

211 Walnut Street
Neenah, WI 54956



AN ORDINANCE:
Re: Camping on City Owned Property and
Amendments to Section 7-28 Open Burning

ORDINANCE NO. 2024-04
Introduced: February 27, 2024
Committee/Commission Action:

AN ORDINANCE

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

Section 1. Section of the Code of Ordinances of the City of Neenah is created read as follows:

- A. Definitions. For purposes of this section the following definitions apply:
1. *Camp or camping* means to set up or to remain in or at a campsite, including the storage of personal belongings or camping materials.
 2. *Campsite* means any place where any bedding, sleeping bag or other sleeping materials, or any stove, or fire, is placed, established, maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure or any vehicle used to facilitate same, or any part thereof.
 3. *Camping materials* means, but is not limited to, tents, tarps, umbrellas, metal sheeting, pallets, canopies, hammocks, hunting blinds, boxes, huts, temporary shelters, or vehicles.
 4. *Abandoned property* means any property possession of which has been relinquished or that has been otherwise left by the owner to fall into a state of disuse.
 5. *Right-of-way* means that area between the center line of the travel portion of any roadway, whether improved or merely platted as such, and the platted and adjacent property line, whether privately or publicly owned, including therebetween any grassy or other vegetation-covered portions often designated as terrace or parkway and including any hard-surfaced such area.
 6. *To store or storage* means to put aside or accumulate for use when needed to place for safekeeping or to leave in a location.
- B. Camping Prohibited. It is unlawful for any person to camp in or upon any city right-of-way or upon any other city property except as follows:
1. In campgrounds designated by the City that are signed, posted, or marked for overnight camping, or pursuant to otherwise applicable city ordinances, laws, rules, and regulations.
 2. During Special Events, as designated by the Chapter 14, Article V, of the Neenah Code of Ordinances where tarps, tents and awnings are permitted.

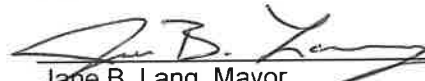
3. During Community Fest as sponsored by the Parks and Recreation Department, where tarps, tents and awnings are permitted by rule.
 4. By special or emergency declaration of the Mayor or Common Council.
- C. Violations.
1. Warning: No person shall be cited for violating this section unless such person shall continue to camp more than one hour after receiving a warning to cease their camping activities and or to vacate the place upon which they are so engaged. Such warning shall be given by a police officer or other authorized City officer or employee.
 2. Penalty: Any person in violation of this section shall be subject to the penalties as provided for in Sec. 1-20 of the Neenah Code of Ordinances.
- D. Abandoned Property. Pursuant to Wisconsin State Statute §66.0139 the City of Neenah Police Department will collect and hold abandoned property for 30 days after which the City may sell or dispose of said property pursuant to §66.0139(2-5).
- E. Disposal of abandoned property other than by public auction. The City may dispose of abandoned property by public auction pursuant to §66.0139(2), or by any other means whether by private sale, donation, destruction, or other appropriate disposal deemed to be in the best interest of the City.

Section 2. 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.

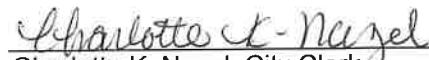
Section 3. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Lendrum/Weber Carried 6-0 Borchardt,
Skyrms, and Steiner excused
 Adopted: March 20, 2024 Vote of 6-0, with 3 excused
 Approved: March 20, 2024
 Published: March 27, 2024

Approved:


 Jane B. Lang, Mayor

Attest:


 Charlotte K. Nagel, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
 City Attorney David C. Rashid
 211 Walnut Street
 Neenah, WI 54956
 State Bar No. 1056542



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.
 - e. No outdoor cooking shall be permitted in the City Right of Way.
 - (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 ensure 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.

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- 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.
 - 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. 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 issued to the property and is not transferable to 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 City. A copy of Section 7-28 shall be provided to the permittee along with the permit.
 - o. 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.
 - p. 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.
 - q. No recreational fire shall be started in the City Right of Way.
- (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.

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- (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.
- (Ord. No. 2019-05, § 8, 8-7-2019; Ord. No. 2021-03, § 1, 3-17-2021)

Editor's note(s)—Ord. No. 2019, § 8, adopted Aug. 7, 2019, repealed the former § 7-28, and enacted a new § 7-28 as set out herein. The former § 7-28 pertained to similar subject matter and derived from the Code 1977, § 23.10; Ord. No. 1247, § 1, adopted Feb. 4, 2004; Ord. No. 1387, §§ 1, 2, adopted May 6, 2009; and Ord. No. 1414, §§ 1, 2, adopted Sept. 1, 2010.