

## Chapter 11

### FIRE PREVENTION AND PROTECTION\*

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#### ARTICLE I. IN GENERAL

##### **Sec. 11-1. Penalty.**

Unless stated otherwise, violations of this chapter shall be punished as provided in section 1-8.

##### **Sec. 11-2. Definition.**

As used in this chapter the words or offices of the fire chief and fire marshal and their duly authorized representatives shall be deemed to be equivalent statements. Any duty to be performed by one may legally be performed by another. (Code 1963, Ch. 6, art. 10, § 1 [Ord. No. 75-2, § 3, 1-28-75]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

##### **Sec. 11-3. Arson reward.**

(a) Any person who shall hereafter supply information for the arrest and conviction of any person found guilty of committing the crime of arson within the city shall be offered a reward of one thousand dollars (\$1,000.00).

(b) This offer shall be a standing offer of reward which shall be paid out of the general fund of the city.  
(Code 1963, Ch. 6, art. 5, § 1 [Ord. of 11-26-63, § 2]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

##### **Sec. 11-4. Use of fire hydrants.**

It shall be unlawful for any person to use any fire hydrant in the city without first obtaining the consent of the utility collections manager of the city. Any time a fire hydrant is used in the city by any person other than the fire department of the city, the turning on and turning off of a fire hydrant shall be under the direct supervision of the director of utility services of the city or his/her designee. (Code 1963, Ch. 6, art. 2, § 5; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, §

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\***Charter reference**—Fire department authorized, § 27(13).

**Cross reference**—Building and construction regulations, Ch. 8.

**State law reference**—Authority to enforce ordinances necessary to protect and preserve health, property, good government and order, V.T.C.A., Local Government Code § 54.004; state fire marshal, V.T.C.A., Government Code § 417.001 et seq.; fire safety generally, V.T.C.A., Health and Safety Code § 791.001 et seq.

I, 2-24-09)

**Sec. 11-5. Fireworks—prohibited use.**

(a) Except as hereinafter provided in section 11-6, it shall be unlawful for any person to possess, store, offer for sale, sell at retail, or use or explode any fireworks within the corporate limits of the city and within the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet, unless such area is within the corporate limits of another municipality.

(b) The fire chief shall seize, take, remove, or cause to be destroyed, at the expense of the owner, any fireworks offered or exposed for sale, stored, or held in violation of this section and section 11-6.

(c) Any firefighter, police officer or other peace officer is empowered to detain any fireworks found being transported illegally or to close any building while any fireworks are found stored illegally until the fire department can be notified in order that such fireworks may be seized and destroyed.

(d) The city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or using fireworks within the jurisdiction of the city and to prevent any person from interfering or attempting to interfere with the seizure and destruction of such fireworks; provided, however, that it shall not be necessary to obtain such injunctive relief as a prerequisite to such seizure and destruction.

(e) In any instance where the fire chief or any of his duly authorized assistants have probable cause to believe that fireworks are being stored in a building, they shall promptly enter the building for the purposes of inspection. It shall be the duty of the owner, lessee or person otherwise in charge of such building or their agents or employees to open and permit entry into the building by persons charged with the enforcement of this chapter.

(Code 1963, Ch. 6, art. 3, §§ 1, 2 [Ord. 73-53, § 1, 11-26-73; Ord No. 84-65, § 3, 9-11-84]; Ord. No. 95-12, § I, 2-14-95; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

**State law reference(s)**--Fireworks generally, V.A.T.S. Insurance Code art. 5.43-4; local regulation of fireworks, V.A.T.S. Insurance Code § 5.43-4, § 3; extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.001 et seq.

**Sec. 11-6. Same—permitted use.**

(a) The city council may permit the use of fireworks for public displays within the corporate limits of the city and within the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet, unless such area is within the corporate limits of another municipality. Nothing in this section shall permit the use of common class C fireworks by members of the general public.

