

OPINION NO. 86-014**Syllabus:**

1. A board of township trustees has the authority to appoint a "fire safety inspector" as defined in R.C. 3737.01(C).
2. The board of trustees of a township which has a fire department has no authority under R.C. 505.38 to appoint a fire prevention officer or deputy fire prevention officer.
3. Pursuant to R.C. 505.38(B), the board of trustees of a township which does not have a fire department has the authority to appoint one fire prevention officer and one or more deputy fire prevention officers.
4. A person who has received a certificate issued by the State Superintendent of Public Instruction under R.C. 3303.07, evidencing his satisfactory completion of a chartered fire safety inspector training program, must be appointed as a fire safety inspector by a board of township trustees or other fire agency before he will be considered to be a fire safety inspector for purposes of R.C. Chapter 3737 and 2 Ohio Admin. Code Chapter 1301:7-1.
5. A person may, within the limited authority granted by R.C. 3737.64, carry out the functions of a fire safety inspector, even though he has not been appointed as a fire safety inspector by a board of township trustees or other fire agency.
6. Pursuant to R.C. Chapter 3737 and 2 Ohio Admin. Code 1301:7-1-03, a certified safety inspector may inspect all structures, premises, and vehicles as provided in rule 1301:7-1-03(B), and may enter into any structure or upon any premises as provided in rule 1301:7-1-03(D), regardless of whether he is a fire prevention officer.
7. The officer who issues a citation pursuant to R.C. 3737.42, whether it be the Fire Marshal, his authorized representative, or a certified fire safety inspector, has the authority to schedule the hearing on the citation pursuant to R.C. 3737.43. Such officer should work in conjunction with the Fire Marshal to make certain that a hearing officer will be available at the time and place for which the hearing is scheduled.
8. The Ohio Fire Code set forth in 2 Ohio Admin. Code Chapter 1301:7-1 may, pursuant to R.C. Chapter 3737, be enforced by the Fire Marshal.

assistant fire marshals, and certified fire safety inspectors within any township in Ohio, even though the board of trustees of the township has not adopted the Ohio Fire Code pursuant to R.C. 505.373.

To: Craig S. Albert, Geauga County Prosecuting Attorney, Chardon, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, March 21, 1986

I have before me your request for my opinion on several questions concerning fire prevention and investigation. A number of your questions relate both to the powers of a board of township trustees and the powers of a village council. Since it does not appear that you have a duty to advise village councils on matters regarding fire prevention and investigation, see R.C. 309.09; R.C. 733.48; see generally Ohio Const. art. XVIII, §§1, 2, 3, 7, or that I have the authority to advise you on matters relating to village councils, see R.C. 109.14, I am, in this opinion, addressing only those aspects of your questions which involve townships. I have, accordingly, modified your questions to read as follows:

1. Does a board of township trustees have the authority to appoint a "fire safety inspector" as defined in R.C. 3737.01(C)?
2. Does a board of township trustees have the authority to appoint more than one "fire prevention officer" or "assistant fire prevention officers" pursuant to R.C. 505.38?
3. Must a person who has received a certificate issued by the State Superintendent of Public Instruction under R.C. 3303.07, evidencing his satisfactory completion of a fire safety inspector training program, be officially appointed as a "fire safety inspector" by an entity such as a board of township trustees before he is authorized to act as a "certified fire safety inspector" pursuant to R.C. 3737.34-.51 and 2 Ohio Admin. Code Chapter 1301:7-1¹?
4. Does a "certified fire safety inspector" who is not a "fire prevention officer" have any authority to enter into buildings, premises, and vehicles for the purpose of making fire safety inspections in a township where no fire department is established, in light of the provisions of R.C. 3737.14 and 2 Ohio Admin. Code 1301:7-1-03?
5. Who has the authority to schedule the time and place of the hearing on a citation pursuant to R.C. 3737.43, the officer who issues the

¹ Your letter references 2 Ohio Admin. Code Chapter 1301:7-3. Effective June 1, 1985, however, the provisions of that chapter, with some amendments, were transferred to 2 Ohio Admin. Code Chapter 1301:7-1.

citation, the Fire Marshal, or the hearing officer?

