Includes Amendments made in Ordinances:
- Ord. No. 1414 adopted 9/01/2010

Neenah
WISCONSIN

211 Walnut Street
Neenah, WI 54956

AN ORDINANCE: By Joint Fire Finance & Personnel Committee Re: Amending various sections of Code §7-28 relating to open burning	ORDINANCE NO. 1387 Introduced: March 18, 2009 Committee/Commission Action: **RECOMMENDED FOR PASSAGE**

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Section 7-28(b) of the Code of Ordinances of the City of Neenah is amended by deleting the stricken language and adding the highlighted language to read as follows:

(b) Exceptions.

(1) Outdoor cooking over a fire contained in a device or structure designed for such use.

a. Material used to make a cooking fire cannot include construction materials, trash or rubbish.

b. All cooking devices must be in good working condition to prevent the possible spread of fire.

c. For all multifamily dwellings more than one story in height, the use and/or storage of any propane or charcoal portable cooking device or any portable fireplace device is strictly prohibited above the first floor occupancy.

d. For all multifamily dwellings more than one story in height, the use of any open or closed outdoor cooking device, any portable fireplace device, or any open flame device is prohibited within ten feet of the structure on the ground floor or any combustible material on the ground floor.

(2) Recreational fires and permits.

a. Intent. It is the intent of the City that citizens shall have the opportunity to have recreational fires at single-family and two-family dwellings provided that such fires are in strict compliance with restrictions relating to recreational fires. It is further the intent of the City that the Police Department and Neenah Menasha Fire Rescue ~~Department~~ shall strictly enforce these restrictions so as to insure that such fires do not compromise safety ~~nor annoy neighbors~~. Such enforcement shall require an investigation into any complaint and an independent determination by either the Police Department or the ~~Fire Department~~Neenah-Menasha Fire Rescue as to whether a particular recreational fire is in compliance with these regulations.

b. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Portable fire pit is a structure or device intended to contain and control outdoor wood fires. This shall include a structure, which although not portable, is designed to contain and control outdoor wood fires.

Recreational fire is a campfire for the purpose of recreation and personal enjoyment.

In-ground fire pit is defined as a fire pit surrounded on the outside by a non-combustible material such as concrete block or rocks.

c. No recreational fire may be started or allowed to continue burning unless such recreational fire is contained in a portable fire pit or an in-ground fire pit.

d. No recreational fire or portable fire pit or an in-ground fire pit shall be closer than ten feet from any building, structure, shed, garage, fence, or any combustible material.

e. All recreational fires shall not have a diameter larger than ~~two feet~~ thirty (30) inches nor may the fire extend more than two feet above the pit. ~~The fire pit shall be surrounded on the outside by a noncombustible material such as concrete block or rocks.~~ (Ord. No. 1414 adopted 9/01/2010)

f. Portable fire pits, such as devices commercially designed and intended to control and contain outdoor wood fires, may be used in accordance with the manufacturer's specifications, and these regulations, and must be based upon a noncombustible surface.

g. No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials, nor anytime when the wind speed exceeds seven miles per hour. Smoke from any recreational fire shall not create a nuisance for neighboring property owners. The fire shall be completely extinguished based upon the findings of the required investigation conducted by either the Police Department or Neenah Menasha Fire Rescue~~immediately upon the complaint of any smoke nuisance~~. The Police Department and the Fire Rescue Department shall strictly enforce this section so as to comply with the intent of Subsection (b)(2)(a).

h. Material for recreational fires or portable fire pit shall not include rubbish, garbage, recyclable items, trash, or any material made of ~~or~~ petroleum-based materials, and shall not contain any flammable or combustible liquids, except for devices which are designed to burn LP gas. Such LP gas devices shall only be used per the manufacturers' listing instructions~~not use the LP gas as an accelerant for other flammable materials~~.

i. Adequate fire suppression equipment shall be immediately available to control or extinguish the recreational fire. Adequate fire suppression shall consist of, but not limited to, a connected or charged garden hose or a large bucket of water within two feet of the fire.

j. All recreational fires or portable fire pits shall be attended at all times by at least one responsible person of age 18 or older from the ignition of the fire until the fire is completely extinguished.

k. The property owner and/or person who have started any recreational fire shall hold the City harmless from any and all damages caused by a recreational fire.

l. Any party who has started or maintains a recreational fire as defined shall pay any and all costs incurred by ~~the Fire Department~~Neenah-Menasha Fire Rescue for any service related call as a result of a recreational fire not in compliance with these requirements, if deemed necessary by the Fire Chief.

m. Any person who wishes to have a recreational fire in a portable fire pit or in-ground fire pit must obtain a permit from the City Clerk. The permit shall contain the name and address of the location where the portable fire pit is to be used. Such permit is not transferable to any other person nor any other location. Such a permit shall issue upon a showing that there will be compliance with all applicable laws and ordinances.

n. The permit specified in Subsection (b)(2)m of this section shall require an annual fee ~~of $15.00~~as established by the Common Council by resolution from time to time to be paid to and collected by the Finance Department. A copy of Section 7-28 shall be provided to the permittee ~~by the City Clerk's office~~ along with the permit.

o. No recreational fire shall be started or allowed to continue unless the permit and the copy of the ordinance can be produced and shown to anyone who requests to see the permit.

p. No recreational fire may be started or allowed to continue between 12:00 a.m. and ~~6:00~~ 4:00 p.m. Any such fire is presumed unreasonable and must be extinguished upon demand. (Ord. No. 1414 adopted 9/01/2010)

q. Any recreational fire or portable fire pit or in-ground fire pit not in compliance with all the terms of this section may, in addition to any other penalties, result in the permanent revocation of the permit.

r. The City Clerk's office shall send to any permittee upon request a copy of any subsequent amendments to this section. Any such amendments may be sent by ~~regular~~ First Class mail to any permittee.

Section 2. Section 7-28(c) of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language to read as follows:

(c) Chief may regulate and prohibit. The Fire Chief is permitted to regulate and or prohibit any or all bonfires, recreational fires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

Section 3. **Severability.** In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 4. **Repeal and Effective Date.** All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect after its passage and publication.

Moved by: Stevenson/Ahles

Adopted: May 6, 2009

Approved: May 6, 2009

Published: May 11, 2009

Includes Amendments from Ord. No. 1414
September 1, 2010

Approved:

George Scherck, Mayor

Attest:

Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney James G. Godlewski
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