(b) Applications for permits shall be made in writing to the city manager at least twenty-one (21) days in advance of the date of the outdoor display. The city manager shall forward the application to the fire chief, who shall cause a site investigation to be made to determine whether the proposed fireworks display is of a nature or in a location that may be hazardous to property or dangerous to any persons. The fire chief shall forward his or her recommendation of approval

or disapproval, along with any reasonable conditions that he or she recommends should be placed on the permit by the city council. The application shall also be forwarded to the police chief, who shall also forward his or her recommendations to the city manager.

(c) The application shall set forth the following:

- (1) The name of the individual, group, or organization sponsoring the outdoor fireworks display, together with the names of persons actually in charge of the firing of the display;
- (2) Evidence of financial responsibility in accordance with the requirements of Texas Occupations Code, chapter 2154.205, as may hereafter be amended and naming the city as an additional insured;
- (3) The date and time of day at which the outdoor fireworks display is to be held and any alternate date;
- (4) Confirmation of the state of Texas issued license of the operator and the number of assistants that will be present;
- (5) Copies of the state of Texas issued public display permit if required;
- (6) The approximate number and kinds of fireworks to be discharged;
- (7) The manner and place of storage of such fireworks prior to delivery to the outdoor fireworks display site; and
- (8) A diagram of the grounds on which the outdoor fireworks display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, and the location of other possible overhead obstructions.

(d) Upon authorization of the city council, and in addition to any conditions placed on the permit holder by the city council, the permit holder must comply with the following requirements:

- (1) Comply with the provisions of NFPA 1123 and Title 37, Texas Administrative Code, chapter 591, and any amendments thereto; and
- (2) Immediately dispose of any fireworks that remain unfired after the display is concluded in a way safe for the particular type of fireworks remaining.

(e) Any permit issued by the city council is not transferable and is valid for only one (1) outdoor display to be held during the hours authorized on the approved date, or alternate date. (Ord. No. 95-12, § II, 2-14-95; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

**Secs. 11-7--11-30. Reserved.**

## **ARTICLE II. FIRE MARSHAL\***

**Sec. 11-31. Office created.**

The office of fire marshal is hereby created. Such office shall be independent of other departments within the fire department. The fire marshal shall report directly to the fire chief. The fire marshal shall be properly qualified for the duties of his office. (Code 1963, Ch. 6, art. 1, § 1 [Ord. No. 75-2, § 9, 1-28-75]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 04-61, § I, 8-10-04)

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\*Cross reference—Officers and employees generally, § 2-31 et seq.

### **Sec. 11-32. General duties.**

(a) The fire marshal or other qualified designated representative 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. 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.

(b) In addition to his other duties, the fire marshal shall be the head of the fire marshal's office and responsible for its accomplishment of all of the tasks delegated to it by the fire chief including, but not limiting to, the running of a fire prevention program within the city.

(Code 1963, Ch. 6, art. 1, § 2 [Ord. No. 75-2, § 10, 1-28-75]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-33. Testimony of witnesses; evidence of crimes.**

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. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or 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. (Code 1963, Ch. 6, art. 1, § 3; Ord. No. 02-25, § I, 5-28-02)

### **Sec. 11-34. Power to summons 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. (Code 1963, Ch. 6, art. 1, § 4; Ord. No. 02-25, § I, 5-28-02)

### **Sec. 11-35. Refusal of witness.**

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of the fire marshal, or who disobeys, fails or refuses to produce any book, paper or document touching any matter under examination, after being summoned to give testimony in relation to any matter under investigation, shall be deemed guilty of a misdemeanor. (Code 1963, Ch. 6, art. 1, § 5; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-36. Investigation may be private.**

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. Witnesses may be kept separate and apart from each other and

not allowed to communicate with each other until they have been examined. (Code 1963, Ch. 6, art. 1, § 6; Ord. No. 02-25, § I, 5-28-02)

