

ORDINANCE O – 10 - 09

AN ORDINANCE RELATING TO RECREATIONAL FIRES

Introduced by Aldermen Pack and Wisneski

The Common Council of the City of Menasha does ordain as follows:

SECTION 1: Sec. 5-2-7 is repealed and recreated to read:

SEC. 5-2-7 OPEN BURNING.

(a) **OPEN BURNING PROHIBITED.** No person, firm or corporation shall build any outdoor fire within the corporate limits of the City of Menasha excepting 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 multi-family 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 multi-family 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 (10) feet of the structure on the ground floor or any combustible material on the ground floor.

e. **Recreational Fires.**

1. It is the intent of the City of Menasha 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 of Menasha that the Police Department and **Neenah-Menasha Fire Rescue** ~~Fire 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 **Neenah-Menasha Fire Rescue** ~~the Fire Department~~ as to whether a particular recreational fire is in compliance with these regulations.

2. A recreational fire is a campfire for the purpose of recreation and personal enjoyment.

3. A 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.

4. An 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.

5. 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.**

6. No recreational fire, portable fire pit, **or in-ground fire pit** shall be closer than 10 feet from any building, structure, shed, garage, fence, or any combustible material.

7. All recreational fires shall not have a diameter larger than 2 feet nor may the fire extend more than 2 feet above the pit. ~~The fire pit shall be surrounded on the outside by a non-combustible material such as concrete block or rocks.~~

8. "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, these regulations, and must be based 120294 5 : 4 upon a non-combustible surface.

9. 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 7mph. 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 **Neenah-Menasha Fire Rescue** ~~the Fire Department~~ shall strictly enforce this section so as to comply with the intent of section e.1. of this ordinance.

10. 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. **"LP gas devices shall only be used per the manufacturers listing instructions** ~~Such LP gas devices shall not use the LP gas as an accelerant for other flammable materials.~~

11. Adequate fire suppression equipment shall be immediately available to control or extinguish the recreational fire. **Adequate fire suppression shall be a garden hose or a large bucket of water within two feet of the fire.**

12. 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.

13. 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.

14. Any party who has started or maintains a recreational fire as defined shall pay any and all costs incurred by **Neenah-Menasha Fire Rescue** ~~the Fire Department~~ 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.

15. Any person who wishes to have a recreational fire in a portable fire pit **or in-ground fire pit** must obtain a permit prior to such fire. 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.

16. The permit specified in paragraph 14 shall require an annual fee of ~~\$15.00 to be paid to and collected by the Finance Department.~~ **to be established by the Common Council upon the recommendation of the Joint Personnel and Finance Committee.** A copy of Sec. 5-2-7 shall be provided along with the permit.

17. 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.

18. No recreational fire may be started or allowed to continue between 12:00 a.m. and 6:00 p.m. Any such fire is presumed unreasonable and must be extinguished upon demand.

19. Any recreational fire, ~~or~~ portable fire pit **or in-ground fire pit** not in compliance with all the terms of Sec. 5-2-7 may, in addition to any other penalties, result in the permanent revocation of the permit.

20. The City Clerk shall send to any permittee a copy of any subsequent amendments to Sec. 5-2-7. Any such amendments may be sent by ~~regular~~ **First Class** mail to any permittee.

21. Permits for recreational fires shall be issued only to the property owner or to a tenant, provided that the tenant supplies the City Clerk with a letter of approval for the permit signed by the property owner.

- (2) Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the Fire Chief;
- (3) Ceremonial campfire or bonfires, with prior written approval of the Fire Chief;
- (4) 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 (2) and (3) above.
- (5) Whenever approval and special permit are granted by the Fire Chief under Subsection (b)(2), (3) and (4) of this Section, the permit may specify and be conditioned on observance of safety restrictions and insurance requirements set forth therein.

(c) **CHIEF MAY PROHIBIT.** The Fire Chief is permitted to prohibit any or all bonfires and outdoor rubbish 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 2: This ordinance shall become effective upon its passage and publication as provided by law.

Passed and approved this _____ day of _____,

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk

Atty. Note: The changes to the ordinance appear in this draft. If approved, the ordinance will be formalized. It was believed that it would be easier for the CC to have its first review as the redlined version.