed 7-16-81.)

1511.03 PROHIBITION DURING ATMOSPHERIC STAGNATION.

The exemptions listed in Section 1511.02 are subject to the following stipulation:

Upon notification by the Director of the West Virginia Air Pollution Control Commission no person shall cause, allow or permit any form of open burning during existing or predicted periods of atmospheric stagnation. Notification shall be made by such means as the Director may deem necessary and feasible.
(Ord. 81-20. Passed 7-16-81.)

1511.04 PERMITS .

Whenever any person, firm, corporation, partnership, association or public agency seeks to avail itself of exemptions in Section 1511.02 for the open burning of refuse or open burning of construction and demolition wastes, it shall be unlawful for such open burning to occur without first a permit being obtained from the Fire Chief or his authorized representative. The Fire Chief or his authorized representative, in granting a permit, shall have the right to prescribe conditions for such open burning in order to protect the health, safety, comfort, and property of the public, as well as to ensure that such open burning conforms to existing and applicable law. The Fire Chief or his authorized representatives are empowered to make inspections upon premises in a reasonable manner prior to the issuance of any permit under this section. (Ord. 81-20. Passed 7-16-81.)

1511.05 APPLICATIONS.

The Fire Chief is hereby authorized to design written applications for the issuance of permits under this article and shall have the right to promulgate reasonable rules and regulations for the implementation of such applications.
(Ord. 81-20. Passed 7-16-81.)

1511.06 FEE.

(EDITOR'S NOTE: Former Section 1511.06 was repealed by Ordinance 96-14, passed June 6, 1996.)

1511.07 RIGHT OF ENTRY UPON PREMISES.

The Fire Chief or his authorized representatives are hereby empowered to enforce the provisions of this article. Such enforcement shall include the right to make entry upon any premises in a reasonable manner within the City to investigate complaints or information received of prohibited open burning activity. Should any open burning be found to be in violation of this article, the responsible party shall be ordered immediately to extinguish such burning in the presence of the Fire Chief or his authorized representative.
(Ord. 81-20. Passed 7-16-81.)

1511.08 SPECIAL FIRE SERVICE CHARGE FOR FAILURE TO EXTINGUISH.

Failure of the responsible party to extinguish open burning in violation of this article will provide cause for the Fire Department promptly to extinguish such burning and thereafter surcharge the costs of the special fire extinguishing service against the responsible party. The special surcharge of this section shall be a debt due to the City and enforceable by civil action in any court of competent jurisdiction. A penalty of five percent (5%) shall be added for any default for a period of thirty days or more in the payment of the surcharge and for each succeeding thirty days thereafter payment shall be made, an additional penalty of one percent (1%). Collection of surcharges under this section shall be the responsibility of the Finance Director, who shall have authority to appoint a collection agent.
(Ord. 81-20. Passed 7-16-81.)

1511.99 PENALTY.

(a) Whoever violates the terms of a permit issued under this article, or submits a false application shall be subject to the revocation of such permit. Revocation notices shall be issued by and in the discretion of the Fire Chief or his authorized representative upon proper investigation of facts and circumstances.

(b) No person making application for a permit shall willfully make false statements with the intent of evading the requirements of this article. No person shall commence with open burning in the City without first obtaining a required permit from the Fire Chief or his authorized representative, or shall proceed to open burn when a revocation notice of a previous permit has been issued. Each day a violation continues shall constitute a separate misdemeanor, each misdemeanor under this section being punishable by a fine not more than five hundred dollars (\$500.00) or imprisonment not more than thirty days, or both.
(Ord. 81-20. Passed 7-16-81.)

ARTICLE 1513
Combustible Underground Tanks

1513.01	Notification of Fire Department.	1513.06	Record keeping.
1513.02	Tanks placed temporarily out of service.	1513.07	Transfer of ownership.
1513.03	Abandoned tanks.	1513.08	Pre-existing abandonments.
1513.04	Tanks that are junked.	1513.09	Enforcement.
1513.05	Tanks that are reused.	1513.99	Penalty.