**Sec. 11-37. Right to enter premises.**

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 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. (Code 1963, Ch. 6, art. 1, § 7; Ord. No. 02-25, § I, 5-28-02)

**Sec. 11-38. Investigations and orders.**

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. It shall be his duty to enter upon and make or cause to be entered and made, a thorough examination of a mercantile, manufacturing and public buildings, together with the premises belonging thereto. At the end of each month the fire marshal shall report to the state fire marshal a report on each fire in the city during the month. (Code 1963, Ch. 6, art. 1, § 8 [Ord. No. 75-2, § 6, 1-28-75]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

**Secs. 11-39--11-60. Reserved.**

**ARTICLE III. FIRE PREVENTION CODE**

**Sec. 11-61. Adopted.**

There is hereby adopted by the city for the purpose of prescribing regulations consistent with nationally recognized practices for the reasonable protection of life and property from the hazards of fire and explosion within the city, that certain code known as the International Fire Code, 2006 edition, together with Appendices B [Fire-Flow Requirements For Building], E [Hazard Categories], F [Hazard Ranking], G [Cryogenic Fluids - Weight and Volume Equivalents] thereto, save and except such portions as are hereinafter deleted, modified or amended. Such code shall be controlling within the limits of the city and shall become a part of this Code. (Ord. No. 02-25, § I, 5-28-02; Ord. No. 06-19, § I, 2-14-06; Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-62. Amendments.**

The fire prevention code adopted by this article is hereby amended and changed in the following respects:

(1) Section 202 of the International Fire Code, 2006 Edition, is amended by adding the definition to read as follows:

*“Standby personnel* is qualified fire service personnel, approved by the fire chief. When utilized, the number required shall be as directed by the fire chief. Charges for utilization shall be as normally calculated by the jurisdiction.”

(2) Section 307.1 of the International Fire Code 2006 Edition, is amended to read as follows:

“A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and in accordance with this section. Burning shall be commenced and completed between 7:00 a.m. and 6:00 p.m. The fire department shall be notified before the fire is kindled and when the fire is exhausted or extinguished.”

(3) Section 307.2 of the International Fire Code, 2006 Edition, is amended to read as follows:

“307.2 *Permit required.* A permit shall be obtained from the code official in accordance with section 105.6 prior to kindling a fire for recognized land development or silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. A permit shall likewise be obtained prior to kindling a fire for land clearing, farming, or agricultural purposes, which shall be permitted only on tracts zoned and used A (agricultural) or A-R1 (agricultural single-family residential). Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.”

(4) Section 307.4 of the International Fire Code, 2006 Edition, is amended to read as follows:

“307.4 *Location.* The location for open burning shall not be less than 300 feet (91440 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 300 feet (91440 mm) of any structure.”

(5) Section 503.1.1 of the International Fire Code, 2006 Edition, is amended by deleting the exceptions.

(6) Section 503.2.1 of the International Fire Code, 2006 Edition, is amended to read as follows:

“503.2.1 *Dimensions.* Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 14 feet 0 inches (4752 mm).”

(7) Section 503.2.3 of the International Fire Code, 2006 Edition, is deleted in its entirety.

(8) Section 508.5.1 of the International Fire Code, 2006 Edition, is amended to read as follows:

“580.5.1 *Where required.* Fire hydrants and mains shall be provided where required by local ordinance.”

(9) Section 913 of the International Fire Code, 2006 Edition, is amended to read as follows:

“913 *Fire pump system supervision.* The fire-pump system shall be supervised for “loss of power,” “phase reversal” and “pump running” conditions by the supervisory signal on distinct circuits.”

(10) Section 3301.1.3 of the International Fire Code, 2006 Edition, is amended to read as follows:

“3301.1.3 *Fireworks*. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

*Exceptions:*

1. Storage and handling of fireworks as permitted in section 3304.
2. Manufacture, assembly and testing of fireworks as permitted in section 3305.
3. The use of fireworks for display as permitted by local ordinances.”