6. Is the Ohio Fire Code enforceable in a township even though it has not been adopted by the board of township trustees pursuant to R.C. 505.373?

Your first question concerns the authority of a board of township trustees to appoint a fire safety inspector. It is well settled in Ohio that township trustees possess only such powers as may be expressly conferred upon them by statute, or as may be required, by necessary implication, to perform the duties so imposed. See Hopple v. Trustees of Brown Township, 13 Ohio St. 311 (1862). Your question is apparently based upon the fact that no statute expressly authorizes a board of township trustees to hire a fire safety inspector. Cf. R.C. 505.37 (setting forth various methods by which a board of township trustees may obtain fire protection for the township, and authorizing the board to employ persons to maintain and operate fire-fighting equipment or to compensate members of a volunteer fire company); R.C. 505.38 (authorizing the board of trustees of a township which has a fire department to appoint a fire chief and to employ fire fighters; authorizing the board of trustees of a township which does not have a fire department to appoint a fire prevention officer and one or more deputy fire prevention officers). Your letter, however, references R.C. 3737.01(C), which defines a "[f]ire safety inspector" as "any person who is a member of the civil service, as defined in section 124.01 of the Revised Code, or who is employed by or voluntarily serves a village or township, and who examines the property of another person for the purpose of identifying fire safety hazards." (Emphasis added.) See R.C. 3737.41-.46 (setting forth the powers of a fire safety inspector to remedy dangerous conditions and enforce the Ohio Fire Code). This provision clearly implies that a township may employ a fire safety inspector. Thus, even though the statutes relating to fire protection do not expressly authorize a board of township trustees to hire a fire safety inspector, the language of R.C. 3737.01(C) makes it clear that the General Assembly intended that a township should have the authority to employ such an individual. See generally R.C. 505.37 (authorizing a board of township trustees to "establish all necessary regulations to guard against the occurrence of fires and to protect the property and lives of the citizens against damage and accidents"). In order for the language of R.C. 3737.01(C) to be meaningful, it must be concluded that a board of township trustees does have the authority to appoint a fire safety inspector. See R.C. 1.47 ("[i]n enacting a statute, it is presumed that:...(B) The entire statute is intended to be effective...").

Your second question inquires as to whether a board of township trustees has the authority to appoint more than one "fire prevention officer" or "assistant fire prevention officers" pursuant to R.C. 505.38. R.C. 505.38 provides in relevant part as follows:

(A) In each township or fire district which has a fire department, the head of such department shall be a fire chief....The board shall provide for the employment of such fire fighters as it considers best....

....

(B) In each township not having a fire department, the board of trustees shall appoint a fire

prevention officer who shall exercise all of the duties of a fire chief except those involving the maintenance and operation of fire apparatus. The board of township trustees may appoint one or more deputy fire prevention officers, who shall exercise the duties assigned by the fire prevention officer. (Emphasis added.)

R.C. 505.38 provides that a township which has a fire department shall have a fire chief to head the department. In contrast, a township without a fire department shall have a fire prevention officer to exercise essentially the same duties that a fire chief performs in a township with a fire department. Under R.C. 505.38, the board of trustees of a township with a fire department has no authority, express or implied, to appoint a fire prevention officer or deputy fire prevention officer.

The board of trustees of a township not having a fire department is expressly authorized by R.C. 505.38(B) to appoint "a fire prevention officer." It is a cardinal rule of statutory construction that words and phrases shall be read in context and construed according to the rules of grammar and common usage. R.C. 1.42; State ex rel. Avon Convalescent Center, Inc. v. Bates, 45 Ohio St. 2d 53, 341 N.E.2d 296 (1976). Common usage and understanding dictate that "a" is synonymous with the number "one." See generally 1983 Op. Att'y Gen. No. 83-067. There is no indication that the legislature intended any other result. Rather, statutory provisions indicate that a single fire prevention officer is to act within a township which has no fire department to exercise responsibilities which would otherwise fall upon the chief of the fire department. See, e.g., R.C. 3737.14 (examination of buildings, premises, and vehicles); R.C. 3737.24 (investigation of cause, origin, and circumstances of major fires). Therefore, it is my opinion that a board of township trustees does not have the authority to appoint more than one fire prevention officer. I reach this conclusion notwithstanding R.C. 1.43(A), which states that "[t]he singular includes the plural, and the plural includes the singular." The language of R.C. 505.38(B) evidences a clear legislative intent that a single individual should be appointed to see that particular duties are carried out. I believe that such language should be read literally to authorize the appointment of a single individual to the position of fire prevention officer. See generally Wingate v. Hordge, 60 Ohio St. 2d 55, 396 N.E.2d 770 (1979).

