



**INTRODUCED BY:
MAYOR BROWN**

ORDINANCE NO. 2020-14

A BILL TO BE ENTITLED

**AN ORDINANCE AMENDING AND RESTATING CHAPTER 10
(FIRE PREVENTION AND PROTECTION); AMENDING SECTION
10-1 AND CREATING NEW SECTIONS 10-2 THROUGH 10-38;
PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, pursuant to Section 1.03 of the City Charter, the City is vested with all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law or the City Charter; and

WHEREAS, Chapter 633, Florida Statutes, grants political subdivisions, including municipalities, certain rights regarding enforcement of the Florida Fire Prevention Code and local options regarding same; and

WHEREAS, in order to protect the residents and property within the City of Neptune Beach, it is necessary provide further clarification of the rights and authority of the City under the Florida Fire Prevention Code; and

WHEREAS, the City Council for the City of Neptune Beach, Florida finds and declares that this ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City, that it advances a significant and important governmental interest, and that it furthers the City's performance of municipal functions and rendering of municipal services.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Amending and Restating Chapter 10. Fire Prevention and Protection. Amending Section 10-1 and creating New Sections 10-2 through 10-38, Chapter 10 (Fire Prevention and Protection), City of Neptune Beach Code of Ordinances as follows:

Chapter 10

FIRE PREVENTION AND PROTECTION ^[1]

Footnote:

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State Law reference – Florida Fire Prevention Code, FS 633; open burning, F.S. § 590.125.

Article 1. - IN GENERAL

Sec. 10.1 Burning Trash or underbrush.

- (a). No person shall burn off or set fire to underbrush, trash or rubbish on any property within the city without first obtaining authorization from the Fire Marshal for such purpose.
- (b). No authorization shall be granted hereunder until the person applying for same satisfy the city manager or their designee in writing that sufficient resources will be present to keep the fire under control and to prevent any damage to adjoining property.
- (c). Any authorization granted hereunder may be rescinded by the city manager or their designee when it shall appear imminent that loss of control of fire, damage to property, or danger to health or safety is about to occur or there is, in the city manager or their designee's discretion, otherwise a significant risk of loss of control of fire, damage to property, or danger to health or safety.

Sec. 10-2 – 10-21. – Reserved.

ARTICLE II. – FIRE PREVENTION CODE ^[2]

Footnote:

— [2] —

Cross reference— Buildings and building regulations, Ch. 8; location of fire hydrants in subdivisions, § 19-52; property insurance tax used for firemen's relief and pension fund, § 21-71 et seq.

State Law reference – Florida Fire Prevention Code, FS 633.

Sec. 10.22 - Adopted.

This article shall be known as the City of Neptune Beach Fire Prevention Code. There is hereby adopted the most current version of the Florida Fire Prevention Code and the same is hereby adopted and incorporated as fully as if set out at length herein. It is the intent of this section that, when the state legislature or the state fire marshal amends the Florida Fire Prevention Code, then those amendments shall automatically become effective within the city without further action of the city council.

Sec. 10.23 – Application.

The provisions of the City of Neptune Beach Fire Prevention Code shall apply equally to both public and private property, and it shall apply to all structures and their occupancies, except as otherwise specified.

Sec. 10.24 – Administration and enforcement

- (a). The fire marshal or their designee of the city shall be responsible for the enforcement of the City of Neptune Beach Fire Prevention Code.
- (b). Fire Marshal. The fire marshal shall mean the person retained by the city to be responsible for the direct administration and enforcement of the City of Neptune Beach Fire Prevention Code as may be set forth by the city manager.
- (c). Qualification of fire marshal. The fire marshal shall be appointed on the basis of examination or other method for determining qualifications. The fire marshal shall be a person certified as having met the fire safety inspection training requirements set by the state fire marshal.
- (d). Technical inspectors. The fire marshal may also designate such number of technical inspectors as shall from time to time be needed. These technical inspectors must be certified as a firesafety inspector pursuant to F.S. § 633.216 and may conduct fire safety inspections.
- (e). Duties of officers. It shall be the duty of the fire marshal as may be designated by the city manager to enforce all laws and ordinances of the city, covering the following:
 - (1) The prevention of fires.
 - (2) The storage, sale and use of combustible, flammable or explosive materials.
 - (3) The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment.
 - (4) The maintenance and regulation of fire escapes.
 - (5) The means and adequacy of exit in case of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters, and all other places in which numbers of persons work, live, or congregate, from time to time, for any purpose.
 - (6) The investigation of the cause, origin, and circumstances of fire.
 - (7) The maintenance of fire cause and loss records. Such officers shall have such other powers and perform such other duties as are set forth in other sections of this chapter and as may be conferred and imposed from time to time by law.
- (f). Instructions *and forms*. The fire marshal shall prepare instructions for and forms for their use in the reports required by this article.