(11) Section 3308 of the International Fire Code, 2006 Edition, is amended by deleting sections 3308.2 through 3308.11 and amending section 3308.1 to read as follows:

“3308.1 *General*. The display of fireworks, including proximate audience displays and pyrotechnic special effects in motion picture, television, theatrical, and group entertainment productions shall comply with local ordinances and NFPA 1123 or NFPA 1126.”

(Ord. No. 02-25, § I, 5-28-02; Ord. No. 04-62, § I, 8-10-04; Ord. No. 06-19, § I, 2-14-06; Ord. No. 09-015, § I, 2-24-09)

**Secs. 11-63--11-85. Reserved.**

#### **ARTICLE IV. LIQUEFIED PETROLEUM GAS**

**Sec. 11-86. Application of article.**

This article shall apply to all storage and handling of liquefied petroleum gas and the installation of all equipment pertinent to systems for such uses.

(Code 1963, Ch. 6, art. 6, § 1 [Ord. No. 69-6, § 1, 2-24-69]; Ord. No. 02-25, § I, 5-28-02)

**Sec. 11-87. Regulations.**

Any and all aspects or phases of the liquefied petroleum gas industry shall be governed by V.T.C.A., Natural Resources Code ch. 113 and the acts amendatory thereof and supplementary thereto, now or hereafter enacted and any and all rules promulgated thereunder by the Railroad Commission of Texas. (Ord. No. 88-54, § III(6-6-2), 6-28-88; Ord. No. 02-25, § I, 5-28-02)

**Secs. 11-88--11-110. Reserved.**

#### **ARTICLE V. FIRE HYDRANTS AND FIRE LANES**

**Sec. 11-111. Authority.**

The location of fire hydrants and fire lanes shall be determined by the chief of the fire department or his designated representative, in conformity with the provisions of this article.

(Code 1963, Ch. 6, art. 7, § 1 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-112. Fire hydrants–location.**

(a) *All residential zoned property and use.* As property is developed, fire hydrants shall be located at a maximum spacing of six hundred (600) feet as measured along the length of the roadway and no part of the structure shall be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.

(b) *All nonresidential zoned property or use.* As the property is developed, fire hydrants shall be located at a maximum spacing of three hundred (300) feet as measured along the length of the roadway and no part of the structure shall be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose is laid.

(Code 1963, Ch. 6, art. 7, § 2 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 02-25, § I, 5-28-02)

### **Sec. 11-113. Same–restrictions.**

(a) All required fire hydrants shall be of the national standard three-way breakaway type no less than five and one-fourth (5-1/4) inches in size and shall conform to the provisions of the latest A.W.W.A. specifications C-502 and shall be placed upon water mains of no less than six (6) inches in size.

(b) Valves shall be placed on all fire hydrant leads.

(c) Required fire hydrants shall be installed so the breakaway point will be no less than three (3) inches, and no greater than five (5) inches above the grade surface.

(d) A spacing of no less than six (6) inches shall be provided between the bottom of the barrel of the large steamer connection and the grade surface.

(e) No fire hydrant located more than eighteen hundred (1800) feet on a six-inch dead-end water main shall be considered as a required fire hydrant in the enforcement of this article.

(f) No fire hydrant on a six-inch looped water main exceeding three thousand five hundred (3,500) feet in length shall be considered as a required fire hydrant in the enforcement of this article.

(g) Except when it is determined by the fire chief that the required maximum hour demand plus the needed fire flow demand will be met, fire hydrants shall be installed on a separate water main when required on private property.

(h) Fire hydrants when located on public property shall be located a minimum of two (2) feet and a maximum of six (6) feet behind the curb line.

(i) All required fire hydrants placed on private property shall be adequately protected by either curb stops or concrete posts or other methods as approved by the fire chief, such stops or posts to be the responsibility of the landowner on which the fire hydrant is placed.

(j) All required fire hydrants shall be installed so that the steamer connection will face the fire lane or street.



