TOWN OF GRAND CHUTE

ORDINANCE, SERIES OF O-21-2018

ORDINANCE AMENDING CHAPTER 291, FIRES AND FIRE PREVENTION

Ordinance amending Sections 291-3 to 291-5 and 291-8
Town of Grand Chute Municipal Code

BE IT ORDAINED, by the Town Board of Supervisors, Town of Grand Chute as follows:

Section 291 be amended as follows:

§ 291-3. Adoption of state and national codes.

A. Codes adopted; enforcement.

(1) The Wisconsin state codes listed in this section are hereby adopted by reference and made a part of the Town of Grand Chute Fire Prevention Code. For the purposes of this section, these provisions are adopted to enable the Fire Department to note any violations of such codes and to report those violations to the appropriate community service inspectors. The Fire Inspectors shall have the authority to cite such violations on fire inspections.


(b) Buildings Constructed Prior to 1914, Wisconsin Administrative Code.

(c) Wisconsin State Electrical Code, Wisconsin Administrative Code.

(d) Wisconsin Commercial Building Code, Wisconsin Administrative Code.

(e) Elevators, Wisconsin Administrative Code.

(f) Flammable and Combustible Liquids, Wisconsin Administrative Code.

(2) Overall enforcement responsibility for the provisions of Subsection A(1)(a) through (f) will be the responsibility of the Fire Chief/designated Fire Inspectors. The Building Inspector has the primary responsibility of the building during and after construction while the Fire Inspectors have primary responsibility of care and maintenance after the building construction is completed. Primary responsibility for particular sections of the above provisions shall be as indicated in the Wisconsin Administrative Code.

B. The International Fire Code 2015 Edition, hereinafter "IFC," is hereby adopted as though fully set forth herein, with the following exceptions:

(1) Sections 105 and 108 of Chapter 1, Administration, of the IFC are not included as part of the adoption of the IFC.

(2) Chapter 57 Flammable and Combustible Liquids, is not included as part of the adoption of the IFC. This chapter is covered by Ch. Comm 10, Wis. Adm. Code.
(3) Section 307 of Chapter 3, General Requirements, of the IFC is not included as part of the adoption of the IFC. This section is covered by § 291-5 of this chapter.

(4) Section 603.8 of Chapter 8, Building Services and Systems, is not included as part of the adoption of the IFC. This section is covered by § 291-5 of this chapter.

C. The editions of the National Fire Protection Association (NFPA) codes and standards are adopted by reference in Chapter 80 of the IFC and, along with Appendices B through G and I, are made a part of the Town of Grand Chute Fire Prevention Code with the same force and effect as though set forth herein in full.

D. Any fire prevention problem not herein addressed by code or adopted standards will be addressed on the basis of current accepted National Fire Prevention Association standards.

E. **Conflicting provisions.** Whenever any of the provisions of the codes enumerated in Subsections A, B and C conflict, the strictest provisions shall apply.

F. **Violations.**

   (1) Any violation of any provision of the codes enumerated in Subsection A shall be a violation of this Code.

   (2) Penalties for violation of this section will follow Ordinance No. 2008-12 in the Fee Schedule.

§ 291-4. Fire inspections.

A. The Fire Chief shall hold the office of Deputy Fire Inspector, under § 101.14(2), Wis. Stats, who shall perform the same duties and have the same powers as the Fire Inspectors.

B. **Notice to remove fire hazard; citation.**

   (1) Whenever in the Town any inspection by the Deputy Fire Inspector or his authorized personnel reveals a fire hazard, the Deputy Fire Inspector or his authorized personnel may serve a notice, in writing, upon the owner or occupant of the property giving said owner or occupant orders to remove said hazard. In the event that said fire hazard is not removed within the time specified, it shall be deemed a nuisance and the Deputy Fire Inspector or his authorized personnel shall have the same removed by the Town and the cost of removal reported to the Town Clerk and by him/her spread on the tax roll as a special charge against the property.

   (2) This section shall empower the Fire Chief and designated subordinates with citation power to enforce any and all ordinances under this chapter.

(3) **Fees.**

   (a) Routine annual or semiannual inspection: no fee.

