

ORDINANCE O-15-10

AN ORDINANCE AMENDING CHAPTER 2, FIRE PREVENTION

INTRODUCED BY ALDERMAN WISNESKI

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

SECTION 1: Amend Section 5, Chapter 2 of the Code of Ordinances of the City of Menasha, Wisconsin as follows:

CHAPTER 2 Fire Prevention

SEC. 5-2-1 IMPEDING FIRE EQUIPMENT PROHIBITED.

No person shall impede the progress of the fire engine or fire truck or other fire apparatus of the ~~Menasha Fire~~ Neenah-Menasha Fire Rescue Department along the streets or alleys of such City at the time of a fire or when the ~~Fire~~ Neenah-Menasha Fire Rescue Department of the City is using such streets or alleys in response to a fire alarm or for practice.

SEC. 5-2-2 POLICE POWER OF THE DEPARTMENT; INVESTIGATION OF FIRES.

(a) **POLICE AUTHORITY AT FIRES.**

(1) The Fire Chief, and assistants, or officers in command at any fire, emergency operations and hazardous situation are hereby vested with full and complete police authority at fires, emergency operations and hazardous situation. Any officer of the Department may cause the arrest of any person failing to give the right-of-way to the ~~Fire~~ Neenah-Menasha Fire Rescue Department in responding to a fire, emergency operations and hazardous situation.

(2) The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting ~~firemen~~ firefighters and ~~police~~ police officers and those admitted by order of any officer of the Department, shall be permitted to come.

(3) The Fire Chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire he shall have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the Neenah-Menasha Fire Rescue Department during the progress of a fire.

(b) **FIRE INSPECTION DUTIES.**

(1) The Fire Chief shall be the Fire Inspector of the City of Menasha and shall have the power to appoint one or more Deputy Fire Inspectors and shall perform all duties required of the Fire Inspectors by the laws of the State and rules of the ~~Department of Industry, Labor and Human Relations~~ Wisconsin Department of Commerce, particularly Section 101.14, Wis. Stats.

(2) While acting as Fire Inspector pursuant to Sec. 101.14(2), Wis. Stats., the Fire Chief, or any officer of the ~~Fire~~ Neenah-Menasha Fire Rescue Department designated by the Fire Chief, shall have the right and authority to enter any building or upon any premises in the City of Menasha at all reasonable hours for the purpose of making inspections or investigations which, under the provisions of this Code of Ordinances, he may deem necessary. Should the Fire Inspector find that any provisions of this Code relating to fire hazards and prevention of fires are being violated, or that a fire hazard exists which should be eliminated, it shall be his duty to give such directions for the abatement of such conditions as he shall deem necessary and, if such directions be not complied with, to report such noncompliance to the ~~Common Council~~ City Attorney for further action.

(3) The Fire Chief of the ~~Fire~~ Neenah-Menasha Fire Rescue Department or an officer designated by him shall inspect all building premises, except the interior of private

dwellings, for the purpose of correcting any violations of any law or ordinance relating to the fire hazard or the prevention of fires. Such inspections shall ~~be made every six (6) months~~ follow the time frames set up in Comm 14.01 in all territory served by the Department. ~~Each six (6) month period shall begin on January 1 and July 1.~~

(4) Written reports of inspections shall be made and kept on file in the office of the Fire Chief of the Fire-Neenah-Menasha Fire Rescue Department in the manner and form required by the Department of Industry, Labor and Human Relations Wisconsin Department of Commerce. A copy of such reports shall be filed with the City Clerk.

State Law Reference: Section 101.14(2), Wis. Stats.

SEC. 5-2-3 DAMAGING FIRE HOSE PROHIBITED; PARKING BY HYDRANTS; BLOCKING FIRE LANES.

- (a) **DRIVING OVER FIRE HOSE.** No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the City, and no vehicle shall be driven over any unprotected hose of the ~~Fire~~ Department when laid down on any street, private driveway or other place, to be used at any fire or alarm of fire, without the consent of the ~~Fire~~ Department official in command.
- (b) **PARKING VEHICLES NEAR HYDRANTS.** It shall be unlawful for any person to park any vehicle or leave any object within ten (10) feet of any fire hydrant at any time.
- (c) **NO PARKING NEAR FIRE.** It shall be unlawful for any person, in case of fire, to drive or park any vehicle within one block from the place of fire without the consent and authority of the Fire Chief or any police officer.