(k) Fire hydrants, when placed at intersections or access drives to parking lots, when practical shall be placed so that no part of the fire truck will block the intersection or parking lot access when connections to the fire hydrant are made.

(l) Fire hydrants required by this article located on private property shall be accessible to the fire department at all times.

(m) The fire chief may, for cause, increase the distance of fire hydrants within ten (10) percent of the footage given in section 11-112.

(n) All required fire hydrants shall be approved by the fire marshal and installed by the contractor prior to any construction above the structure's foundation. The building official may issue foundation permits prior to the installation and approval of all required fire hydrants. (Code 1963, Ch. 6, art. 7, § 3 [Ord. No. 73-56, § 1, 12-20-73; Ord. No. 86-9, § 1, 2-11-86; Ord. No. 86-59, § 1, 8-26-86]; Ord. No. 09-015, § I, 2-24-09)

#### **Sec. 11-114. Fire lanes—location.**

No building used for any purpose other than single-family or two-family dwellings shall be constructed so that any part of the perimeter of the structure is greater than one hundred fifty (150) feet from a public street or highway unless the owner constructs and maintains a fire lane having a minimum width of twenty (20) feet and a minimum height throughout of no less than fourteen (14) feet and terminating within one hundred fifty (150) feet from the farthest point of such structure. (Code 1963, Ch. 6, art. 7, § 4 [Ord. No. 73-56, § 1, 12-20-73])

#### **Sec. 11-115. Same—restrictions.**

(a) Required fire lanes when not connected at both ends to a public street shall terminate in a turnaround having a minimum radius of fifty (50) feet or approved hammerheads as seen in the International Fire Code, 2006 edition Appendix D figure D103.1.

(b) All required fire lanes shall be all-weather surfaced. For the purposes of this article, “all-weather surface” means asphalt or concrete.

(c) Fire lanes shall be installed prior to the issuance of the certificate of occupancy.

(d) All required fire lanes shall be approved by the fire marshal.

(e) All required fire lanes shall not be used as loading zones.

(f) There shall be no parking in any fire lane at any time. (Code 1963, Ch. 6, art. 7, § 5 [Ord. No. 73-56, § 1, 12-20-73; Ord. 86-59, § 1, 8-26-86]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 06-19, § I, 2-14-06; Ord. No. 09-015, § I, 2-24-09)

#### **Sec. 11-116. Maintenance.**

(a) All fire hydrants shall be inspected, flushed and painted at least once yearly and such inspection, flushing and painting shall be the responsibility of the public works department.

(b) Any maintenance or repairs required to keep fire hydrants in proper working order, other than the once yearly inspection, flushing and painting done by the public works department, shall be the responsibility of the owner, or owners of the property on which the fire hydrant, or hydrants, are located.

(Code 1963, Ch. 6, art. 7, § 6 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-117. Posting of signs and markings.**

(a) All required fire lanes shall be conspicuously marked as follows:

Striping--all fire lanes shall be marked by painted lines of red traffic paint six (6) inches in width to show the boundaries of the fire lane. The words "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" shall appear in four inch (4") white letters at a maximum spacing of thirty (30) feet intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the stripping shall be on the vertical face of the curb.

Signs--when approved by the code official, signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be 12" wide and 18" high. Signs shall be painted on a white background with letters and borders in red, using not less than 2" lettering. Signs shall be permanently affixed to a stationary post or structure's wall and the bottom of the sign shall be six feet six inches (6'6") above finished grade. Signs shall be spaced no less than thirty (30) feet and no greater than forty (40) feet apart.

(b) Required fire hydrant markings shall be placed on both sides of a distance no less than fifteen (15) feet.

(c) All required fire lane signs and fire hydrant markings shall be maintained in good condition and legible at all times, and shall be the responsibility of the owner, or owners, on whose property they are located.