Sec. 10.25. - Records to be kept.

The fire marshal shall compile and keep a record of all fires and of all the facts concerning the same, including injuries, deaths, rescue of persons, and statistics as to the extent of such fires and the damage caused thereby, and whether such losses are covered by insurance, and, if so, in what amount. Such record shall be made following each incident and filed with the National Fire Incident Reporting System (NFIRS) from

the reports made by the fire officers under the provisions of this article. All such records shall be public.

Sec. 10-26. - Amending code; recommendations.

The fire marshal shall also recommend any amendments to the City of Neptune Beach Fire Prevention Code.

Sec. 10-27. - Fees for permits, certificates, etc.

- (a) Fees shall be established by the council for the permits, certificates, approvals, and other functions performed under the City of Neptune Beach Fire Prevention Code and shall be payable to the city. Such fees shall accompany each application for such permit, approval, certificate, or other fee-related provision.
- (b) Plan review fee schedule.

Task	Fee
New Construction Plan Review	45% of building permit fee
First resubmittal	\$0.00
Second resubmittal	\$0.00
All resubmittals after second	\$75.00 each
Plan review of fire sprinkler system (up to 50 heads)	\$75.00
Each additional head over 50	\$1.00 per head
Plan review of fire standpipe or fire pumps	\$75.00
Plan review of fire alarm up to 10 devices (including fire alarm control panel)	\$75.00
Each additional device over 10	\$1.25 per device
Plan review of fire suppression systems	\$75.00 per system
Plan review of emergency generator systems	\$75.00 per system
Plan review of grease hoods and light test	\$75.00 per system
Plan review private fire mains & hydrants with visual & flushing	\$125.00

Plan review of new aboveground & underground tanks	\$125.00
Plan review of removal for fuel tank	\$25.00 per tank
Plan review of paint booth & fire suppression system	\$25.00 per system
Plan review of emergency generator system	\$25.00 per system
Plan review & Inspection for Med-Gas/Med-Gas Storage and/or similar processes where the knowledge or experience of the Authority Having Jurisdiction (AHJ) is limited. For purposes of this provision, the AHJ refers to the City ¹	\$65.00
Permit for tent or membrane structure used for cooking, Christmas tree sales, sales of fireworks or sparklers, or public gatherings of any kind (200 square feet or larger)	\$50.00
Any other permit required by the Florida Fire Prevention Code not listed above	\$50.00

- (c.) Plan review resubmittal fee, 1st resubmittal no charge, 2nd resubmittal \$100.00, 3rd resubmittal 4-times original permit fee.

Sec. 10-28. - New Local Business Tax Receipt Inspection.

A Fee shall be established by the council for fire inspection of all new commercial business within the city. Approvals, and other functions performed under this City of Neptune Beach Fire Prevention Code and shall be payable to the city. Such fees shall

¹ The City is permitted to require a review by an approved independent third party with expertise in the matter to be review at the submitter's expense. The independent reviewer shall provide an evaluation and recommend necessary changes of the proposed design, operation, process, or new technology to the City. The City shall be authorized to require design submittals to bear the stamp of a registered design professional. The City shall make the final determination as to whether the provisions of the Fire Code have been met.

accompany each local business tax receipt and shall be \$50.00. (Home Office License at homes are exempt)

Sec. 10-29. - Periodic inspections required.

The fire marshal shall inspect or cause to be inspected all commercial premises on an annual basis and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire. The fee for each such inspection shall be \$50.00.

This inspection will include a fire pre-plan (which is not a code enforcement inspection) that will include sketches and photos and will be forwarded to the structural fire crews to be used in the event of a fire. The fee for each such inspection shall be \$65.00.

The total fee for this annual inspection will be \$115.00 per commercial occupational license. (Home Office License at homes are exempt)

The fee shall be attached to the annual tax receipt for the business.

Reinspection/un-prepared site , 1st re-inspection \$50.00, Each additional re-inspection \$100.00.

Sec. 10-30. - Dangerous conditions.