SEC. 5-2-4 FIREMEN FIREFIGHTERS MAY ENTER ADJACENT PROPERTY.

- (a) **ENTERING ADJACENT PROPERTY.** It shall be lawful for any ~~fireman~~ firefighters while acting under the direction of the Fire Chief or any other officer in command to enter upon the premises adjacent to or in the vicinity of a building or other property then on fire for the purpose of extinguishing such fire and in case any person shall hinder, resist or obstruct any ~~fireman~~ firefighters in the discharge of his or her duty as is hereinbefore provided, the person so offending shall be deemed guilty of resisting ~~firemen~~ firefighters in the discharge of their duty.
- (b) **DESTRUCTION OF PROPERTY TO PREVENT THE SPREAD OF FIRE.** During the progress of any fire, the Fire Chief or his assistant shall have the power to order the removal or destruction of any property necessary to prevent the further spread of fire; provided that it is inevitable that, unless such property is removed, other property is in danger of being destroyed by fire.

SEC. 5-2-5 VEHICLES TO YIELD RIGHT-OF-WAY.

Whenever there shall be a fire or fire alarm ~~or the Fire Department shall be out for practice,~~ and while operating a vehicle that is responding to emergencies every person driving or riding in a motorized or other vehicle shall move and remain to the side of the street until the fire engine and fire truck and other fire apparatus ~~shall~~ have passed.

SEC. 5-2-6 INTERFERENCE WITH USE OF HYDRANTS PROHIBITED.

No person shall occupy any portion of such streets or alleys with a motorized or other vehicle between such fire engine or fire truck or other fire apparatus or any hydrant to which a fire hose may be, or may be about to be, attached.

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 the Neenah-Menasha Fire Rescue Department 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 Neenah-Menasha Fire Rescue 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~~ 30 inches nor may the fire extend more than 2 feet above the pit.

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 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 the Neenah-Menasha Fire Rescue Department. The Police Department and the Neenah-Menasha Fire Rescue 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 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.

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~~ has 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 herein shall pay any and all costs incurred by the Neenah-Menasha Fire Rescue 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 44 15 shall require payment of an annual fee to be established by the ~~Common Council~~ Administration Committee 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~~ 4:00 p.m. Any such fire is presumed unreasonable and must be extinguished. ~~upon demand.~~

19. Any recreational fire, 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 First Class mail to any permittee.~~ 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.

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- (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) **FIRE 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.

SEC. 5-2-8 INSTALLATION, REMOVAL AND INSPECTION OF FLAMMABLE AND COMBUSTIBLE LIQUID STORAGE TANKS.