(Code 1963, Ch. 6, art. 7, § 7 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 02-25, § I, 5-28-02; Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-118. Abandonment of fire lanes.**

No owner or person in charge of any premises served by a required fire lane shall abandon or close any such fire lane without first complying with the following procedure:

(1) A request shall be made in writing by the owner to the fire chief stating his reasons for abandoning the fire lane.

(2) Verification shall be obtained by the fire chief from the building official that such property is no longer subject to the requirements of this article.

(Code 1963, Ch. 6, art. 7, § 7 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-119. Required extensions.**

The fire chief may require that an individual extend a six-inch or larger water main, and maintain a hydrant in the case of a structure that will be situated farther than the maximum

distance from the hydrant as set forth in section 11-112, but in no case shall such extension be greater than three hundred (300) feet in length as measured along the length of the roadway. (Code 1963, Ch. 6, art. 7, § 9 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 09-015, § I, 2-24-09)

#### **Sec. 11-120. Applicability.**

All construction within the city shall be undertaken in conformance with the provisions of this article and only after the approval of the authority. (Code 1963, Ch. 6, art. 7, § 10 [Ord. No. 73-56, § 1, 12-20-73])

#### **Sec. 11-121. Violations and penalties.**

(a) Any violation of the provisions of any part of this article shall be punishable as provided in section 1-8.

(b) Failure to remedy any violation of this article after notice of violation, and each subsequent notice of violation thereafter given prior to the remedy of the violation, shall constitute a separate violation of this article by the person responsible for the remedy of such violation.

(Code 1963, Ch. 6, art. 7, § 11 [Ord. No. 73-56, § 1, 12-20-73])

#### **Sec. 11-122. Variances.**

(a) *Jurisdiction.* The board of adjustments and appeals as established in the fire prevention code adopted in this chapter may vary the application of any provision of this article, except section 11-115(b)(1) and section 11-121, to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this chapter or public interest, or when, in its opinion, the interpretation of the fire marshal should be modified or reversed.

(b) *Notice of appeal.* Notice of appeal shall be in writing and filed with the fire marshal within thirty (30) days after the decision is rendered by the fire marshal.

(c) *Action.* The board of adjustments and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board of adjustments and appeals shall also include the reasons for the decision. If a decision of the board of adjustments and appeals reverses or modifies a refusal, order, or disallowance of the fire marshal, or varies the application of any provision of this article, the fire marshal shall immediately take action in accordance with such decision.

(d) *Decisions are final.* Every decision of the board of adjustments and appeals shall be final, subject however to such remedy as any aggrieved party might have at law or in equity. (Code 1963, § 6-7-12 [Ord. No. 73-56, § 1, 12-20-73]; Ord. No. 89-43, § I, 6-13-89; Ord. No. 09-015, § I, 2-24-09)

#### **Secs. 11-123--11-132. Reserved.**

## ARTICLE VI. FIREMEN'S RELIEF AND RETIREMENT FUND BOARD

### Sec. 11-133. Created.

(a) There is hereby created and recognized as an official board of the city that certain body previously established under the laws of Texas as the board of directors of the city of Killeen firemen's relief and retirement fund.

(b) The board of directors shall be established in accordance with Article 6243e of the Texas Revised Civil Statutes, commonly referred to as the Texas Local Fire Fighters Retirement Act, as that article provides at the time this section is enacted, and as said article from time to time thereafter may be revised or amended. The members of such board shall be of the number, and possess the qualifications required by state law.

(c) The persons serving as trustees of such board as of July 9, 1991, shall continue in office and thereafter be replaced, as necessary, as provided for by state law.  
(Ord. No. 91-40, § I, 7-9-91)

\***Cross reference**--Officers and employees generally, § 2-31 et seq.

### Secs. 11-134--11-139. Reserved.

## ARTICLE VII. FALSE FIRE ALARMS

### Sec. 11-140. Definitions.

For the purposes of this section the following definitions shall apply:

*Alarm site* means a single premises or location (one street address) served by a fire alarm system or systems that are under the control of one owner.