   (b) 1st and 2nd revisit from annual or semiannual inspection whereby a fire inspection report form was issued stating one or more violations of a Town of Grand Chute ordinance has occurred: no fee.

   (c) 3rd and subsequent revisits from the fire inspection report form stating
one or more violations of a Town of Grand Chute ordinance has occurred and all violations have not been remedied within the time provided in said fire inspection report form: fees assessed and/or citation issued.

(d) Revisit from citation issued and each visit thereafter until such time all the violations are remedied: fees assessed and/or citation issued.

C. The Fire Inspectors (Fire Marshal and/or authorized personnel) of the Fire Department shall make the inspections required by § 101.14 Wis. Stats., and shall comply with the provisions thereof. The Fire Inspector shall make complaint for any violation of this section.

(1) The Fire Inspectors (Fire Marshal and/or authorized personnel) of the Fire Department shall inspect or cause to be inspected all premises on a periodic basis and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for the safeguarding of life and property from fire.

(a) "Periodic basis" shall mean all occupancies in the jurisdiction shall be inspected on an annual basis or more frequently as needed as determined by the Fire Chief or designee as provided for in the Department of Safety and Professional Services (DSPS) § SPS 314.01(13)(b)5.

D. It shall be the duty of the Fire Inspectors and the Deputy to enforce the provisions of the codes adopted pursuant to § 291-3 of this chapter. He/she shall keep records of inspections made as required by this chapter and shall keep complete records of all permits, issued by the Fire Chief or Inspector, issued pursuant to ordinances adopted by the Town Board.

E. Acceptance tests and completion.

(1) Fire detection and alarm systems, fire-extinguishing systems, fire hydrant systems, fire standpipe systems, fire pump systems, private fire service mains and all other fire protection systems and appurtenances thereto shall be subject to acceptance tests as contained in the installation standards and as approved by the Fire Code Official. The Fire Code Official shall be notified at least 48 hours before any required acceptance testing.

(2) It shall be unlawful to occupy any portion of a building or structure until the required fire detection, alarm and suppression systems have been tested and approved. A fee as prescribed in the Town Fee Schedule shall be paid for required inspection.

(3) Fees.

(a) Fire suppression system installation site inspection.

[1] For 20 to 150 heads: See Fee Schedule.¹⁰
(b) Fire protection system other than sprinklers.


F. **Fire Department compliance inspection.**

(1) No person shall occupy a building or structure covered under Ch. SPS 350-365, Wis. Adm. Code, the Wisconsin Commercial Building Code, or the locally adopted IFC used by or for public assembly, industrial, institutional, multifamily, office, or mercantile purposes until the owner of such building or structure has applied for a permit and the building or structure has been inspected by the Fire Department if any of the following conditions exist:

(a) New building.

(b) New business re-occupies a vacant building.

(e)—Change of use.

(d)—Legal name change of the business.

(e)—New owner of a business.

(f) Substantial additions, renovations or remolds of an existing building.

(2) A permit fee as prescribed in the Town Fee Schedule shall be paid for required inspection. If a permit is not applied for before work begins a penalty/citation may be issued.

(3) Fees.

(a) Fire Department compliance inspection: See Fee Schedule.

G. **Issuance and posting.**

(1) The Fire Chief or his designee shall review all applications submitted and determine compliance with applicable provisions of this Code and issue or revoke permits based on his findings as required.

(2) A copy of the permit shall be posted or otherwise readily accessible at each place of operation or carried by the permit holder as specified by the Fire Department.

H. Violation. Failure to obtain a permit required under § 291-4 of this Code will result in the imposition of forfeitures in accordance with the Fire Department Bond Schedule under the Code. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter.

§ 291-5. Outdoor burning and refuse burning.

A. **Purpose.** This section is intended to promote public health and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Town of Grand Chute due to the air pollution and fire hazards of open burning.

B. **Applicability.** This section applies to all outdoor burning and refuse burning within the Town of Grand Chute.

C. **Definitions.** As used in this section, the following terms shall have the meanings
indicated:

BARBECUE GRILL/"BBQ SMOKERS" — Open or closed grills or "BBQ smokers" that are fueled by one or more of the following: electricity, natural gas, LP gas, wood chips, pellets or charcoal.

