

COMMON COUNCIL  
OF THE  
CITY OF MEQUON

ORDINANCE 2022-1619

An Ordinance Amending Chapter 30, Article V of the Mequon Municipal Code Related to  
Outdoor Burning

**RECITALS**

- A. The Common Council previously adopted Chapter 30, Article V of the Mequon Municipal Code which establishes certain regulations related to open burning within the City.
- B. The Common Council desires to amend those regulations to clarify and better reflect current practices and products.
- C. The regulation of burning within the City furthers the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

**SECTION I**

Chapter 30, Article V of the Mequon Municipal Code is amended as shown in the attached Exhibit A (NOTE: Added text is double underlined, deleted text is ~~struck through~~).

**SECTION II**

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

**SECTION III**

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

**SECTION IV**

This Ordinance shall become effective the day after its publication as provided by law.

Approved by: John Wirth, Mayor

Date Approved: April 12, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on April 12, 2022.

Caroline Fochs, City Clerk

Published: April 19, 2022

## ARTICLE V. OPEN AND RECREATIONAL BURNING

### DIVISION 1. GENERALLY

#### Sec. 30-111. Procedures for conducting open burning; penalties.

- (a) ~~Burning in an approved container.~~ Burning in an approved container location shall be allowed after the issuance of an annual permit by the fire chief or ~~his~~ their duly appointed agent(s). ~~Such burning may be conducted without obtaining daily permission from the fire chief or his duly appointed agent(s), but shall be subject to all other provisions set forth in sections 30-126 through 30-130 of this chapter.~~
- (1) The ~~container burn location~~ shall be placed at a minimum distance of at least 75 feet from any structure, wooded area, ~~or public roadway, or combustible materials.~~
  - ~~(2) The area around the container shall be of such a nature as to prevent the fire from spreading from the container.~~
  - (3) A responsible person of at least sixteen (16) years of age shall be in attendance at all times when ~~the container is used for burning.~~
  - (4) Only those materials identified in section 30-130 shall be burned ~~in the container.~~
  - (5) The by-products of combustion resulting from burning ~~in a container~~ shall not form a fire hazard or nuisance to neighboring citizens.
- (b) The open burning of materials in a pile not to exceed four feet in height and six feet in diameter shall be permitted provided that:
- (1) Daily permission, set forth in section 30-129, is obtained.
  - ~~(2) The pile is located a distance of 75 feet from any structure, wooded area or public roadway.~~
  - (3) The area surrounding the pile shall be of such a nature as to prevent the fire from spreading from the pile.
  - ~~(4) A responsible person shall be in attendance at all times when material is being burned.~~
  - (5) The responsible party shall ensure that the fire has been completely extinguished at the conclusion of any burning activity or dusk, whichever occurs first.
  - ~~(6) Only materials identified in section 30-130 shall be burned.~~
  - (7) A source of water or other fire extinguishing equipment shall be readily available to the responsible person attending the fire.
  - (8) The by-products of combustion resulting from burning ~~in a pile~~ shall not form a fire hazard or nuisance to neighboring citizens.

- (9) The fire chief, or ~~his~~ their designee, may allow piles of approved material larger than described in subsection (b) of this section to be burned.
- (c) The burning of standing grass for the purpose of establishing and/or maintaining a prairie landscape at a designated and approved site shall be permitted provided that:
- (1) The designated and approved prairie site shall be bordered on all sides by a closely mowed area, the width of which shall be determined by the fire department.
  - (2) The mowed border area shall be a minimum of 75 feet from any structure, fence line, wooded area or public roadway.
  - (3) In the event that the fire department must be called to extinguish a fire set to establish or maintain a prairie landscape, the property owner shall be charged the reasonable costs of suppression as a special charge or assessment pursuant to Wis. Stats. §§ 66.0627 or 66.0703.
- (d) Any person responsible for attending to a fire which escapes confinement or control of the person, such that the ~~city~~ fire department responds to suppress the fire, shall be liable for the actual costs of responding to and suppressing the fire. The liability provided for herein shall be in addition to and independent of any liability for a forfeiture for violation of this section.

## **DIVISION 2. PERMIT**

### **Sec. 30-126. Required.**

Before issuing a permit for open burning or burning in an approved container, the fire chief, or ~~his~~ their designee, shall consider the time, place and manner in which the fire is to be set, the type of material proposed to be burned and such other factors he may deem relevant or necessary for the safe control of such a fire. The fire chief, or ~~his~~ their designee, is authorized to revoke or refuse to issue a permit for the setting or any fire when, in his judgment, the starting of such would endanger the health and safety of persons or property, including crops and structures, within the city. A copy of the general regulations of the fire department for the control and management of such fires may be attached to such permit, or printed thereon, as may be determined to be most feasible.

### **Sec. 30-127. Annual permit fee.**

An annual permit fee to conduct open burning or burning in an approved container shall be established.

### **Sec. 30-128. Activities exempt.**

The following activities shall be exempt from the permit and fee provisions of this chapter:

- (1) Fires set by the Mequon fire department for practice and instruction of firefighters, and/or testing of firefighting equipment.
- (2) Small open flames for welding, acetylene torching or similar flame devices for commercial or industrial purposes.

- (3) ~~Fires set in devices commonly referred to as barbecue grills for the purpose of cooking.~~ Cooking fires in grills where the grill is:
- a. Fueled by charcoal, wood, or propane;
  - b. Located a minimum of ten (10) feet of a multi-family structure (three or more units);
  - c. Not located on a balcony or under any overhanging portion of a structure.
- (4) ~~Fires set in manufactured devices commonly referred to as a "patio hearth" constructed of ceramic materials or those of metal construction having an attached cover when burning wood for a recreational fire.~~ Fires in a patio hearth, outdoor fireplace, or other similar fire feature subject to the following:
- a. The fire shall be placed on and surrounded by non-combustible material or, if on or surrounded by combustible materials, placed in a manner consistent with the manufacturer's guidelines. If no manufacturer guidelines are available, wood burning features shall be at least twenty (20) feet from any combustible material and features which are solely fueled by propane or natural gas shall be placed at least ten (10) feet from any combustible material.
  - c. Wood burning features shall have all screens and covers in place. The fire shall not be ignited with a flammable or combustible liquid.
  - d. The fire shall be attended by a responsible person of at least sixteen (16) years of age with a water source or other fire extinguishing equipment readily available.
- (5) ~~Campfires for cooking, ceremonies or recreation, not contained in devices commonly described as barbecue grills or patio hearths, and being described as a pile of wood not exceeding two feet in diameter shall be permitted provided that:~~
- ~~a. Daily permission, as set forth in section 30-127 is obtained.~~
  - ~~b. The fire site is located a distance of at least 75 feet from any structure or public roadway.~~
  - ~~c. The area surrounding the fire shall be of such a nature as to prevent the fire from spreading.~~
  - ~~d. A responsible person shall be in attendance at all times when material is being burned.~~
  - ~~e. The responsible party shall ensure that the fire has been completely extinguished at the conclusion of any burning activity.~~
  - ~~f. The by-products of combustion resulting from burning shall not form a fire hazard or nuisance to neighboring citizens.~~

- (5) Campfires located on the ground subject to the following:
- a. The fire shall be at least twenty-five (25) feet from any structure, wooded area, public roadway or combustible materials.
  - b. The fire shall not exceed four (4) feet in diameter.
  - c. The fire shall not be ignited with a flammable or combustible liquid.
  - d. The flames shall not exceed two (2) feet in height above the ground.
  - e. The fire shall be attended by a responsible person of at least sixteen (16) years of age with a water source or other fire extinguishing equipment readily available.

**Sec. 30-129. Restrictions on permits.**

Issuance of permits for the starting, burning, or setting of any fire under this chapter shall be subject to the following:

- (1) No permit shall be issued for the starting, burning or setting of any fire at any location within the city that may be within 75 feet of any building or structure, or that shall cause smoke to obscure visibility on a public roadway, or in any location, or at any time where it is reasonable to anticipate that there is a danger of fire spreading in such a manner as to endanger land, crops or structures within the city, whether such land, crops or structures are owned by the person starting the fire or otherwise.
- (2) Permitted fires shall not be ignited before dawn and shall be completely extinguished by dusk; with the exception as such activity is permitted pursuant to section 30-128. For purposes of this section, the Dawn/Dusk Table of the Wisconsin Department of Natural Resources shall be utilized to determine the times of dawn and dusk.
- (3) No permit shall be issued at a site having retail, commercial or industrial zoning or use, except as such activity is permitted pursuant to section 30-128. The fire chief, or ~~his~~ their designee, may grant an exemption for burning at sites zoned for retail, commercial or industrial use if the purpose of the fire is to dispose of small amounts of refuse plant material where burning is the recommended alternative to the application of agricultural chemicals. No material shall be burned which was generated from an off-site location.
- (4) After a proper permit for open burning has been obtained, it shall be necessary for the property owner, or his agent, to obtain daily permission from the fire chief or ~~his~~ their duly appointed agent(s) to conduct any open burning, however, this provision does not apply to burning in an approved container, which may be conducted without obtaining daily permission from the fire department.
- (5) No permit for burning in an approved container shall be issued unless the container is constructed of a noncombustible material, not to exceed 55 gallons or eight cubic feet in size, closed at all sides and at the bottom. One-inch holes or

smaller may be in the bottom and sides to allow air intake for the combustion process. Over the top shall be a cover or screen with one-half-inch holes or smaller. The container and/or screen shall be discarded and replaced when it deteriorates from use or climatic conditions.

- (6) The fire chief shall have the authority to grant a variance to these restrictions on an individual basis after he reviews each request and determines it presents no fire hazard or other problem.

**Sec. 30-130. Appropriate materials; prohibited materials.**

- (a) The following materials may be burned after a proper permit has been obtained:
- (1) Dry leaves, dry grass, dry garden residue, small branches or tree limbs.
  - (2) Standing grass for the purpose of establishing or maintaining a prairie landscape at a designated site.
- (b) Materials which shall not be burned include, but are not limited to: wet combustibles, any material containing rubber, garbage, plastic, recyclable materials, wood products containing glues or resins, any material capable of generating black or noxious smoke or any building materials associated with construction, remodeling or demolition.

Sec. 30-131. – Restrictions and Limitations on All Burning

- (a) Notwithstanding anything in this article V to the contrary, no burning shall be allowed when either of the following applies:
- (1) When the wind velocity exceeds twelve (12) miles per hour as indicated by the National Weather Service.
  - (2) During periods when the Fire Chief or their Designee, or the Department of Natural Resources has issued a burning ban.
- (b) All distances under this article V shall be measured from the edge of the flame to the nearest part of the structure, wooded area, public road or combustible material.