

ARTICLE 5.01 GENERAL PROVISIONS

(Reserved)

ARTICLE 5.02 FIRE MARSHAL.

Sec. 5.02.001 Office created

The office of fire marshal is hereby created. Such office shall be independent of other city departments, the fire marshal reporting directly to the mayor and city council. Such office shall be filled by appointment by the mayor, by and with the consent of the city council. The said fire marshal shall be properly qualified for the duties of his office, and shall be subject to removal at all times and for any reason. He shall receive an annual salary, payable in monthly installment, as full compensation for his services. (Ordinance 8-92B adopted 8/13/92; Ordinance adopting Code)

Sec. 5.02.002 Duties

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within this city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within twenty-four hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office a record of all fires, together with all facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

Sec. 5.02.003 Power to take testimony

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense or either of them, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

Sec. 5.02.004 Power to summon witnesses

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter, which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The said fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

- State law reference-State fire marshal, V.T.e.A., Government Code, sec. 417.001 et seq.

Sec. 5.02.005 Refusal to testify

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of said fire marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a class C misdemeanor; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted. Any person being convicted of any such misdemeanor shall be fined in accordance with the general penalty provision found in section 1.01.009. Provided, however, that any person so convicted shall have the right of appeal.

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Sec. 5.02.006 Investigations may be private

All investigations held by or under the direction of the fire marshal may, in and by his discretion, be private, and persons other than those required to be present may be excluded ITom the place where such investigation is held, and witnesses may be kept separate and apart ITom each other and not allowed to communicate with each other until they have been examined.

Sec. 5.02.007 Power to enter property

The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any buildings or premises when any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.

Sec. 5.02.008 Power to inspect property

The fire marshal, upon complaint of any person having an interest in any building or property adjacent and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty, monthly or more or less often, to enter upon and make or cause to be entered and made a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or system, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firefighters or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises. Provided, however, that if said owner or occupant deems himself aggrieved by such order, he may, within five (5) days, appeal to the mayor who shall investigate the cause of the complaint, and, unless by the mayor's authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. Any owner or occupant of a building or other structure or premises who shall fail to comply with the provisions of this section shall be guilty of a class C

misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in section 1.01.009, and each and every day of such violation of this section shall be a distinct and separate offense. At the end of each month the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with separate reports of each fire in the city during the month.

Sec. 5.02.009      Penalty for maintaining unsafe property

Any owner or occupant of a building or other structure or premises, who shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that the fire would endanger other persons or their property therein, shall be guilty of a class C misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in section 1.01.009, and each and every day of such violation of this section shall be a distinct and separate offense.

Sec. 5.02.010      Unsafe appliances

Any owner or occupant of any building or other structure, or premises, who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire or health or safety of persons or property of others; or who shall keep or maintain any building, or other structure or premises with an improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others; or which may endanger a person passing by or near the same; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firefighters, or occupants of such building, structure or premises other than the maintainer thereof shall be guilty of a class C misdemeanor and upon conviction thereof shall be punished by a fine in accordance with the general penalty provision found in section 1.01.009, and each and every day of such violation of this section shall be a distinct and separate offense.

Sec. 5.02.011      Notice to be given prior to prosecution

No prosecution shall be brought under sections 5.02.009 and 5.02.010 of this article until the order provided for in section 5.02.008 be given, and the party notified shall fail or refuse to comply with the same.

Sec. 5.02.012      Recovery of penalties

The penalties provided for herein shall be recovered by the city in the same manner as provided by law for the enforcement of fines, forfeitures, and punishments for offenses against the city. All misdemeanors herein provided for shall be prosecuted, and all fines and forfeitures herein provided for shall be recovered and enforced, in the same manner as provided by law for the enforcement of fines, forfeitures, and penalties and punishments for offenses generally against the city.

(Ordinance 8-92B adopted 8/13/92)

ARTICLE 5.03 FIRE CODE

Sec. 5.03.001 Adopted

The 2003 edition of the International Fire Code, published by the International Code Council, is hereby adopted in its entirety, as if fully set forth herein, as the fire prevention code of the city. (Ordinance adopting Code)

ARTICLE 5.04 TRASH BURNING

Sec. 5.04.001 Definitions

As used in this article, the following words shall have the meanings ascribed to them:

Garbage. All animal or vegetable matter, such as waste material and refuse from kitchens, residences, grocery stores, butcher shops, restaurants, hotels, and other deleterious substances.

Trash or rubbish. Any matter such as paper, cardboard, rags, wooden boxes, flowers, trimmings and similar matter.

Sec. 5.04.002 Burning

It shall be unlawful for any person, firm, or corporation to burn garbage, rubbish, trash, grass, brush, lumber, leaves, or any other combustible material within the corporate limits of the city except in accordance with the regulations of the state commission on environmental quality. (Ordinance 2-79 adopted 2/12/79; Ordinance adopting Code)

Sec. 5.04.003 Violations

If any person, firm or corporation shall violate any of the provisions of this article, they shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be punished by fine in accordance with the general penalty provision found in section 1.01.009.

(Ordinance 2-79 adopted 2/12/79)

ARTICLE 5.05 FIREWORKS.

Sec. 5.05.001 Discharge restricted

(a) In the city, fireworks may only be discharged during the following periods:

(1) Beginning June 24 and ending at midnight on July 4; and

- State law reference-Authority of municipality to regulate the use of fireworks, V.T.C.A., Local Government Code, sec. 342.003; fireworks and fireworks displays, V.T.c.A., Occupations Code, ch. 2154.

(2) Beginning December 20 and ending at midnight on January 1 of the following year.

(b) During such times discharge will be limited to no later than 10:00 p.m. on weeknights; 12:00 a.m. on Fridays and Saturdays; and 1 :00 a.m. on the 4th of July, Christmas and New Year's Eve.

(Ordinance adopting Code)