My conclusion that R.C. 505.38(B) authorizes the board of trustees of a township not having a fire department to appoint only one fire prevention officer is supported by the fact that, by virtue of a recent amendment, see Am. H.B. 83, 116th Gen. A. (1985) (eff. Aug. 1, 1985), R.C. 505.38(B) expressly authorizes the board of trustees of such a township to appoint one or more deputy fire prevention officers, "who shall exercise the duties assigned by the fire prevention officer." These deputies may serve to provide the fire prevention officer with the assistance to which your question is directed.

Your third question asks whether a person who has received a certificate under R.C. 3303.07, evidencing his satisfactory completion of a fire safety inspector training program, must be appointed as a fire safety inspector by an entity such as a board of township trustees before he may act as a certified

fire safety inspector under R.C. 3737.34-.51 and 2 Ohio Admin. Code Chapter 1301:7-1. 2 Ohio Admin. Code Chapter 1301:7-1 contains the provisions of the Ohio Fire Code, see R.C. 3737.82, and R.C. 3737.34-.51 relate to the administration and enforcement of the Ohio Fire Code.

R.C. 3303.07 states, in part:

The state superintendent of public instruction shall...assist in the establishment and maintenance by any state agency, or any county, township, city, village, or school district of a fire service training program for the training of all paid and volunteer fire fighters and fire safety inspectors in this state. The state board of education shall adopt standards to regulate such fire fighter and fire safety inspector training programs...The state superintendent of public instruction shall provide for the classification and chartering of such training programs...The state superintendent of public instruction shall prescribe a certificate which shall be issued by it to each person satisfactorily completing a chartered training program. (Emphasis added.)

R.C. 3303.07 thus provides for training programs for fire fighters and fire safety inspectors, and for issuance of a certificate by the State Superintendent of Public Instruction to each person satisfactorily completing a chartered training program.

As noted above, R.C. 3737.01(C) defines "[f]ire safety inspector" to mean "any person who is a member of the civil service...or who is employed by or voluntarily serves a village or township, and who examines the property of another person for the purpose of identifying safety hazards." R.C. 3737.34 provides as follows:

No person shall serve as a fire safety inspector for any fire agency unless he has received a certificate issued by the state superintendent of public instruction under section 3303.07 of the Revised Code evidencing his satisfactory completion of a fire safety inspector training program.

R.C. 3737.01(B) defines "[f]ire agency" to mean "any state or local fire service or agency whose function is to examine the property of another person for the purpose of identifying fire safety hazards."

The evident intent of this legislative scheme is that a person may receive a certificate under R.C. 3303.07 in order to serve as a fire safety inspector for a fire agency. It is my judgment that the receipt of a certificate under R.C. 3303.07 for completion of a chartered training program for fire safety inspectors indicates that an individual has the qualifications needed to serve as a fire safety inspector. It does not, however, bestow upon him the authority to so serve. A fire safety inspector receives that authority when he is appointed as a fire safety inspector by a fire agency which, in accordance with R.C. 3737.01(B), serves the function of "examin[ing] the property of another person for the purpose of identifying fire safety hazards." Townships are clearly included as fire agencies, since they have duties relating to

fire protection, see R.C. 505.37; R.C. 505.38, and, as discussed in connection with your first question, are authorized to appoint fire safety inspectors, see R.C. 3737.01(C).

