



211 Walnut Street  
Neenah, WI 54956

AN ORDINANCE: By Joint Fire Finance &  
Personnel Committee  
Re: Amending portions of Chapter 7, Article II,  
Fire Prevention Code

**ORDINANCE NO. 2019-05**

Introduced: August 7, 2019

Committee/Commission Action:

**RECOMMENDED FOR PASSAGE**

## AN ORDINANCE

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

**Section 1.** Section 7-20 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

**Sec. 7-20. - Other standards adopted.**

- (a) Wis. Stat. §35.93 and The the State eWisconsin Administrative Codes listed in this section are SPS 301 to SPS 399 Safety, Buildings, and Environment, and ATCP 93, Flammable and combustible Liquids are hereby adopted by reference and made a part of this sectionArticle. The Fire Department may note any violations of such codes and to report those violations to the appropriate community service inspectorsbuilding or code enforcement officer. In addition, The the Fire Inspectors shall have the authority to cite such violations when discovered on fire inspections or reported to the Fire Marshal.

~~(1) Fire Prevention, Wis. Admin. Code SPS ch. 314;~~

~~(2) Existing Buildings, Wis. Admin. Code SPS chs. 375 to 379;~~

~~(3) Wis. Admin. Code SPS ch. 316, Wisconsin State Electrical Code;~~

~~(4) Wis. Admin. Code, Wisconsin Commercial Building Code, SPS chs. 361—365 and Appendices A and B;~~

~~(5) Elevators Code, Wis. Admin. Code SPS ch. 318;~~

~~(6) Flammable and Combustible Liquids, Wis. Admin. Code ATCP ch. 93.~~

Overall enforcement responsibility for the provisions of Subsections (a)(3) through (a)(5) of this section will be equally shared by the building inspector.

code enforcement officer and the fire inspector. The building inspector has the primary responsibility during construction of the building while the fire inspector has primary responsibility after the building is completed. Primary responsibility for particular sections of the above provisions shall be as indicated in the Wisconsin Administrative Code.

- (b) The International Fire Code, ~~2009~~-2015 Edition, (hereinafter "IFC") is hereby adopted as the local use and maintenance fire prevention code as though fully set forth herein, with the following exception: Section 105 (Permits) of Chapter 1, "Administration," of the IFC is not included as part of the adoption of the IFC.
- (c) National Fire Protection Association ("NFPA") Codes and Standards as the same exist on January 1, ~~2014~~2019, (unless stated otherwise), are hereby adopted by reference as part of the City Fire Prevention Code with the same force and effect as though set forth herein in full, unless otherwise found to be in conflict with superseding state or local codes and/or standards.
- (d) Any fire prevention concern not herein addressed by code or adopted standards will be addressed on the basis of the current adopted International Fire Code.

**Section 2.** Section 7-21 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

***Sec. 7-21. - Fire Prevention Inspector.***

- (a) *Designated.* The Fire Chief shall be the Fire Prevention Inspector and shall have the power to appoint a Deputy Fire Prevention Inspector (Fire Marshal), who shall perform the same duties and have the same power as the Fire Prevention Inspector.
- (b) *Inspections and reports.* The Fire Prevention Inspector, Deputy Fire Prevention Inspector (Fire Marshal) or officers of the Fire Department together comprise the Fire Prevention Bureau which shall make the inspections required in Wis. Stats. § 101.14 and shall comply with the provisions thereof. The Fire ~~Prevention Inspector~~ Marshal shall maintain records of each inspection ~~made by him~~ completed by the department, including the date, location of buildings and premises examined and defects caused to be corrected. The Fire Prevention Inspector, or designee shall make an annual report to the Common Council and shall state in such report the number of buildings and premises examined by ~~him~~ department staff and the number of defects caused to be corrected.

**Section 3.** Section 7-22(c) & (d)(2) of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

## Sec. 7-22. - Correction of hazardous conditions.

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### (c) Orders.

- (1) *Service.* Any orders under this section shall be served in writing upon the occupant and owner of the premises. If such owner or occupant cannot be found, such written order shall be affixed in a conspicuous place on the entrance door to such building or structure or on the premises. Thereafter a copy of such order shall be mailed and/or emailed to the owner and occupant, addressed to their last known post office ~~addresses~~address, and/or email address. No person shall remove such affixed notice without the written consent of the Fire Chief or Fire Marshal.
- (2) *Compliance.* Any such order shall forthwith be complied with by the owner and occupant of such building, structure or premises. The owner or occupant may with 24 hours appeal to the Fire Chief or Fire Marshal for a review of such order, who shall thereafter as soon as possible file his decision, along with the reasons for such decision. Unless such order is revoked or modified by the Fire Chief or Fire Marshal, it shall remain in full force and be complied with within the time fixed in such order.

### (d) Exceptions.

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- (2) If any building or structure, whether above exempted or not, is especially liable to fire and is so situated as to endanger other buildings or property or contains any combustible or explosive material dangerous to the safety of any building or premises or the occupants thereof, or endanger or hinder ~~firemen~~firefighters in case of fire, such building or structure shall be subject to this section so far as may be necessary to protect adjoining or other buildings and their occupants and ~~firemen~~firefighters.

**Section 4.** Section 7-23 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

### Sec. 7-23 – Fire Safety Permits

No person shall occupy or change the class of occupancy or the ownership of a building or structure located in the City until such building or structure has been inspected and approved by the Fire ~~Prevention Inspector~~Marshal ~~and he has issued a fire safety permit~~ for such change in occupancy or ownership.