BARBECUE PIT — The same meaning as "recreational fire."

BONFIRE — An outdoor fire utilized for joy, exultation, amusement, or ceremonial purposes that is larger than three feet wide by three feet long with flames exceeding a height of two feet.

BURN BARREL — A standard burn barrel is a metal 55 gallon open head drum, modified to burn household trash or yard waste.

CLEAN WOOD — Natural wood (including small tree branches without foliage) that has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.

CODE OFFICIAL/FIRE CODE OFFICIAL — The Fire Chief, Fire Marshal, Code Enforcement Officer, or other designated authority charged by the Town of Grand Chute with the duties of administration and enforcement of the Code, or a duly authorized representative.

COMPETENT PERSON — One who is capable of identifying existing and predictable hazards in the surroundings and who has authorization to take prompt corrective measures to eliminate them.

GRASSLAND HABITAT — An area of land exceeding one acre in size where native prairie and/or grassland plants are planted for wildlife habitat. "Grassland habitat" does not include ornamental plantings planted primarily for aesthetics.

OPEN BURNING — Kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or chimney, and not contained in any pit or enclosure.

OUTDOOR FIREPLACE — A non-portable device designed and intended to contain and control outdoor wood fires. Outdoor fireplaces are normally constructed of stone, concrete, or other noncombustible material.

PORTABLE/STATIONARY FIRE PIT — A device designed and intended to contain and control outdoor wood or LP/Natural gas fires & used for recreational purposes.

PRAIRIE GARDEN — An area of land not to exceed one acre in size used for the aesthetic planting of native prairie and/or grassland plants. "Prairie garden" does not include ornamental and/or nonnative plantings planted primarily for aesthetics.

RECREATIONAL FIRE — A small outdoor fire intended for recreation, personal enjoyment, or cooking.¹⁶

REFUSE — Any waste material except clean wood.

YARD/GARDEN WASTE: Leaves, garden plants, brush, grass clippings, dead shrubs/trees, and branches with foliage.

D. General. A person shall not start or maintain or authorize to be started or maintained any open burning unless conducted and approved in accordance with this section.
E. *Materials that may not be burned.* The areas in this section where burning is authorized allow for the burning of clean wood only. The burning of garbage, trash, refuse, recyclables, flammable/combustible liquids in any form, and construction debris, is not allowed. Accelerants or chemicals shall not be used to kindle any fires.

F. *Burning.* Burning leaves, brush, and other vegetative debris in areas of the Town zoned agricultural is allowed under the following conditions.

1. Burning must be at least 50 feet from any form of a building or structure, combustible material of any form, or property line.

2. Burning shall not be conducted when the wind direction shall cause combustibles or ignited materials to be carried by the wind towards any form of a building or structure or combustible material of any form.

3. Burning should only occur during daylight hours.

4. Burning shall be done in small, controllable piles no larger than 10 feet wide by 10 feet long by 4 feet high.

5. Burning shall be conducted only following payment of the permit fee, issuance of, and in accordance with the agricultural burning permit.

G. *Fires for clearing lots or accumulations of debris.*

1. Outdoor fires specifically for clearing lots or accumulations of debris are allowed under the following conditions:

   a. Burning must be at least 50 feet from any form of a building or structure, combustible material of any form, or property line.

   b. Burning shall not be conducted when the wind direction shall cause combustibles or ignited materials to be carried by the wind toward any form of a building or structure or combustible material of any form.

   c. Burning shall only occur during daylight hours.

   Burning shall be done in small, controllable piles no larger than 10 feet wide by 10 feet long by 4 feet high.

   d. Burning shall be conducted only following the inspection of the site where burning is to occur, payment of the permit fee, and issuance of and in accordance with the commercial burning permit.

2. Issuance of this type of permit will be considered extremely rare and shall only be allowed when there is an obvious need and/or benefit to the community.

H. *Burn barrels.* No person, firm, association, or corporation shall build, maintain, or operate a burn barrel in the Town of Grand Chute.