By definition, a fire safety inspector must be a member of the civil service or be employed by or voluntarily serve a village or township. R.C. 3737.01(C). It is clear that a fire safety inspector may not be employed by a township without appointment by the township trustees, and I believe, further, that a fire safety inspector may not voluntarily serve a township without acknowledgement by the township that the inspector is serving on behalf of the township to carry out the functions of the township. I conclude, therefore, that a person who has received a certificate issued by the State Superintendent of Public Instruction under R.C. 3303.07, evidencing his satisfactory completion of a chartered fire safety inspector training program, must be appointed as a fire safety inspector by a board of township trustees or other fire agency before he will be considered to be a fire safety inspector for purposes of R.C. Chapter 3737 and 2 Ohio Admin. Code Chapter 1301:7-1.

I note, however, that R.C. 3737.64 does provide limited authority for a person who does not come within the statutory definition of "fire safety inspector" to undertake certain inspection activities. R.C. 3737.64 states:

No person who is not a certified fire safety inspector shall act as such or hold himself out to be such, unless prior to commencing any inspection function, he discloses the purpose for which he is making such inspection and the fact that he is not employed by any state or local fire service or agency, and that he is not acting in an official capacity for any governmental subdivision or agency.

As discussed above, a person is a fire safety inspector under R.C. 3737.01(C) only if he is a member of the civil service as defined in R.C. 124.01 or is employed by or voluntarily serves a village or township, and if he examines the property of another person for the purpose of identifying fire safety hazards. A person who is not employed or designated as a fire safety inspector by a public body cannot come within this definition. It appears, however, that a person may, within the limited authority granted by R.C. 3737.64, carry out the functions of a fire safety inspector, even though he has not been appointed as a fire safety inspector by a board of township trustees or other fire agency.

Your fourth question asks whether a certified fire safety inspector who is not a fire prevention officer has any authority to enter into buildings, premises, and vehicles for the purpose of making fire safety inspections in a township where no fire department is established. 2 Ohio Admin. Code 1301:7-1-03 addresses the authority to make fire safety inspections, as follows:

(A) FM-102.1. Fire official: The fire marshal, any assistant fire marshal, any certified fire safety inspector, the chief of the fire department of each municipal corporation where a fire department is established, the chief of the fire department in each township where a fire department is established, and such members of any such departments as may be

designated by such chief, the fire prevention officer of a municipal corporation where no fire department exists, or the fire prevention officer of a township where no fire department is established.

(B) FM-102.2. Inspections: The fire marshal, any assistant fire marshal, or certified fire safety inspector may inspect all structures, premises and vehicles pursuant to section 3737.14 of the Revised Code as often as may be necessary 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 [the Ohio Fire Code] or any other ordinance affecting fire safety.

....
(D) F-102.2.2. Right of entry: Whenever necessary for the purpose of enforcing the provisions of [the Ohio Fire Code], or whenever the fire official has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such structure or premises unsafe, the fire official may enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the fire official by [the Ohio Fire Code]; provided, that if such structure or premises be occupied, he shall first present proper credentials and request entry. If such entry is refused, the fire official shall have recourse to every remedy provided by law to secure entry. (Emphasis added.)

Pursuant to rule 1301:7-1-03(B), a certified fire safety inspector "may inspect all structures, premises and vehicles pursuant to [R.C. 3737.14] as often as may be necessary" for the purposes set forth in that provision. Pursuant to rule 1301:7-1-03(A), a certified fire safety inspector is a fire official, who is authorized under rule 1301:7-1-03(D) to enter structures or premises at reasonable times for the purpose of making inspections, as provided in rule 1301:7-1-03(D).