**Section 5.** Section 7-24 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

**Sec. 7-24. - Right of entry.**

The Fire Chief, Fire Marshal or any Fire Inspector may at all reasonable hours enter any building, premises or public thoroughfare, except only the interiors of private dwellings, to ascertain and cause to be corrected any condition liable to cause fire or any violation of any law or order relating to fire hazards or prevention of fires. The owner, agent or occupant of any such premises who refuses to permit, or prevents or interferes with any entry into or upon the premises by any such Inspector, or who interferes with any such inspection, shall be in violation of this chapter.

**Section 6.** Section 7-25 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

**Sec. 7-25. - Investigation of fires.**

(a) *Required.* The Fire Department shall investigate the cause, origin and circumstances of fires occurring in the City by which property has been destroyed or damaged and, so far as possible, shall determine whether such fire was the result of carelessness or design. Such investigation shall begin immediately upon the occurrence of such a fire; and if it appears to the officer making such investigation that such fire is of suspicious origin, the Fire Chief and Fire Marshal shall be immediately notified of the facts. The Fire Chief and/or Fire Marshal shall determine if physical evidence is to be collected and the appropriate manner in which to collect and secure such evidence. If the fire is thought to be incendiary or criminal in nature, department staff ~~He should thereupon take charge immediately of the physical evidence,~~ shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. A written report shall be filed with the Fire Department by the senior officer responsible for the fire suppression efforts for every fire to which the department is dispatched. The report shall be filed within 24 hours of the conclusion of the fire suppression efforts, unless the Fire Chief or Fire Marshal approves an extension. ~~of every fire by the senior officer in charge of such fire.~~ Such report shall be in the form prescribed by the Fire Chief and shall contain a statement of all facts relating to the cause, origin and circumstances of such fire and other information as may be required.

(b) *Assistance.* Upon request of the Fire Department, the City Attorney and other departments of the City shall assist in the investigation of any fire which, in the Department's opinion, is potentially incendiary or of suspicious origin.

**Section 7.** Section 7-27 of the Code of Ordinances of the City of Neenah is amended by adding the highlighted language and deleting the stricken language to read as follows:

**Sec. 7-27. - Closing and vacation of buildings.**

- (a) The Fire Chief or Fire Marshal may order compliance with this article and all other laws and lawful orders relating to fire prevention and fire protection in all existing buildings and structures.
- (b) The Fire Chief or Fire Marshal ~~shall~~may close any building and order it vacated wherein any violation of this article is found and not corrected within the time stipulated by the Fire Chief or Fire Marshal.
- (c) Where the public is exposed to immediate danger to life, property or safety, the Fire Chief or Fire Department representative shall have the authority to order the immediate closing and vacation of ~~the~~any building at once.

**Section 8.** Section 7-28 of the Code of Ordinances of the City of Neenah is repealed and recreated to read as follows:

**Sec. 7-28. - Open burning.**

- (a) *Open burning prohibited.* No person, firm or corporation shall build any outdoor fire within the corporate limits of the City of Neenah except as set forth in Subsection (b) of this section.
- (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 open or closed outdoor cooking device, any portable fireplace device, or any open flame 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 shall strictly enforce these restrictions so as to insure that such fires do not compromise safety. Such enforcement shall require an investigation into any complaint and an independent determination by either the Police Department or the 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:
      - 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.

*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.

- 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 have a diameter no larger than 30 inches nor may the fire extend more than two feet above the pit.
- 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 any time 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. 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 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.
- 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 has 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 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 of the owner/occupant of the property 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 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 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 4:00 p.m. Any such fire is presumed unreasonable and must be extinguished upon demand.
  - 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 First Class mail to any permittee.
- (3) Controlled burning of grass or similar vegetation for environmental management purposes, is allowed with the prior written approval of the Fire Chief or Fire Marshal.
  - (4) Ceremonial campfire or bonfires, with prior written approval of the Fire Chief or Fire Marshal.
  - (5) Other occasions of desirable outdoor burning not specified by this subsection, but not as an alternative to refuse removal or disposal of which other methods are available, may be granted single occasion approval as in Subsections (b)(2) and (b)(3) of this section.
  - (6) Whenever approval and special permit are granted by the Fire Chief or Fire Marshal under Subsections (b)(3), (b)(4) and (b)(5) of this section, the permit may specify and be conditioned on observance of safety restrictions and insurance requirements set forth therein. Such permits shall be issued upon a showing that public safety will not be endangered and a further showing that there will be compliance with all applicable laws and ordinances.
- (c) *Chief may regulate and prohibit.* The Fire Chief or Fire Marshal is permitted to regulate and or prohibit any or all vegetation fires, recreational fires, and other permitted outdoor fires, when atmospheric conditions or local circumstances make such fires hazardous.
  - (d) *Burning on streets.* No materials may be burned upon any street, curb, gutter or sidewalk.
  - (e) *Liability.* Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by his fire.

**Section 9.** Sections 7-30, Fire Extinguishers, and 7-33. Installation, removal and inspection of flammable and combustible liquid storage tanks. of the Code of Ordinances of the City of Neenah are repealed.

**Section 10. 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 11. Repeal and Effective Date.** All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Kunz/Boyette  
Adopted: 8-0 August 7, 2019  
Approved: August 7, 2019  
Published: August 12, 2019

THIS INSTRUMENT WAS DRAFTED BY:  
City Attorney James G. Godlewski  
211 Walnut Street  
Neenah, WI 54956  
State Bar No. 1005210

Approved:



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Dean R. Kaufert, Mayor

Attest:



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Patricia A. Sturn, City Clerk