I. *Incinerators.*

1. Commercial and industrial incinerators and chimneys shall be constructed in accordance with NFPA 82, Standard on Incinerators and Waste and Linen Handling Systems and Equipment, the International Building Code, the International Mechanical Code, and the International Fuel Gas Code.
(2) Incinerators shall be equipped with an effective means for arresting sparks.

(3) Where the Code Official determines that burning in incinerators will create an undue fire hazard, such burning shall be prohibited.

(4) Burning shall take place only during hours approved by the Code Official.

(5) The Code Official is authorized to require incinerator use to be discontinued immediately if the Code Official determines that smoke emissions are offensive to occupants of surrounding property or if the use of the incinerator is determined by the Code Official to constitute a hazardous condition.

J. Recreational fires. Recreational fires, barbecue pits, portable/stationary fire pits, and outdoor fireplaces are permitted on properties zoned agriculture, commercial, industrial, PPD or residential (occupied by a single- or two-family residence) under the following conditions:

(1) Recreational fires shall be at least 15 feet from any form of a building or structure, combustible material of any form, or property line.

(2) No person shall start or maintain any recreational fire or barbecue pit between the hours of 1:00 a.m. and 6:00 a.m. Monday through Sunday.

(3) Recreational fires, barbecue pits, and outdoor fireplaces shall be contained in an area not to exceed 3 feet wide by three feet long or a circle larger than 3 feet in diameter. The flames of the fire shall be no higher than 2 feet.

(4) Yard/Garden waste is not allowed to be burned. Only clean dry wood and small tree branches without foliage is allowed to be burned.

(5) All recreational fires and barbecue pits, excluding portable fire pits and outdoor fireplaces as defined, shall be dug into the ground at least 6 but not more than 12 inches and surrounded on the outside, above ground level, by a noncombustible material extending at least 6 inches above grade.

(6) Portable fire pits and outdoor fireplaces shall be used in accordance with the manufacturer's recommendations, within the above requirements, and shall be placed on a noncombustible surface that is at least 1.5 times larger the size of the portable fire pit. LP or Natural gas fired units shall be installed and inspected per manufacturer's instructions and applicable code IFC/IBC code requirements. Inspections, when required by the Fire Chief or the Fire Chief's Designee, shall be conducted by Fire and Building Code Officials.

(7) Sky Lanterns: It shall be unlawful for any person to ignite, set aloft, launch or use an ignited sky lantern, wish lantern or other similar device that is allowed to float while or after having been ignited.

(8) Recreational fires shall be conducted only following issuance of and in accordance with the recreational fire permit. If the applicant is not the owner of the property, the applicant must certify that permission has been granted by the property owner.

K. Bonfires.

(1) Bonfires are allowed only if approved by and in accordance with provisions established by the Code Official.

(2) Bonfires shall be at least 50 feet from any form of a building or structure, combustible material of any form, or property line.
(3) Bonfires shall not be lit or started when the wind direction shall cause combustibles or ignited materials to be carried by the wind toward any form of a building or structure or combustible material of any form.

(4) Bonfires shall be conducted only following the inspection of the site where burning is to occur, payment of the permit fee, and issuance of and in accordance with the bonfire permit.

I. **Barbecue grills/“BBQ Smokers”**

(1) Barbecue grills and “BBQ smokers” may be started and maintained without a permit.

(2) Multifamily dwellings.
   
   (a) Barbecue grills may not be started, used, or stored above the first floor occupancy in all multifamily dwellings more than one story in height.
   
   (b) Barbecue grills may not be started or used within 15 feet of a multifamily dwelling more than one story in height.
   
   (c) Exception: Electric barbecue grills may be started, used, and stored above the first floor occupancy in all multifamily dwellings more than one story in height.

M. **Prescribed burns.**

(1) Prescribed burns for prairie and/or wildlife habitat management are allowed by permit issuance only.

(2) Prairie garden prescribed burns shall be conducted only following inspection of the site where burning is to occur, payment of the permit fee, and issuance of and in accordance with the prescribed burn permit.

(3) Prescribed burns for grassland habitat shall be conducted only following Wisconsin Department of Natural Resources (DNR) approval, inspection of the site where burning is to occur, payment of the permit fee, issuance of a prescribed burn permit, and in accordance with the prescribed burn permit and DNR regulations and requirements.