CROSS REFERENCES

Flammable liquids - see FIRE PREV. Art. 1507
Flammable and combustible liquids - see 1515.04
(BOCA F- 2900)

1513.01 NOTIFICATION OF FIRE DEPARTMENT.

No person, firm, partnership, association or any other entity, whether public or private, as well as any agent, manager, employee or lessee, shall abandon or temporarily place out of service an underground tank which has held flammable or combustible liquids, unless done in a manner complying with this article.

It shall also be the duty of all such persons promptly to notify the Fire Inspector of any intention to so abandon or temporarily place out of service any underground tank which has held flammable or combustible liquids.
(Ord. 81-19. Passed 8-6-81.)

1513.02 TANKS PLACED TEMPORARILY OUT OF SERVICE.

No underground tank which has held flammable or combustible liquids shall be rendered temporarily out of service, unless it is understood that the tank will be returned to active service within ninety days, except that the Fire Inspector may authorize additional temporary nonservice extensions of time not to exceed a total of one year's duration from the date a tank first becomes out of service .

Tanks temporarily out of service shall have the fill line, gauge opening and pump connection secured against tampering. Vent lines shall remain open and be maintained in accordance with standards for vent lines of the National Fire Codes, 1979 edition, published by the National Fire Protection Association.

Compliance with this section shall be confirmed and made a matter of record by the Fire Inspector.
(Ord. 81-19. Passed 8-6-81.)

1513.03 ABANDONED TANKS.

Any underground tank which has held flammable or combustible liquids, being abandoned or not used for a period longer than ninety days (subject to the maximum extension of time of one (1) year as set forth in Section 1513.02), shall be removed from the property at the owner's expense in a manner approved by the Fire Inspector.

When underground tanks are removed:

- (a) All flammable or combustible liquids in the tank and connecting lines shall be removed.
- (b) No cutting torch or other flame or spark producing equipment shall be used until the tank has been completely purged or otherwise rendered safe.
- (c) The suction, inlet, gage and vent lines shall be disconnected. Sections of connecting lines which are not to be used shall be removed. Inlets, outlets and leaks, if any, shall be capped or plugged.
- (d) After removal, the tank shall be gas freed, on the premises if it can be done safely at that location, or transported to an area not accessible to the public and the tank gas freed at that location.
- (e) After removal, the site shall be restored in an acceptable manner.

Compliance with this section shall be confirmed and made a matter of record by the Fire Inspector. (Ord. 81-19. Passed 8-6-81.)

1513.04 TANKS THAT ARE JUNKED.

If a tank is to be disposed of as junk, it shall be retested for flammable vapors, and if necessary, rendered gas free. After junking and before releasing to junk dealer, a sufficient number of holes or openings shall be made in it to render it unfit for further use. (Ord. 81-19. Passed 8-6-81.)

1513.05 TANKS THAT ARE REUSED.

After removal, used tanks which are to be reused for flammable or combustible liquid service shall meet the standards for installation of underground tanks as contained in the National Fire Codes, 1979 edition, published by the National Fire Protection Association, and the BOCA Fire Prevention Code, 1981 edition. (Ord. 81-19. Passed 8-6-81.)

1513.06 RECORD KEEPING.

In cases where tanks are rendered temporarily out of service or required to be removed under this article, records shall be kept by the owner, or by his/her agent, employee or lessee as follows:

- (a) Tank size;
- (b) Tank locations;
- (c) Date of tank being placed out of service, abandoned, and removed;
- (d) All procedures used in compliance with this article.

Upon request, copies of the above records shall be made available for examination and possession by the Fire Inspector. (Ord. 81-19. Passed 8-6-81.)

1513.07 TRANSFER OF OWNERSHIP.

No owner of any property containing an underground tank which has held flammable or combustible liquids shall sell, mortgage, transfer, lease or otherwise dispose of the property to another until such time that the provisions of this article are complied with, or until such owner shall first furnish the Fire Inspector a signed and notarized statement from the buyer, grantee, transferee, mortgagee or lessee acknowledging and fully accepting responsibility without condition for all requirements under this article in reference to the underground tank. (Ord. 81-19. Passed 8-6-81.)