- (a) Whenever the fire marshal or technical inspector shall find in any building, or upon any premises, dangerous or hazardous conditions or materials as follows, there shall be issued such notice or orders to remove or remedy the conditions as may be necessary for the protection of life and property from fire and smoke.
- (1) Dangerous or unlawful amounts of combustible or explosive or otherwise hazardous materials;
 - (2) Hazardous conditions arising from defective or improperly installed equipment for handling or using explosive or otherwise hazardous materials;
 - (3) Dangerous accumulations of rubbish, waste paper, boxes, shavings or other highly combustible materials;
 - (4) Accumulations of dust or waste material in air conditioning or ventilating systems or of grease in kitchen or other exhaust ducts or inadequate clearances to unprotected combustible material from hoods, grease extractors and ducts;
 - (5) Obstructions to or on fire escapes, designated access openings in exterior walls for fire department use, stairs, passageways, doors or windows, liable to interfere with the operations of the fire department or egress of occupants in case of fire;

- (6) Any building or other structure which, for want of repairs, lack of adequate exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a hazardous condition.
- (b) Whenever the fire marshal deems any chimney, smokestack, stove, oven, incinerator, furnace or other heating device, electric fixture or any appurtenance thereto, or anything regulated under a nationally approved standard in or upon any building, structure, or premises not specifically mentioned in this article, to be defective or unsafe so as to create an immediate hazard, he shall serve upon the owner or the person having control of the property, a written notice to repair or alter as necessary and shall notify any other authority enforcing codes regulating such equipment. He may affix a condemnation tag prohibiting the use thereof until such repairs or alterations are made. When affixed, such tag may be removed only by order of such fire marshal or his duly authorized representative and may be removed only when the hazard to which the order pertains has been eliminated in an approved manner. Until removed, that item or device which has caused the hazard shall not be used or be permitted to be used.

Sec. 10-31. - Service of orders.

The service of orders for the correction of violations of this article shall be made upon the owner, occupant or other person responsible for the conditions, either by delivering a copy of same to such person or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the said premises. Whenever it may be necessary to serve such an order upon the owner of the premises such order may be served either by delivering to and leaving with the said person a copy of the said order, or, if such owner is absent from the jurisdiction of the officer making the order by sending such copy by certified or registered mail to the owner's last known post office address.

Sec. 10-32. - Right of entry.

- (a) To the full extent permitted by law, the fire marshal, engaged in fire prevention and inspection work, is authorized at all reasonable times to enter and examine any building, structure, marine vessel, vehicle, or premises for the purpose of making fire safety inspections. Before entering a private building or dwelling, the fire marshal shall obtain the consent of the occupant thereof or obtain a court warrant authorizing entry for the purpose of inspection except in those instances where an emergency exists. As used in this section, "emergency" means circumstances that the fire marshal knows, or has reason to believe, exist, and that reasonably may constitute immediate danger to life and property.
- (b) Persons authorized to enter and inspect buildings, structures, marine vessels, vehicles, and premises as herein set forth shall be identified by proper credentials issued by the city.
- (c) It shall be unlawful for any person to interfere with the fire marshal carrying out any duties or functions prescribed by this article.

- (d) It shall be unlawful for any unauthorized person to use an official badge, uniform, or other credentials to impersonate a fire marshal for the purpose of gaining access to any building, structure, marine vessel, vehicle, or premises in this jurisdiction.
- (e) No person, owner or occupant of any building or premise shall fail, after proper credentials are displayed, to permit entry into any building or onto any property by the fire marshal for the purpose of inspections pursuant to the chapter.

Sec. 10-3.09. - Authority to require exposures or stop work.

- (a) Whenever any installation that is subject to inspection prior to use is covered or concealed without having first been inspected, the fire marshal may require by written notice that such work be exposed for inspection. The fire marshal shall be notified when the installation is ready for inspection and the fire marshal shall conduct the inspection within a reasonable period of time.
- (b) When any construction or installation work is being performed in violation of the plans and specifications as approved by the fire marshal, a written notice shall be issued to the responsible party to stop work on that portion of the work that is in violation. The notice shall state the nature of the violation, and no work shall be continued on that portion until the violation has been corrected.

Sec. 10-33. - Appeals.