(4) Prescribed burns shall only occur during daylight hours.

N. **Fire Department training burns.** Notwithstanding Subsection E of this section, the Grand Chute Fire Department may burn any materials deemed necessary for fire-fighting training if the training burn complies with all applicable requirements.

O. **Burning permits.**

(1) No person shall start or maintain any open burning without a burning permit issued by the Code Official. Barbecue grills & “BBQ Smokers” shall be exempt from the permitting process.

(2) Burning permits are available at either Fire Station (when staff are available in-quarters) and are nontransferable to any other person or any other location. Recreational Fire Permits will also be available on-line.
(3) Any open burning shall comply with all other applicable provisions of this section.

(4) An agricultural burning permit is valid from January 1 until December 31 of the current year.\textsuperscript{17}

(5) A bonfire permit shall be good for one date only. If the bonfire is cancelled due to inclement weather, the permit may be reissued at no cost at the discretion of the Code Official.

(6) An annual recreational fire permit is valid from January 1 until December 31 of the current year.\textsuperscript{18}

(7) A prescribed burn permit is only valid for a specified period of time, not to exceed two weeks.

(8) A commercial burning permit is only valid for a specified period of time, not to exceed two weeks.

(9) Holders of agricultural burning, prescribed burn, or commercial burning permits shall notify the Grand Chute Fire Department each day the burn is to be conducted before said burn occurs.

(10) No materials may be burned upon any street, curb, gutter or sidewalk or on the ice of a lake, pond, stream or water body.

(11) No materials shall be burned when the wind exceeds 10 miles per hour (nine knots) as determined by the Automated Weather Observation Station (AWOS) at Outagamie County Regional Airport. Burning permits of any kind are considered temporarily revoked when wind speeds exceed 10 miles per hour (nine knots). Permitted burning can resume once the wind speed drops below the allowable limits.

(12) All fires shall not create smoke that causes a public nuisance, complaints from neighbors, or a visibility hazard on any form of transportation route. "Public nuisance" is defined as set forth in Chapter 398 of the Town Code.

(13) All persons who start or maintain a fire shall have the property owner’s permission before doing so.

(14) All fires shall not be left unattended at any time and shall be supervised by a competent person of at least 18 years of age until the fire is extinguished.

(15) All permitted fires shall have fire-extinguishing equipment readily available as may be necessary for the total control of the fire.

(16) When weather conditions warrant, the Fire Chief or designee may declare a burning moratorium (burning ban) and temporarily suspend previously issued burning permits for all burning.

(17) The issued burning permit shall be posted or otherwise readily accessible for inspection by the Fire Chief, Code Official, or police officer.

(18) A burning permit issued under this section shall require compliance with all applicable provisions of this section and any additional special restrictions deemed necessary to ensure public health and safety.

P. \textit{Liability}: A person utilizing or maintaining an outdoor fire shall be responsible for all
fire suppression costs and any other liability resulting from damage caused by the fire.

Q. **Right of inspection.** The Code Official may inspect any property for the purpose of ascertaining compliance with the provisions of this section. If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with § 66.0119, Wis. Stats.

R. **Emergency powers of the Fire Chief.** When the Fire Chief or designee determines that there are environmental conditions likely to produce a serious threat of fire to life and property, it shall be the duty of the Fire Chief or designee to impose a burning moratorium (burning ban) and/or burning restrictions. All bans and/or restrictions shall be lifted when the environmental conditions change so that a serious threat of fire is no longer present.

S. **Enforcement and penalties.**

   (1) The Code Official is authorized to enforce the provisions of this ordinance.

   (2) Any party who has started or maintains any agricultural burn, bonfire, recreational fire or barbecue pit, prescribed burn, or any commercial burning as permitted shall pay any and all costs incurred by the Fire Department for any service-related call as a result of a fire not in compliance with these requirements, if deemed necessary by the Fire Chief or designee.

   (3) Any open burning not in compliance with all the terms of this section may, in addition to any other penalties, result in the temporary or permanent revocation of the permit(s).