*Fire alarm system(s)* means any equipment, device or devices arranged to signal the presence of fire, smoke, heat or other hazards requiring urgent attention and to which the fire department is expected to respond.

*Fire alarm system user* means the owner, agent or person in control of the property on which a fire alarm system or systems is maintained within the corporate limits of the city.

*Automatic dialing device* means a fire alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

*False alarm* means any fire alarm, which was discharged falsely, accidentally, through mechanical failure, malfunction, improper installation, lack of maintenance, or by negligence of the owner or lessee of the alarm system or of his and/or her employees or agents. False alarms shall not include:

1. Alarms that occur during electrical storms, tornadoes, hurricanes, ice storms, earthquakes, other natural disaster or Acts of God.
2. Disruption of the telephone circuits beyond the control of the alarm company and/or

- the alarm user.
3. Electrical power disruption or any failure not caused by the user.
  4. Alarms which occur as a result of an actual fire or emergency condition.
  5. Alarms designed to alert only the inhabitants of a premise.

*Fire department response* means the dispatching of a fire unit to investigate a fire alarm.

*Health care occupancies* are those occupancies used for the purposes of treatment or care of persons suffering from physical or mental illness, disease or infirmity; or the care of infants, convalescents or aged persons. Health care occupancies provide sleeping facilities for the occupants and are occupied by persons who are mostly incapable of self-preservation because of age, physical or mental disability, or because of security measures not under the occupant's control.

*Non-residential occupancies* are those occupancies used for or engaged in commerce, business, or manufacturing.

*Permit* means a certificate of authorization issued by the fire marshal's office to the owner, agent, or person in control of the property, which authorizes the operation of a fire alarm system or systems at an alarm site.

*Permit holder* means any individual, corporation, partnership or other legal entity to which an alarm system permit is issued.

*Person* means any individual, corporation, partnership or other legal entity.

*Residential occupancies* are those private occupancies that provide living accommodations for persons not under medical care.  
(Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-141. Applicability.**

The provisions of this article apply to all fire alarm systems installed within the corporate limits of the city of Killeen, except for those fire alarm systems installed upon the premises occupied by the United States Government, the state of Texas, the city of Killeen, or any county government. (Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-142. Permit application issuance.**

(a) It shall be unlawful for any person to operate, cause to be operated, or permit the operation of a fire alarm system or systems at an alarm site unless a valid permit has been issued by the fire marshal's office for such system. Alarm sites in existence before the effective date of this article must be permitted within one hundred eighty (180) days of the effective date of this article. A fire alarm system user shall be in violation of this article if he permits the operation of such system without a proper permit.

(b) A fire alarm system user or his agent shall obtain a permit for each alarm site.

(c) Application for a permit for the operation of a fire alarm system or systems at an alarm site shall be made with the fire marshal's office by the owner, agent, or person having control over the property on which the fire alarm system is to be installed and operated. Application shall be made in writing on a form designated by the city. On such application form, the applicant shall set forth:

- (1) The name, address, and telephone number of the owner, agent, or person in control of the property to be protected;
- (2) The street address of the property on which the alarm system is to be installed and operated;
- (3) A brief description of the type of property to be protected (i.e. commercial, residential, or industrial, etc.);
- (4) Any business name or title used for the premises on which the alarm system is to be installed and operated;
- (5) Name, address, and telephone number of the alarm company or person who will install and service the alarm system;
- (6) Names and telephone numbers of two or more persons who are able to and have agreed to receive notification at any time from the fire department in order to deactivate the alarm system if it becomes necessary;
- (7) Any other pertinent information required by the fire department or the fire marshal's office, which is necessary for the enforcement of this article.

(d) The fire marshal's office shall issue a permit to the individual, corporation or other legal entity in control of the property to be protected upon submission in person or by mail of a completed application and payment of the appropriate fee, unless any statement made in the application is incomplete or false.