1513.08 PRE-EXISTING ABANDONMENTS.

Any underground tank having once held flammable or combustible liquids which has been abandoned or placed temporarily out of service prior to the effective date of this article shall comply with applicable provisions of the West Virginia State Fire Code, as published in the Rules and Regulations of the West Virginia State Fire Commission.
(Ord. 81-19. Passed 8-6-81.)

1513.09 ENFORCEMENT .

It shall be the duty of the Fire Inspector to enforce this article. For purposes of enforcement, the office of Fire Inspector shall include the Fire Chief and any member or members of the Fire Department appointed from time to time by him to perform duties necessary and pertinent under this article.
(Ord. 81-19. Passed 8-6-81.)

1513.99 PENALTY.

(a) Whoever violates any provision of this article or fails to comply therewith, or violates or fails to comply with orders of the Fire Department pursuant thereto, or who fails to comply with any provision or order as affirmed or modified by proper authority or by a court of competent jurisdiction, shall severally for each and every such violation and noncompliance respectively, be fined not more than five hundred dollars (\$500.00). Each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be construed to prevent an order removing prohibited conditions by a court or body of competent jurisdiction, nor deemed to abolish or impair any other existing remedies at law whatsoever.
(Ord. 81-19. Passed 8-6-81.)

ARTICLE 1515
Fire Prevention Code

1515.01	State Fire Code adopted.	1515.05	Savings clause.
1515.02	Definitions.	1515.99	Penalty.
1515.03	Fire records.		
1515.04	Amendments to State Fire Code.		

CROSS REFERENCES

Adoption of technical codes by reference - see W. Va.
Code 8-11-4(b)
State Fire Code - see W. Va. Code 29-3-5

1515.01 STATE FIRE CODE ADOPTED.

There is hereby adopted and incorporated by reference as if set out at length herein, within the limits of the City, for the purpose of prescribing rules and regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the West Virginia State Fire Code, as adopted by the State Fire Commission pursuant to West Virginia Code 29-3-5, copies of which have been presented in pamphlet form to the Council at the first regular meeting that Ordinance 94-23 was considered, except such portions as hereinafter modified or amended by Section 1515.04, together with provisions relating to the enforcement thereof as hereinafter set forth, the provisions of all of which shall be controlling within the limits of the City. To the fullest extent allowed by law, now existing or hereafter enacted, should the State Fire Commission, at any time hereafter, modify or amend the technical portions of the West Virginia State Fire Code, such modifications or amendments shall be considered a part of Ordinance 94-23 and incorporated herein by reference without further act or action. A copy shall be filed by the City Engineer with the City Clerk and notice shall be given to City Council and to the public on a regular or special agenda of any modification or amendment to the State Fire Code. A copy of said Code and any amendments or modifications thereof shall be available for public inspection at the City Clerk's office. After adoption as amended hereby, said Code shall be certified by the Mayor and filed as a permanent record in the office of the City Clerk.

(Ord. 94-23. Passed 7-21-94.)

1515.02 DEFINITIONS.

- (a) "Authority having jurisdiction" when used in this Code, means the office of the Clarksburg Fire Inspector which shall include the Fire Chief and any member or members of the Fire Department appointed by him or her from time to time to enforce this article.
- (b) "Fire Chief" when used in this Code refers to the Fire Chief of the City of Clarksburg.
- (c) "Fire Official" when used in this Code refers to the office of the City Fire Inspector which shall include the Fire Chief and any member or members of the Fire Department appointed by the Fire Chief from time to time to enforce this article.
(Ord. 94-23. Passed 7-21-94.)

1515.03 FIRE RECORDS.

The Fire Official shall keep a record of all fires and all facts concerning the same, including investigation findings and statistics and information as to the cause, origin and the extent of such fires and the damage caused thereby. In the event a written fire report is requested and such request is honored by the Fire Official, he or she shall charge a reasonable fee established by the Fire Official or by Council for such report. The Director of Finance shall be responsible for the collection of and accounting for such fees.
(Ord. 94-23. Passed 7-21-94.)