- (a) Any person aggrieved by an order issued under this article may appeal such order by submitting a written request for a hearing before the city's special magistrate. Such request must be submitted to the city clerk within thirty (30) days of entry of the subject order. Such request shall set forth:
 - (1) The provisions of the City of Neptune Beach Fire Prevention Code or the Florida Fire Prevention Code from which relief is sought;
 - (2) A statement indicating which of the following grounds such person bases their appeal:
 - a. The true intent of the City of Neptune Beach Fire Prevention Code or the Florida Fire Prevention Code has been incorrectly interpreted;
 - b. The provisions of the City of Neptune Beach Fire Prevention Code or the Florida Fire Prevention Code do not fully apply; or
 - c. A decision is unreasonable or arbitrary under the City of Neptune Beach Fire Prevention Code or the Florida Fire Prevention Code.
 - (3) Justification as to the applicability of the grounds cited in (2) above;
 - (4) A requested remedy; and

- (5) Justification for the requested remedy stating specifically how the City of Neptune Beach Fire Prevention Code or the Florida Fire Prevention Code are complied with, public safety is secured, and firefighter safety is secured.
- (b) In the event of a conflict between the Building Code as established in Chapter 8 of the Code of Ordinances of the city, and this article, it shall be resolved in accordance with F.S. § 553.73. Nothing in this section shall be construed so as to limit a person's right to an interpretation of the Florida Fire Prevention Code as provided in F.S. § 633.104 and F.A.R. 69A-60.011, as amended from time to time.

Sec. 10-34. - Summary abatement.

- (a) The fire marshal shall have the authority to summarily abate any condition that is in violation of any provision of this chapter and that presents an immediate hazard to life or property.
- (b) When, in the opinion of the fire marshal, there is actual danger to the occupants or those in proximity of any building, structure or premises because of unsafe structural conditions or inadequacy of any exitway, the presence of explosives, explosive fumes or vapors, flammable liquids, vapors, gases or materials, the fire marshal may order the immediate evacuation of such building, structure or premises and no one shall enter or reenter until authorized to do so by the fire marshal. In addition, the fire marshal may order the disconnection of electric and gas utility services from such building, structure or premises and no one shall reconnect such utility services until authorized to do so by the fire marshal.

Sec. 10-35. - Penalties and other remedies for violations.

- (a) Failure to comply with any provision of this article or any lawful order of the fire marshal shall constitute a misdemeanor of the second degree, punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than ten (10) days, or by both a fine and imprisonment. Each day that a violation continues shall be a separate offense.
- (b) The city may institute injunction, mandamus or any other appropriate actions or proceeding at law or in equity for the enforcement of this chapter or to correct violations of this chapter, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions or mandamus or other appropriate forms of remedy or relief.
- (c) The city may enforce this chapter using the proceedings set forth in Chapter 2 Administration, Article VII, of the Code of Ordinances, City of Neptune Beach, Florida.

Sec. 10-36. - Authority to investigate fires.

- (a) The fire marshal shall investigate the cause, origin and circumstances of each and every fire occurring in the city involving the loss of life or injury to persons, or

destruction or damage to property. A written report shall be made of all facts and findings relative to each fire investigation.

- (b) If it appears that the fire is of suspicious origin, the fire marshal shall immediately notify the police department and shall assist the police department as necessary in its investigation.

Sec. 10-37. - Key vault requirement.

The fire marshal may require the installation and maintenance of a key vault security system in such buildings or structures where security precautions and protective devices may unreasonably delay the entry of the fire department in time of emergency.

Sec. 10-38. - Construction of article.

This article shall be deemed an exercise of the police powers of city for the preservation and protection of the public health, peace, safety, and welfare and all the provisions of the City of Neptune Beach Fire Prevention Code shall be liberally construed for that purpose. All provisions of this City of Neptune Beach Fire Prevention Code are intended to comply with the Florida Fire Prevention Code and any provision in conflict which cannot be reconciled shall be severed, without impact to any other provisions of this chapter.

Section 2. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. Effective Date. This Ordinance shall become immediately upon passage by the City Council.

VOTE RESULTS OF FIRST READING:

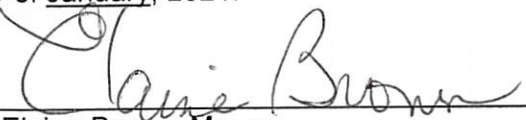
Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Lauren Key	YES
Councilor Josh Messinger	YES

Passed on First Reading this 7th day of December, 2020.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Lauren Key	YES
Councilor Josh Messinger	YES

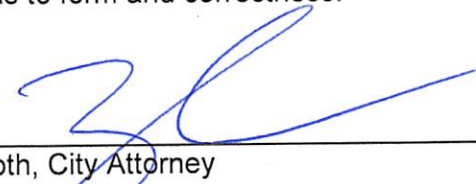
Passed on Second and Final Reading this 19th day of January, 2021.


Elaine Brown, Mayor

ATTEST:


Catherine Ponson, CMC, City Clerk

Approved as to form and correctness:


Zachary Roth, City Attorney