Rule 1301:7-1-03 was adopted by the Fire Marshal pursuant to the rulemaking authority granted him by R.C. 3737.82, which states: "The fire marshal shall adopt a state fire code which shall consist of rules relating to all aspects of fire safety." R.C. 3737.01(C) defines a "[f]ire safety inspector" as a person "who examines the property of another for the purpose of identifying fire safety hazards." R.C. 3737.41 authorizes a certified fire safety inspector to issue citations and orders to have dangerous conditions remedied if the certified fire safety inspector finds, upon an examination or inspection, that such conditions exist in a building or structure, upon any premises, or in a vehicle or other facility used for storing, handling, or transporting flammable or combustible liquids. R.C. 3737.42 authorizes a certified fire safety inspector to issue citations if, upon inspection or investigation, he believes that the Ohio Fire Code or any order issued by the Fire Marshal has been violated. No provision of the Revised Code expressly authorizes a certified safety inspector to enter buildings, premises, or vehicles for the purpose of making fire safety inspections. It is, however, clear that, to come within the statutory definition of "[f]ire safety inspector" and to perform the functions of that position, a person must be authorized to enter upon property in order to examine the property and identify fire safety

hazards. Thus, rule 1301:7-1-03 serves as an express statement of the manner in which a certified fire safety inspector may exercise the authority to enter and inspect; such authority is necessarily implied to permit him to perform his statutory duties. See generally State v. Carter, 67 Ohio St. 422, 66 N.E. 537 (1903).

Your question expressly references R.C. 3737.14, and that provision is also referenced in rule 1301:7-1-03(B). R.C. 3737.14 states:

The fire marshal, any assistant fire marshal, the chief of the fire department of each municipal corporation where a fire department is established, the chief of the fire department in each township where a fire department is established, and such members of any such departments as may be designated by such chief, the fire prevention officer of a municipal corporation where no fire department exists, or the fire prevention officer of a township where no fire department is established, at all reasonable hours, may enter into all buildings and upon all premises and vehicles within their jurisdiction for the purpose of examination.

No mention is made in R.C. 3737.14 of the role of a fire safety inspector in the examination of buildings, premises, or vehicles. Nonetheless, rule 1301:7-1-03(B) states that a certified fire safety inspector may inspect structures, premises, and vehicles "pursuant to" R.C. 3737.14. Since it is clear that R.C. 3737.14 does not, in itself, grant a certified fire safety inspector any authority to enter or inspect, it appears that the effect of this reference is simply to permit those officials who are named in rule 1301:7-1-03(B) to enter buildings, premises, and vehicles as provided in R.C. 3737.14 for purposes of the inspections contemplated by rule 1301:7-1-03(B).

It is well established that a rule which is validly adopted has the force and effect of law, unless it is unreasonable or is in clear conflict with statutory provisions governing the same subject matter. See Kroger Grocery & Baking Co. v. Glander, 149 Ohio St. 120, 77 N.E.2d 921 (1948). Since the authority to enter and inspect is implicit in the definition of "[f]ire safety inspector," see R.C. 3737.01(C), and is necessary to the exercise of the statutory duties of a certified fire safety inspector, see R.C. 3737.41-.42, it appears that the provisions of rule 1301:7-1-03 constitute a reasonable application of those statutory provisions. See 1985 Op. Att'y Gen. No. 85-095 (an administrative rule should be construed, if possible, in a manner which is consistent with statutory provisions dealing with the same subject matter). See generally State ex rel. Miller Plumbing Co. v. Industrial Commission, 149 Ohio St. 493, 79 N.E.2d 553 (1948).

In response to your fourth question, I conclude, therefore, that, pursuant to R.C. 3737.01(C), R.C. 3737.41, R.C. 3737.42, and rule 1301:7-1-03(B), a certified fire safety inspector:

may inspect all structures, premises and vehicles pursuant to section 3737.14 of the Revised Code as often as may be necessary 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 [the Ohio Fire Code] or any other ordinance affecting fire safety.

2 Ohio Admin. Code 1301:7-1-03(B). Pursuant to rule 1301:7-1-03(D), a certified fire safety inspector may:

[w]henever necessary for the purpose of enforcing the provisions of [the Ohio Fire Code], or whenever [he] has reasonable cause to believe that there exists in any structure or upon any premises any condition which makes such structure or premises unsafe,...enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon [him] by [the Ohio Fire Code]; provided, that if such structure or premises be occupied, he shall first present proper credentials and request entry. If such entry is refused, [he] shall have recourse to every remedy provided by law to secure entry.