1515.04 AMENDMENTS TO STATE FIRE CODE.

- (a) The State Fire Code adopted herein shall be amended as follows:
- (1) By inserting "within the City of Clarksburg" at the end of Subsection 1.01 and deleting Subsections 1.02, 1.03 and 1.04 in their entirety.
 - (2) By adding a Subsection 8.01 entitled "Inspections", as follows:

8.01 Inspections and Enforcement.

It shall be the duty and responsibility of the Fire Official to enforce the provisions of this code. In addition and as an alternative to the provisions of Subsection 8.02 as determined by the Fire Official, the Fire Official shall inspect all structures and premises as often as may be necessary, except single family dwellings and dwelling units in two-family and multi-family dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this code or any other ordinance affecting fire safety. The fire official shall keep a record of all fire prevention inspections, including the date of such inspections and a summary of any violations found to exist, the date of the services of notices, and a memorandum of the final disposition of all violations.

- (3) By redesignating Section 8, entitled "Maintenance of Fire Hazard; Order for Correcting Condition, Removal of Material, Repair, Demolition, etc.; Order to Contain Notice to Comply and Right to Appeal" as Subsection 8.02 and changing all references to "State Fire Marshal" in that section to "Fire Official", and in the last sentence of that Section, by deleting the phrase "by statute" and amending the final portion of the last sentence to read "...by entering an appeal to the Fire Prevention Board of Appeals as outlined in Section 13 of this Section 1515.04 of this Code".
- (4) With respect to Subsection 8.02, by deleting the phrase "by statute" in the last sentence thereof and inserting in its place the phrase "and the said fire authority is hereby so authorized" and by adding the following at the end of said Subsection 8.02 "The provisions of West Virginia Code Chapter 29, Article 3, Section 14, Chapter 29, Article 3, Section 15 and Article 29, Chapter 3, Section 16 are herein incorporated by reference and all references therein to "State Fire Marshal" shall be deleted and replaced with the phrase "Fire Authority". The final sentence of the third paragraph of Subsection (b) of Section 14 shall be amended to delete the words "State Fire Commission or the Attorney General" and insert in their place the words "or the City Manager". The final sentence of the fourth paragraph of Subsection (b) of Section 14 shall be amended to delete the words "to the State Fire Commission" and insert in their place the words "to the Fire Prevention Board of Appeals" and to delete the words "eighteen [Section 29-3-18] of this article" and insert in their place the words "thirteen of the State Fire Code as amended".
- (5) The reference to the "State Fire Marshal" in Subsection 12.04 shall be deleted and "Fire Chief" shall be inserted in the place "State Fire Marshal" appears.
- (6) By deleting Section 13, entitled "Order of Decision of the State Fire Marshal; and Appeals and Procedure for Appeals from such Orders and Decisions", in its entirety and adopting in its place the following:

Section 13 Appeals.

13.01 Appeals to Fire Prevention Board. Appeals to the Fire Prevention Board of Appeals may be taken by any person aggrieved by any decision or interpretation by the Fire Official made under the provisions of this code or any order or notice pursuant to any City ordinance adopting fire codes, fire standards, or both. The Board of Appeals shall consist of five members who, by education and experience, are qualified to pass upon the application of the fire codes of the City of Clarksburg as it affects the interests of the general public. No more than one of said members or their alternatives shall be engaged in the same business, profession or line of endeavor. No member of the Board of Appeals shall sit in judgment on any case in which he or she, personally, is directly interested.

The members shall serve for a term of three (3) years, except for the initial appointees which shall serve as follows: two for a term of one year, two for a term of two years, and one for a term of three years. The Fire Prevention Appeals Board shall be appointed by the City Council and shall hold office in accordance with the terms of appointment. The Board shall adopt reasonable rules and regulations for conducting its meetings and such shall be made a public record. There shall be a Secretary for the Appeals Board who having been nominated by the City Council, is to be hired in discretion of the Appeals Board based on suitable qualifications.

The Appeals Board shall have the authority to affirm, reverse or modify, in whole or in part, any notice or order of the Fire Official, where the interests of justice are served, where equivalency in fire safety can be maintained, and where no limitation of law would be exceeded. Nothing herein shall prevent the Appeals Board from approving or ratifying a settlement between the cited owner and the Fire Official, arrived at prior to and presented to the Board at a hearing.