- (a) **AUTHORITY.** The most current version of the Wisconsin Administrative Code, DILHR, Comm Chapter ILHR 10, Flammable and Combustible Liquids is hereby adopted and incorporated by reference.
The ~~City of Menasha Fire~~ Neenah-Menasha Fire Rescue Department shall also be adopted as part of the authorized inspection authority related to storage tank inspections pursuant to the Professional Services Contract between ~~DILHR~~ Wisconsin Department of Commerce and the City of Menasha.
- (b) No person may install, remove or alter any underground storage tanks for storage of flammable or combustible liquids without first obtaining a permit from the ~~City of Menasha Fire~~ Neenah-Menasha Fire Rescue Department.
- (c) **INSPECTION REQUIREMENTS - SCOPE OF SERVICE.** The ~~City of Menasha Fire~~ Neenah-Menasha Fire Rescue Department shall perform the following inspection duties related to the storage of flammable and combustible liquids in the City of Menasha:
(1) Complete plan examinations for all tank installations of less than 5,000 gallons. Approve/disapprove plans which are submitted based upon the criteria established in ~~ILHR~~ COMM 10, or any successor State law.
(2) Establish permit fees, for approval by the ~~Common Council~~ Administration Committee for all work related to the installation and alterations of tanks less than 5,000 gallons and permit fees for all tank removals.
(3) Perform installation inspections for tank systems reviewed at either the state or local level.
(4) Authorize stop work orders when violations of ~~ILHR~~ COMM 10 have occurred.
(5) Perform the annual inspection of federally regulated tank systems for compliance with leak detection, operation and maintenance and the closure requirements established in ~~ILHR~~ COMM 10.
(6) Perform inspections at the closure of tank systems.
(7) Perform any and all duties or authority as set forth in ~~ILHR~~ COMM 10, the City of Menasha Municipal Code, or the contractual inspection agreement with ~~DILHR~~, Wisconsin Department of Commerce as necessary and determined by the ~~City of Menasha Fire~~ Neenah-Menasha Fire Rescue Department.
- (d) **INSPECTION REQUIREMENTS - NOTICE.** Notice inspection requirements shall be as follows:
(1) The ~~City of Menasha Fire~~ Neenah-Menasha Fire Rescue Department shall be notified ten (10) days in advance of any underground storage tank removal.
(2) Twenty-four (24) hour minimum advance notice shall be required for any canceled installation, upgrade, or removal inspection appointment.
- (e) **FEES.**
(1) Any plan review, new installation inspections or upgrade plan review inspections for tanks of 5,000 gallons or greater shall require a prepaid fee as established by State authority.
(2) All other plan review, new installation inspections, upgrade plan review and inspections, revisions of previously approved plans and all underground storage tank removals shall require a prepaid fee as established under Sec. 5-2-8(b)(c)(2).
- (f) **PENALTY.**
(1) Any person, firm, association or corporation who shall violate any of the provisions of Ordinance 5.07 shall, upon conviction of such violation, be subject to ~~penalty as follows:~~ a forfeiture not to exceed \$500.00, together with the costs of prosecution.
~~€~~ (2). Each violation, and each day a violation continues or occurs, shall constitute a separate offense. Nothing in this ordinance shall preclude the City of Menasha from maintaining any appropriate action to prevent or remove a violation of this ordinance.
~~b.~~ (3) Failure to obtain any permit will result in the doubling of any permit fee.
~~d.~~ (4) Failure to remove any contaminated soil within thirty (30) days after completion of any project will constitute a public nuisance under Sec. 11-7-2.

a (5) A stop work order shall be issued until compliance has occurred, and a forfeiture not to exceed \$500.00, together with the costs of prosecution.

SEC. 5-2-9 FIRE ALARMS.

(a) The user of any private alarm system which upon activation, elicits a response from the Fire-Neenah-Menasha Fire Rescue Department or Police Department, shall be subject to ~~the following an answering fee schedule~~ for each alarm response in the calendar year. ~~The fee will be assessed~~ if it is determined that the alarm was discharged falsely, accidentally, or by negligence, including lack of maintenance. Answering fees shall be established by the Administration Committee.

(b) **FEE SCHEDULE.**

- ~~(1) First two false alarms -- No Charge.~~
- ~~(2) Third and fourth false alarm -- \$25.00.~~
- ~~(3) Fifth through sixth false alarm -- \$75.00.~~
- ~~(4) Seventh through eighth false alarm -- \$100.00~~
- ~~(5) Ninth and subsequent false alarms -- \$200.00.~~

(c) (b) Fees shall not be imposed in the event of any evidence of forcible entry or attempted forcible entry. Said fee will not be imposed if it can be determined that the alarm was activated by weather conditions, fire or other acts of God.

(d) (c) If the possessor of the alarm shows to the satisfaction of the Fire Chief or Police Chief, as appropriate, that a false alarm was not the result of negligence or improper maintenance or other good and sufficient cause beyond the reasonable control of the possessor of the alarm, such fee may be waived and the response not counted as a false alarm in computing the fee established by the ordinance.

(e) (d) The fee established by this ordinance is imposed whether the Winnebago County Communication Center, the ~~Menasha Fire~~ Neenah-Menasha Fire Rescue Department or Police Department receive notification of the alarm by direct connection or through other intermediary means.

(f) (e) Those subject to fees for false alarms shall be notified, in writing, of such fees by the City of Menasha within thirty days of the receipt of the fee notification. In the event fees remain unpaid, said fees may be collected as a special tax assessed against the property of the owner.

(g) (f) Alarm users who intentionally activate any alarm shall be subject to the receipt of a City of Menasha Municipal Summons for said intentional violation of paragraph (a) of this Section. Intentional activation of any alarm shall be subject to a minimum fine of \$200.00 plus costs per occurrence.

SECTION 2: This amending Ordinance shall take effect upon passage and publication as provided by law.

Passed and approved this _____ day of _____, 2010.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk