

Chapter 34 FIRE PREVENTION AND PROTECTION*

***Cross references:** Buildings and building regulations, ch. 14; emergency management, ch. 30; law enforcement enforcement of fire prevention ordinances, § 46-2; burning of rubbish and garbage prohibited, § 58-4; distance of trees from fire hydrants, § 102-68.

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ARTICLE I. IN GENERAL

Sec. 34-1. Penalty for violation of chapter.

Any person who shall violate any provisions of this chapter or any order, rule or regulation made under this chapter shall be subject to a penalty as provided in section 1-17.

(Code 1983, § 5.12)

Sec. 34-2. Storage of explosives.

- (a) No person shall keep, permit to be kept or stored at any time within the fire limits of the city any dynamite, blasting powder or any percussion cap to be used in connection with dynamite and blasting powder except as permitted by Wis. Admin. Code Comm. § 7.04.
- (b) No gunpowder shall be kept or stored within other parts of the city unless it is carefully kept in the original container and properly labeled.

(Code 1983, § 9.07)

Sec. 34-3. Flammable and explosive liquids.

- (a) *State code adopted.* The "Flammable Liquids Code for the State of Wisconsin," issued by the department of commerce, relating to the storage of flammable liquids, is adopted by reference and made a part of this chapter as though set forth in full.
- (b) *Negligent storage.* No person shall keep any flammable or explosive liquids or other explosive substance in any quantity in such a careless or negligent manner as to be a danger to the safety of lives or property of persons in the city.

(Code 1983, § 9.08)

Sec. 34-4. Injury to equipment prohibited.

No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the city; and no vehicle, streetcar or railroad equipment shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, track or other place, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(Code 1983, § 5.08(5))

Secs. 34-5--34-31. Reserved.

ARTICLE II. DEPARTMENT*

***Cross references:** Officers and employees, § 2-146 et seq.

State law references: Fire departments generally, Wis. Stats. § 62.13.

DIVISION 1. GENERALLY

Sec. 34-32. Appropriations.

The city council shall appropriate funds to provide for operation and for such apparatus and equipment for the use of the fire department, as it may deem expedient and necessary to maintain efficiency and properly protect life and property from fire.

(Code 1983, § 5.03)

Sec. 34-33. Organization.

- (a) *Composition.* The fire department shall consist of the following officers: one chief, one deputy chief, one assistant chief, and if the department consists of one or more companies, a captain and/or lieutenant for each company, as well as drivers and firefighters who are residents of the fire district as may be appointed by the chief and approved by the council; provided, at no time shall the department consist of less than 23 active members.
- (b) *Applications, resignations.*
 - (1) *Application for membership.* Any person desiring to be a member of the fire department may file with the chief an application in such form as the city council may require. The name of any applicant shall be presented to the city council for confirmation.
 - (2) *Resignations.* All resignations from the department shall take the same course as applications for and appointments to membership.
- (c) *Companies.*
 - (1) The department shall organize into one, or at the option of the chief into two or more companies. The chief may at any time make transfers which he deems necessary between companies.
 - (2) Each of the companies of the department shall be in the charge of a captain and/or a lieutenant, who shall be responsible to the chief.

(Code 1983, § 5.05(1)--(3), (5); Ord. No. OR00-03, § I, 2-29-2000)

Sec. 34-34. Department budget.

Not later than September 1 of each year, the chief shall file with the city administrator a detailed estimate of the appropriations needed for the operation of the department during the ensuing fiscal year.

(Code 1983, § 5.06(5))

Sec. 34-35. Compensation and retirement bonus.

- (a) *Compensation.* The officers and members of the fire department shall receive such compensation from the city as may be fixed by the city council.
- (b) *Retirement bonus.* Retirement awards or bonuses shall be paid to members of the fire department in accordance with the following: upon retirement after 25 years or per bylaws, \$10.00 per year of service. Payments of bonuses shall be made upon requisition of the fire chief.

(Code 1983, § 5.04)

Sec. 34-36. Police power of department.

- (a) *Police authority at fires.* The fire chief or officers in command at any fire are vested with full and complete police authority at fires. Any officer of the department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to a fire.
- (b) *Entering premises.* Any firefighter while acting under the direction of the fire chief or other officer in command may enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire; and if any person shall hinder, resist or obstruct any firefighter in the discharge of his duty, the person so offending shall be deemed guilty of resisting firefighters in the discharge of their duties.

(Code 1983, § 5.08(1), (3))

Secs. 34-37--34-55. Reserved.

DIVISION 2. CHIEF, DEPUTY CHIEF AND ASSISTANT CHIEF

Sec. 34-56. Appointment.

- (a) *Chief.* The fire chief shall be appointed by the mayor, subject to confirmation by the council, for an indefinite term, subject to removal as provided in this division.
- (b) *Assistants.* The deputy chief, assistant chief and other officers of the department shall be appointed by the chief from members of the department.

(Code 1983, § 1.14(1), (2))

Sec. 34-57. Vacancies.

- (a) A vacancy in the office of the chief shall be filled by appointment by the mayor, subject to confirmation by the city council. Upon creation of a vacancy in the office of chief, the ranking officer shall perform the duties of the chief until such vacancy has been filled.
- (b) The chief shall immediately assume office and shall hold office until removed for cause after a hearing by action of three-fourths of the members of the city council unless his services be sooner terminated by resignation, change of residence to outside the fire district, or death.

(Code 1983, § 5.05(4); Ord. No. OR00-03, § I, 2-29-2000)

Sec. 34-58. Powers and duties of chief.

- (a) *General supervision.* The fire chief shall have the general supervision of the department, which supervision shall be subject to and not in conflict with this article and the bylaws of the department. He shall be responsible for the personnel and general efficiency of the department.

- (b) *Control at fires.* The chief may prescribe certain limits in the vicinity of any fire within which no persons, excepting firefighters and police officers and those admitted by order of any officer of the department, shall be permitted to come. The chief may 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 may order the removal or destruction of any property necessary to prevent the further spread of the fire. He may also cause the removal of all wires or other facilities and the turning off of all electricity or other services where they impede the work of the department during the progress of a fire.
- (c) *Command of firefighting operations.* The chief shall provide for operational control at fires within the guidelines of the national incident command system.
- (d) *Serve as fire inspector.* The chief shall perform the duties of the fire inspector of the city. He shall also be empowered to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the fire inspector.
- (e) *Control and care of apparatus.*
 - (1) The chief shall have control of all apparatus used by the department and shall be responsible for its proper maintenance. Emergency repairs may be authorized by the chief.
 - (2) No apparatus shall be used for any purpose except for firefighting or in training for members, except pursuant to an agreement approved by the city council after the chief has given his recommendations on such use. With the approval of the chief, such apparatus may be used for emergency purposes other than firefighting.
- (f) *Disciplinary actions.*
 - (1) *Demotion, expulsion.* The chief may demote or expel any officer or member of the department for neglect or refusal to perform his departmental duties, or for nonresidence, subject to an appeal from such demotion or expulsion to the city council.
 - (2) *Appeal to council.* Any member or officer of the department who has been expelled or demoted for any offense or neglect of duty or insubordination at any fire or drill may appear before the council and state why such penalty should not be confirmed. The council may by a three-fourths vote of the members order the chief to reinstate the member or officer. The chief shall report the name of each person expelled or demoted to the council.
- (g) *Reports to the council.* The chief shall submit a written report to the city council not later than February 5 of each year, and at such other times as he deems desirable, relating to the condition of various pieces of apparatus and equipment, the number of fires occurring since the previous report, and the date and loss occasioned by fires, the number of members of each company, the total number of active members in the department, and resignations and expulsions from the department. He shall also report upon the drill and training program of the department, together with other pertinent information, including recommendations for such improvements as he deems proper

and necessary for the operation of the department.

- (h) *Fire records.* The chief shall keep a record of every fire to which the department was called and shall enter in such record:
 - (1) The locality of the fire;
 - (2) Time alarm was received;
 - (3) Cause of the fire;
 - (4) Where the fire started;
 - (5) Cause of delay (if any) in responding;
 - (6) Method of extinguishment and equipment used;
 - (7) Amount of insurance carried on buildings and contents;
 - (8) Estimated fire loss;
 - (9) Time the fire was extinguished;
 - (10) Names of men responding; and
 - (11) General remarks.
- (i) *Apparatus inventory.* The chief shall keep an inventory of all apparatus and equipment and an inventory of all hoses, showing dates and results of tests on each length, which shall be individually numbered.
- (j) *Volunteer funds.* The chief or designee shall have control of all deposit of volunteer funds of the department, in an account in the name of the fire department, in a public depository, in accordance with W.S.S. 66.0608.

(Code 1983, §§ 1.14(3), 5.06(1), (3), (4), (6), (8), (9), 5.07, 5.08(2), 5.09(1), 5.10; Ord. No. OR02-06, § II, 5-28-2002)

Secs. 34-59--34-75. Reserved.

ARTICLE III. FIRE PREVENTION STANDARDS

DIVISION 1. GENERALLY

Sec. 34-76. Fire prevention code.

- (a) *Adopted.* There is adopted by the city council, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Wisconsin State Fire Code, except such portions as are deleted, modified or amended, of which code not less than three copies are on file in the office of the city clerk/treasurer and is adopted and incorporated in this section as fully as if set out at length. The provisions of such code shall be controlling within the city.
- (b) *Enforcement.* The fire prevention code shall be enforced by the fire chief in cooperation

with the police department.

- (c) *Amendments.* The fire prevention code is amended and changed in the following respects:

Section 160, "Bonfires and Outside Rubbish Fires," is deleted in its entirety and in lieu thereof the following is adopted:

Burning of garbage and rubbish prohibited. No person other than the city and its agents or licensed contractors shall set fire to or burn any garbage or rubbish on any street or on any public or private premises.

(Code 1983, § 5.11)

Sec. 34-77. Duty of inspection.

Fire inspectors shall inspect semiannually all buildings, premises and thoroughfares within the city, for the purpose of noting and causing to be corrected any conditions liable to cause fires. Repairs or alterations necessary to remove the hazardous condition shall be made within a reasonable time at the expense of the owner. The inspector shall also investigate the storage and handling of explosives and flammable liquids within the city.

(Code 1983, § 5.09(2), (3); Ord. No. O-86-3, § 1, 6-23-1986)

Sec. 34-78. Correction of fire hazards.

When any inspection by the fire chief or his deputies reveals a fire hazard, the chief or his deputies may serve a notice in writing upon the owner of the property, giving such owner a reasonable time in which to remove the hazard. If the fire hazard is not removed within the time allowed, it shall be deemed a nuisance and the fire chief or his deputy may have the same removed by the city; and the cost of such removal shall be recovered in an action by the city against the owner of the property and may also be entered in the tax roll as a special charge against the property.

(Code 1983, § 5.09(4))

Sec. 34-79. Entering on premises.

No person shall deny the fire chief or his deputies free access to any property within the city at any reasonable time for the purpose of making fire inspections. No person shall hinder or obstruct the fire inspector in the performance of his duty, or refuse to observe any lawful direction given by him.

(Code 1983, § 5.09(5))

Secs. 34-80--34-95. Reserved.

DIVISION 2. BURNING

Sec. 34-96. Fires restricted.

- (a) *Burning regulated.* No person shall kindle any garbage, grass or trash within the city.
- (b) *Grass fires regulated.* No person shall kindle any grass fire within the city without first securing a written permit from the city clerk/treasurer, who shall issue such permit only upon approval of and subject to any conditions for the protection of life and property imposed by the fire chief.
- (c) *Bonfires regulated.* No person shall kindle or cause to be kindled any fire in or upon any street, alley, public way, park or any public or private ground within the city.
- (d) *Fires regulated.* No person shall kindle or cause to be kindled any other fire in or upon any street, alley, public way, park or any public or private ground within the city, except self-contained charcoal or propane fueled cooking grills.

Sec. 34-97. Recreational fires.

All recreational fires shall comply with the following requirements:

- (1) No permanent or portable fire pit shall be closer than 20 feet from any building, structure, shed or garage.
- (2) No recreational fire shall be built larger than three feet by three feet.
- (3) All permanent recreational fire pits shall be built in a below ground pit surrounded on the outside by a non-combustible material such as concrete block, metal or rocks with a minimum depth of ten inches and shall be covered when not in use.
- (4) All portable recreational fires shall be built in a device commercially manufactured for that purpose to contain outdoor wood fires and must be used in accordance with the manufacturers specifications and must be placed upon a non-combustible surface.
- (5) All recreational fires shall be extinguished and in ground pits shall be covered when not in use.
- (6) No recreational fire shall be started unless there are favorable conditions for burning with regard to wind direction and speed.
- (7) Material for recreational fires shall not include rubbish, garbage, treated wood, wet wood or trash and shall not contain any flammable or combustible liquids or chemicals (wet/dry).
- (8) Adequate fire suppression equipment shall be immediately available to control or extinguish the fire.
- (9) Any person who wishes to have a recreational fire in a fire pit on their property must prior to any construction of a fire pit or fire, obtain a permit from the city clerk. The permit shall contain the name, address and telephone number where the fire pit is to be installed. Such permit is limited to the family of the person named at that address and is not transferable to any other person nor to any other location.

- (10) Any person requesting a permit must file with the city clerk a document containing the signatures of all adjoining property owners (this includes all property that adjoins at a corner of their lot) indicating that the adjoining residents have no objections to the issuance of the permit or the use of a fire pit on the applicant's property. This permit must be renewed annually.
- (11) The permit specified above shall require the payment of a \$15.00 annual registration fee. This fee shall be for the purpose of licensing existing fire pit locations in the city and for the city to notify owners of such pits of any necessary communications that may be necessary from time to time.
- (12) A copy of these burning regulations, section 34-97, shall be given to each person upon completion of the permit application and payment of the fee. Acknowledgment of receipt of these regulations shall be indicated on the application form.
- (13) Recreational fires may be started and allowed to continue to burn between 4:00 p.m. and 12:00 a.m. Sunday through Thursday and 4:00 p.m. and 1:00 a.m. on Friday and Saturday nights. Any fires burning outside of these hours is presumed to be unreasonable and the holder of the permit may be subject to a misdemeanor fine in addition to the revocation of their permit to have a recreational fire on their property.
- (14) All recreational fires shall be attended at all times by at least one responsible person 18 years of age or older.
- (15) No recreational fire shall be allowed that causes smoke, which is a public nuisance or causes a traffic hazard because of diminished visibility. "Public nuisance" is defined as set forth in Chapter 70 of this Code.
- (16) Recreational fires shall not be built so as to allow flames to reach more than three feet above the ground.
- (17) The city clerk shall send to any person holding a burning permit, a copy of any subsequent amendments to section 34-97 of this chapter. These amendments may be sent by regular mail.
- (18) The fire chief may post "no burn" conditions from time to time based on environmental conditions by posting on the outdoor signs of the fire department and the city library. No burning or other recreational fires whatsoever shall be allowed during such time without the prior written authorization of the fire chief.
- (19) Ceremonial or religious fires, which are not otherwise allowed under this ordinance, shall be allowed upon receipt of written authorization of the fire chief.

(Ord. No. OR01-06, § 1, 7-9-2001)

Sec. 34-98. Outdoor cooking fires.

All outdoor cooking fires shall comply with the following requirements:

- (1) Outdoor cooking fires shall be built in a device or structure designed and or

manufactured for that purpose.

- (2) Outdoor cooking fires shall be extinguished when not being used.
- (3) Outdoor cooking fires in portable devices shall not be allowed above the first floor of any building.
- (4) Outdoor cooking fires in self-contained charcoal or propane fueled cooking grills shall be allowed at anytime.

(Ord. No. OR01-06, § 1, 7-9-2001)

Secs. 34-99--34-112. Reserved.

ARTICLE IV. FIREWORKS

Sec. 34-113. Regulation of fireworks.

- (a) *Definition.* In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
 - (1) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (2) A toy snake which contains no mercury.
 - (3) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects.
 - (4) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
 - (5) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects.
 - (6) A cylindrical fountain that consists of one or more tubes and that is classified by the Federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
 - (7) A cone fountain that is classified by the Federal Department Of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.5
 - (8) A fuseless device that is designed to produce audible or visible effects, and that contains less then one-quarter grain of explosive mixture.
- (b) *Site requirements.* There shall be at least one five-pound ABC fire extinguisher mounted in plain view. At all entrance/exits there shall be "no smoking" signs posted in a plainly visible location. Exception: if the sale of fireworks is in a business that sells other merchandise, which then comes under the jurisdiction of the department of commerce or state statute.

- (c) *Sale regulated.* Except as provided herein, no person shall sell, or possess with intent to sell, fireworks in the city.
- (d) *Use regulated.* No person shall possess or use fireworks in the city without a user's permit issued pursuant to Wis. Stats. § 167.10(3) a [and] section 34-113(e) below; except that the following fireworks may be possessed and used without a permit: those fireworks specified enumerated in section 34-113(a)(1) through (8) above.
- (e) *Sale license.*
 - (1) No person may sell, or possess with intent to sell, fireworks, except those specifically enumerated in section 34-113(a)(1) through (8) above, unless said person has been issued a fireworks sale license hereunder.
 - (2) Applicants for a fireworks sale license shall make an application for each site in writing on forms provided by the city clerk/treasurer. A licensee may possess and sell the enumerated fireworks at more than one site within the city. A nonrefundable license application fee of \$200.00 for each site shall accompany each application.
 - (3) The application for license shall include, without limitation, the following information:
 - a. Name, address, and telephone number of the applicant.
 - b. Address(es) at which the applicant intends to sell the enumerated fireworks.
 - c. Name(s), address(es), and consent(s) of the owner(s) of the real estate upon which the enumerated fireworks will be sold.
 - d. Itemization of which enumerated fireworks the applicant intends to sell.
 - (4) The fire chief shall consider the application for licenses hereunder and shall approve or deny each application. If he denies the license, the applicant shall have the right to appeal the denial to the common council. The clerk shall issue the license upon the approval of the fire chief or the common council.
 - (5) Licenses issued hereunder shall be for a term of one year, from May 1 through the following April 30. Application for annual licenses shall be filed not later than April 1 each year.
 - (6) The common council may condition the issuance of licenses hereunder as it sees fit to protect the public interest and safety.
 - (7) The common council shall have the right to suspend or revoke any licenses issued hereunder as it sees fit to protect the public interest or safety. If a license is suspended or revoked, the licensee shall be entitled to a public hearing before the common council within seven days of the suspension or revocation.
 - (8) Licenses issued hereunder may not be transferred or assigned without the consent of the common council; and, no licensee may use a site other than the site licensed pursuant to the application of the licensee.

- (9) The fire chief, police chief or their designee may temporarily suspend and confiscate licenses if violations occur and order the closer of the site pending corrective action or appeal to the legislative and regulatory committee.
- (f) *Use permit.* As provided in Wis. Stats. § 167.10(3), the mayor may issue fireworks user's permits, or other city official designated by the mayor. The official issuing the permit shall require a certificate of liability insurance, or similar proof of coverage, in an amount he deems necessary. A copy of the permit and proof of insurance shall be filed with the clerk/treasurer and copies of the permit shall be given to the fire chief and the chief of police at least five days before the authorized use. This permit may be canceled by the fire chief, if the mayor is unavailable, if weather or other situations make it an unsafe condition.
- (g) *Obnoxious odor devices and products.*
- (1) No person may sell, possess or use any device, product or item that has its primary purpose the production of an obnoxious odor or smell.
- (2) Without limitation, it shall be grounds for suspension or revocation of a person's fireworks sale license if the licensee sells or possesses for sale any obnoxious odor devices, products, or items.
- (h) *Penalties.*
- (1) Any person who violates the provision of section 34-113(b), (d), (e)(1), or (g), upon conviction thereof, shall forfeit not less than \$250.00, and not more than \$500.00, together with the costs of prosecution. Each day of continued violation shall constitute a separate violation and offense.
- (2) Any person who violates the provisions of section 34-113(c), upon conviction thereof shall forfeit not less than \$50.00 and not more than \$500.00 together with the costs of prosecution. Each day of continued violation shall constitute a separate violation and offense.
- (3) Any parent or legal guardian of a minor who consents to the use of fireworks by the minor contrary to the provision of section 34-113(c), upon conviction thereof, shall forfeit not less than \$50.00 and not more than \$500.00 together with the costs of prosecution. Each day of continued violation shall constitute a separate violation and offense.

(Ord. No. OR99-05, §§ I, II, 5-24-1999; Ord. No. OR01-04, § I, 5-14-2001)

Secs. 34-114--34-116. Reserved.

Editor's note: Ord. No. OR01-04, § I, adopted May 14, 2001, repealed §§ 34-114--34-116, which pertained to requirements for permit, fee for permit, and sale and discharge restricted, respectively, and derived from Code 1983, §§ 9.06, 10.05(7), and Ord. No. OR99-05, §§ I, II, adopted May 24, 1999.