All appointments made to this Board by Council shall be for terms to begin on July 1 of the year of the appointment. The first appointment made to the Board after enactment of this paragraph shall be for a term to begin on June 22 and thereafter the terms shall run on an annual basis beginning on July 1. Additionally, any member of this Board appointed by City Council who has not been present for at least seventy percent (70%) of all regular and special meetings of the Board in any calendar year, excluding absences deemed by the chairperson to be excusable, shall be removed from office upon the affirmative action of the chairperson of the Board and after approval of such removal by Council and a replacement shall be chosen by City Council to serve the remainder of the existing term.

13.02 Application. An application for appeal must be submitted to the Secretary of the Board of Appeals within fifteen (15) calendar days after the date of service of a notice or order of the fire official. The application shall request a hearing and contain a complete statement of grounds for the appeal.

13.03 Appeals Fee. All applications for appeal must be accompanied by an appeals fee of \$50.00 in order to be processed. The \$50.00 appeals fee shall be placed in a suitable municipal account to cover the expenses incurred by the Fire Prevention Board of Appeals in mailing costs, xeroxing costs and in the payment of compensation to its Secretary.

13.04 Appeals from Decisions of the Fire Prevention Appeals Board. Should the hearing and review before the Fire Prevention Appeals Board result in a decision adverse to the petitioner or the Fire Official, either party may appeal the decision of the Board to the County Circuit Court; provided, however, that such appeal must be taken within twenty (20) days from the date of the final decision of the Board.
(Ord. 94-23. Passed 7-21-94; Ord. 94-27. Passed 8-18-94;
Ord. 96-6. Passed 4-4-96; Ord. 01-12. Passed 10-4-01.)

1515.05 SAVINGS CLAUSE.

Nothing in this article or in the Fire Prevention Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquitted or previous liability incurred, or any existing cause or causes of action, under any act or ordinances hereby repealed, nor shall any existing just or legal right or remedy of any character be lost, impaired or adversely affected by this article, provided, however, this section shall not be construed or deemed to affect or limit any right or remedy arising or proceeding instituted after the effective date of the adoption of this Code.

(Ord. 94-23. Passed 7-21-94.)

1515.99 PENALTY.

Whoever violates any provision of this article or provision of the Fire Prevention Code adopted herein or fails to comply therewith or who violates or fails to comply with any order made thereunder, or whoever builds in violation of any detailed statement of specifications or plans submitted or approved thereunder or any certificate or permit issued thereunder, shall severally for each violation and noncompliance, respectively be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty days or both. The imposition of one penalty for violation shall not excuse the violation or permit it to continue. Each day a violation continues shall be deemed a separate offense.

(Ord. 94-23. Passed 7-21-94.)

ARTICLE 1517
Key Lock Box Systems

1517.01 Key lock box required.

1517.01 KEY LOCK BOX REQUIRED.

(a) The following newly constructed structures shall be equipped with a key lock box at or near the main entrance or such other location required by the Fire Chief:

- (1) All assembly, educational, day-care, health-care, business, mercantile, detention and correction, hotel and dormitory, industrial, storage, governmental and high-rise buildings protected by an automatic alarm system or automatic suppression system; and
- (2) All residential structures, except one and two-family dwellings, that are protected by an automatic alarm system or an automatic suppression system or have restricted access through locked doors and have a common corridor for access to the living units. This includes lodging or rooming houses and board and care facilities.

(b) All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of a certificate of occupancy.

(c) The Fire Chief shall designate the type of key lock box system to be implemented within the City and shall have the authority to require all structure to use the designated system.

(d) The owner or operator of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure.

(e) The Fire Chief shall be authorized to implement rules and regulations for the use of the lock box system.

(f) Any person who owns or operates a structure subject to this section in violation of this section shall be fined one hundred dollars (\$100.00) for such violation and each day such violation continues shall be deemed a separate offense.
(Ord. 98-39. Passed 12-3-98.)