2 Ohio Admin. Code 1301:7-1-03(D). A certified fire safety inspector has such authority regardless of whether he is also a fire prevention officer.

Your fifth question asks who has the authority to schedule the time and place of the hearing on a citation pursuant to R.C. 3737.43. That statute, in division (A), provides in pertinent part:

If, after an inspection or investigation, an officer issues a citation under section 3737.42 of the Revised Code, he shall, within a reasonable time after such inspection or investigation, notify the responsible person by certified mail of the penalty, if any, proposed to be assessed under section 3737.51 of the Revised Code. The officer shall, within a reasonable time, schedule a hearing on the citation, request the fire marshal to appoint a hearing officer, and notify the responsible person of the time and place of the hearing. The hearing shall be held not sooner than seven days after receipt of the notice by the responsible person and not later than thirty days after such receipt. The hearing officer may be a member of the state fire commission, an assistant fire marshal, or any other person the fire marshal may appoint. (Emphasis added.)

The answer to your question revolves around the meaning of the word "officer" as it is used in the above section. Although no specific definition of "officer" is given in R.C. Chapter 3737, the meaning of the word can be determined from the context in which it is used. See R.C. 1.42.

R.C. 3737.43 begins with a reference to an officer who, after an inspection or investigation, issues a citation under R.C. 3737.42. It requires that officer, within a reasonable time after the inspection or investigation, to notify the responsible person of any penalty proposed to be assessed under R.C. 3737.51. It then provides that "[t]he officer shall, within a reasonable time, schedule a hearing on the citation, request the fire marshal to appoint a hearing officer, and notify the responsible person of the time and place of the hearing." It is apparent that the reference to "[t]he officer" is to the same officer named earlier in the section--that is,

to the officer who, after an inspection or investigation, issues a citation under R.C. 3737.42.

R.C. 3737.42 states, in relevant part:

(A) If, upon inspection or investigation, the fire marshal, his authorized representative, or a certified fire safety inspector believes that the state fire code, or any order issued by the fire marshal has been violated, he shall with reasonable promptness issue a citation to the responsible person. (Emphasis added.)

Thus, the Fire Marshal, his authorized representative, or a certified fire safety inspector may issue a citation under R.C. 3737.42. The officer who issues such a citation, whether it be the Fire Marshal, his authorized representative, or a certified fire safety inspector, is, under R.C. 3737.43(A), authorized to schedule the hearing and required to notify the responsible person of the time and place of the hearing.

It should, however, be noted that the hearing officer who conducts such a hearing is, under R.C. 3737.43(A), appointed by the Fire Marshal, upon the request of the officer who issues the citation and schedules the hearing. It is, therefore, as a practical matter, necessary for the officer who schedules the hearing to work in conjunction with the Fire Marshal to make certain that a hearing officer will be available at the time and place for which the hearing is scheduled.

Your final question addresses the enforceability of the Ohio Fire Code in a township which has not adopted the Code pursuant to R.C. 505.373. R.C. 505.373 states, in part:

The township board of trustees may, by resolution, adopt by incorporation by reference a standard code pertaining to fire, fire hazards and fire prevention, prepared and promulgated by the state, or any department, board, or other agency thereof, or any such code prepared and promulgated by a public or private organization that publishes a model or standard code.

R.C. 505.374 prohibits any person from violating a provision of a standard code or regulation adopted under R.C. 505.373 and establishes each day of continued violation as a separate offense. R.C. 505.99 provides that whoever violates R.C. 505.374 is guilty of a minor misdemeanor.

The Ohio Fire Code (2 Ohio Admin. Code Chapter 1301:7-1) was adopted by the Fire Marshal pursuant to R.C. 3737.82. R.C. 3737.82 provides that the rules constituting the Ohio Fire Code "shall be the minimum standards for safeguarding life and property from fire and explosion." R.C. 3737.22 requires the Fire Marshal to enforce the Ohio Fire Code, and to appoint assistant fire marshals who are authorized to aid in such enforcement. Under R.C. 3737.41-.46, the Fire Marshal, assistant fire marshals, and certified fire safety inspectors are authorized to enforce the provisions of the Ohio Fire Code. R.C. 3737.51(A) provides: "No person shall knowingly violate any provision of the state fire code or any order made pursuant to it." The remaining provisions of R.C. 3737.51

authorize the assessment of civil penalties for violations of the Ohio Fire Code, or orders issued pursuant to the Code. R.C. 3737.99 provides that a violation of R.C. 3737.51(A) constitutes a misdemeanor of the first degree.