   (4) The penalty for violation of any portion of this section shall be a forfeiture as prescribed in the Uniform Forfeiture and Bond Schedules. Penalties are doubled for second and subsequent offenses.

T. **Fees.** Fees shall be established for the permits performed under this section and shall be payable to the Town. Such fees shall accompany each application for such permit. For current fees, refer to the most current fee schedule.


A. Multifamily dwellings, hotels, motels, schools, and commercial businesses with manual pull station unsupervised local fire alarm systems, with pull stations accessible to occupants and the general public, shall have the alarm system tested at least once a month, and a record of the tests shall be kept on site at a location accessible to the inspection authority. (EXCEPTION: Unsupervised ("local") or supervised systems having two or less pull station(s), which are located by the fire alarm control panel, remote annunciator, or in a different remote location generally not accessed by the general public, used by alarm technicians for testing purposes, are exempt from this testing requirement.

B. All supervised manual fire alarm systems are also exempt from the monthly testing requirement).

C. No alarm system designed to transmit emergency messages directly to a central station monitoring agency shall be tested or demonstrated without first notifying the central station monitoring agency.
If any provision of this ordinance is determined to be invalid or unconstitutional, or if the application of any provision of this subsection to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or its application.


(a) Pursuant to Wis. Stat. § 68.16 the Town expressly opts out of the administrative review procedures contained in Wis. Stat. Chapter 68. The Town hereafter provides its own alternative due process procedure for administrative review.

(b) If an application for a permit is denied, or a permit issued under this Chapter 291 is suspended, revoked, or non-renewed (the “Initial Decision”), the applicant or permit holder may appeal said Initial Decision by submitting a letter to the Town Clerk, within 14 days of the Initial Decision, requesting an appeal, and stating the grounds therefore.

(c) If an appeal is timely requested, the Town Board shall schedule and hold a hearing. The Town Clerk shall serve the appellant with notice of said hearing date, time, and location, by mail at the appellant’s address listed on the permit application or by personal service at least ten (10) days before the hearing date.

(d) If an appeal is not timely requested, the Initial Decision become binding on the applicant / permit holder.

(e) Said hearing and Final Decision shall be processed as follows:

1. The Town Board shall regulate the hearing process and issue a Final Decision on the appeal. No Board members may participate that participated in making the Initial Decision. The Town Board may affirm, reverse, or modify the Initial Decision.

2. The Town may cause the proceedings to be taken by a stenographer or a recording device, the expense of which shall be borne by the Town, which shall be transcribed if the Final Decision is appealed to Circuit Court.

3. If no stenographer or recording device is utilized, the Town Clerk shall make minutes of the proceeding including reason(s) for the Town Official’s original decision, reason(s) the appellant appealed, and reason(s) for the Town Board’s final decision.

4. The Town Official(s) who issued the Initial Decision shall testify under oath, and present evidence, in support of his or her decision. The appellant, or his or her attorney, may cross examine the person(s) who issued the Initial Decision.

5. The appellant may testify under oath, and present evidence, in support of his/her position. The Town Official(s) who issued the Initial Decision, or Town attorney, may cross examine the
appellant, and the Town may also present rebuttal testimony/evidence to the testimony/evidence of the appellant.

(6) The Town Board shall close the hearing, then make an oral Final Decision at the hearing or may issue a written Final Decision within ten (10) days of said hearing, stating the reason(s) for its Decision.

(f) The party aggrieved by the Final Decision may appeal the Final Decision to the Outagamie County Circuit Court by certiorari within thirty (30) days of service of the Final Decision. Service of the Final Decision is complete upon the issuance of a Final Decision orally at the hearing, or upon the Clerk mailing a written Final Decision of the Board, by certified mail to applicant / permit holder at the address contained within the most-recent permit application.

This ordinance will be effective January 1, 2019.

Date introduced, approved and adopted: __December 4, 2018__

TOWN OF GRAND CHUTE

[Signature]

David A. Schowalter, Town Chairman

[Signature]

Angie Cain, Town Clerk

VOTED FOR: 4
VOTED AGAINST: 0

NEW TEXT  OLD TEXT

APPROVED AS TO FORM:

[Signature]

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