

ADVISORY FIRE MARSHAL ORDINANCE

~~1137~~ #40
Recommended by

State Board of Insurance
Austin, Texas

AN ORDINANCE creating the office of Fire Marshal, Prescribing the duties thereof, Providing for its maintenance, and Prescribing penalties for violations.
Be it ordained by the City Commission or Council of the City of Bayside.

SECTION 1. 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 Commission or Council. Such office shall be filled by appointment by the Mayor, by and with the consent of the City Commission or Council, within XXXXX days after this ordinance shall take effect. The said Fire Marshal shall be removed only for cause. He shall receive an annual salary of \$1.00 per year dollars, payable in monthly installments, as full compensation for his services.

SECTION 2. 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 ordinance.

SECTION 3. 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.

SECTION 4. 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 ordinance 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.

SECTION 5. 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 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 a sum not exceeding \$ legal limits dollars. Provided, however that any person so convicted shall have the right of appeal.

SECTION 6. All investigations held by or under the direction of the Fire Marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

SECTION 7. 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 ordinance, to enter upon and examine any building or premises where 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.

SECTION 8. 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 often, to enter upon and make or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public 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 systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasolene, 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 firemen 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 such 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 his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. At the end of each month the Fire Marshal shall report to the State Fire Marshal all existing hazardous conditions, together with separate report on each fire in the city during the month.

SECTION 9. 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 fire would endanger other persons or their property therein, shall be punished by a fine of not less than \$ legal limits nor more than \$ legal limits

SECTION 10. 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, 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 shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen, or occupants of such buildings, structures or premises other than the maintenance thereof, shall be punished by a fine of not less than \$ legal limits nor more than \$ legal limits

SECTION 11. No prosecution shall be brought under Sections 9 and 10 of this ordinance until the order provided for in Section 8 be given, and the party notified shall fail or refuse to comply with the same.

SECTION 12. 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.

SECTION 13. Every day's maintenance of any of the conditions prohibited in any of the foregoing sections shall be a distinct and separate offense.

SECTION 14. 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, penalties and punishments for offenses generally against the city.

SECTION 15. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 16. Whereas, public safety demands the immediate passage of this ordinance, creating the office of Fire Marshal and empowering the said officer to discharge the

duties herein set out, therefore an emergency exists demanding a suspension of the rules requiring ordinances to be read on three separate days, said rule is hereby suspended, and this ordinance is passed on its first reading and final passage, and shall be effective and in full force from and after its passage and approval.

Approved this 12th day of July, 1988

Attest: *Bill Meier* Mayor

Winona Messer City Secretary

NOTE: Key rate credit will be allowed if the fire marshal performs the required inspections and make regular monthly reports.