Pursuant to the provisions of R.C. Chapter 3737, the Ohio Fire Code may be enforced throughout the State of Ohio by the Fire Marshal, assistant fire marshals, and certified fire safety inspectors. Those persons may, therefore, enforce the Ohio Fire Code within any township, regardless of whether the township has adopted the Code under R.C. 505.373. Local officials--in particular, fire prevention officers who are not certified fire safety inspectors--are not authorized by R.C. 3737.41-.45 to issue citations or orders to enforce the Ohio Fire Code. A standard code which is adopted by a board of township trustees pursuant to R.C. 505.373 may, however, be enforced as other local provisions are enforced.

Pursuant to R.C. 3737.82, the Ohio Fire Code sets forth the minimum standards for fire safety and protection. Individual townships are free to adopt more stringent standards pursuant to the procedures set forth in R.C. 505.373, if they so choose. See 2 Ohio Admin. Code 1301:7-1-02(G) ("[w]here there is a conflict between [the Ohio Fire Code] and the rules and regulations of a political subdivision, the requirements which provide the greatest safety shall be applied throughout said subdivision"); 2 Ohio Admin. Code 1301:7-1-03(H) (a political subdivision may, to promote the public safety, health and general welfare, promulgate rules "to interpret and implement the provisions of [the Ohio Fire Code], to secure the intent thereof and to designate requirements applicable because of climatic or other conditions," but such rules shall not "have the effect of waiving any fire safety requirements specifically provided in [the Ohio Fire Code], or violating accepted engineering practice involving public safety").

In conclusion, it is my opinion, and you are hereby advised, that:

1. A board of township trustees has the authority to appoint a "fire safety inspector" as defined in R.C. 3737.01(C).
2. The board of trustees of a township which has a fire department has no authority under R.C. 505.38 to appoint a fire prevention officer or deputy fire prevention officer.
3. Pursuant to R.C. 505.38(B), the board of trustees of a township which does not have a fire department has the authority to appoint one fire prevention officer and one or more deputy fire prevention officers.
4. A person who has received a certificate issued by the State Superintendent of Public Instruction under R.C. 3303.07, evidencing his satisfactory completion of a chartered fire safety inspector training program, must be appointed as a fire safety inspector by a board of township trustees or other fire agency before he will be considered to be a fire safety inspector for purposes of R.C. Chapter 3737 and 2 Ohio Admin. Code Chapter 1301:7-1.

5. A person may, within the limited authority granted by R.C. 3737.64, carry out the functions of a fire safety inspector, even though he has not been appointed as a fire safety inspector by a board of township trustees or other fire agency.
6. Pursuant to R.C. Chapter 3737 and 2 Ohio Admin. Code 1301:7-1-03, a certified safety inspector may inspect all structures, premises, and vehicles as provided in rule 1301:7-1-03(B), and may enter into any structure or upon any premises as provided in rule 1301:7-1-03(D), regardless of whether he is a fire prevention officer.
7. The officer who issues a citation pursuant to R.C. 3737.42, whether it be the Fire Marshal, his authorized representative, or a certified fire safety inspector, has the authority to schedule the hearing on the citation pursuant to R.C. 3737.43. Such officer should work in conjunction with the Fire Marshal to make certain that a hearing officer will be available at the time and place for which the hearing is scheduled.
8. The Ohio Fire Code set forth in 2 Ohio Admin. Code Chapter 1301:7-1 may, pursuant to R.C. Chapter 3737, be enforced by the Fire Marshal, assistant fire marshals, and certified fire safety inspectors within any township in Ohio, even though the board of trustees of the township has not adopted the Ohio Fire Code pursuant to R.C. 505.373.