(e) The fire marshal's office shall treat all information on the application as confidential within the limits of state law.

(f) Any permit issued pursuant to this article shall be applicable only to the permit holder and is not transferable.

(g) Each permit issued to a fire alarm system user shall be valid for the duration of the permit unless one of the following occurs earlier:

- (1) Control of protected property is transferred from the permit holder;
- (2) Permit holder voluntarily discontinues services provided by a particular alarm protective service, and/or disconnects an alarm system not required by the fire code;
- (3) Revocation of the permit by the fire marshal's office pursuant to this article.

(Ord. No. 09-015, § I, 2-24-09)

### **Sec. 11-143. Permit fee.**

The fee for a permit issued pursuant to this article shall be as follows:

- (1) The fee for an initial permit issued to non-residential fire alarm system users shall be twenty-five dollars (\$25.00). This permit shall be renewed annually. The renewal fee shall be twenty-five dollars (\$25.00).

- (2) The fee for an initial permit issued to residential fire alarm system users shall be ten dollars (\$10.00). This permit shall be renewed annually. The renewal fee shall be ten dollars (\$10.00).
- (3) The fee for an initial permit issued to health care occupancies pursuant to this section shall be five hundred dollars (\$500.00). The permit shall be renewed annually for a fee of one (\$125.00).

(Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-144. Service fee for fire department responses to excessive false alarms.**

(a) The user of any fire alarm system, which upon activation elicits a fire department response from the fire department, shall be subject to the following answering fee schedule for each false alarm in the calendar year.

(b) The fire marshal's office shall impose a service fee for each fire department response to any false alarm. The owner of the property shall be subject to the fee schedule below. The fee schedule for each premises shall be as follows in each calendar year:

- (1) First and second false alarms: no charge.
- (2) Third and fourth false alarms: \$100.00 each.
- (3) Fifth through tenth false alarms: \$200.00 each.
- (4) Eleventh and subsequent false alarms: \$500.00 each.

(c) The service fee shall be imposed whether the fire department received the alarm by direct connection or through an intermediary, such as an answering service or modified central station.

(d) If the fire marshal's office is notified in writing prior to the day of installation of a new alarm system, the fee imposed by this section shall be waived for a thirty (30) day period beginning with the date of the installation.

(e) All service fees authorized in this article shall be billed and collected by the finance department, according to its procedures.

(Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-145. Duty to respond.**

It shall be a violation of this article if a fire alarm system user cannot be contacted or refuses to respond to the alarm site within one-half hour after receiving a request by fire department or the fire marshal's office, unless there is a bona fide emergency preventing response as determined by the fire marshal's office. Fire alarm system user may be subject to a fine for failure to respond under the penalty section of this ordinance in addition to any applicable service fee. (Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-146. Revocation of permits.**

(a) The fire marshal may revoke a fire alarm system permit if he determines that:

- (1) There is a false statement of a material matter on the application for a permit;
- (2) The permit holder has violated this article or any of its provisions;

(3) The permit holder has failed to make timely payment of a service fee.

(b) It shall be unlawful for any person to operate an alarm system during the period in which his alarm permit is revoked.  
(Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-147. Appeal of service fee; denial or revocation of a permit.**

(a) Any permit holder aggrieved by the decision to assess a service fee by the fire marshal as provided for in section 11-144 may appeal the decision to the fire appeals board. The permit holder may appeal by filing with the fire marshal a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after the fire marshal or his designated representative renders the decision.

(b) If the fire marshal refuses to issue or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the fire marshal to the fire appeals board by filing with the fire marshal a written request for a hearing, setting forth the reasons for the appeal, within ten (10) days after receipt or the notice from the fire marshal.

(c) The filing of a request for an appeal hearing with the board stays an action of the fire marshal in assessing a service fee, refusing to issue a permit or in revoking a permit until the board makes a final decision. If a request for an appeal hearing is not made within the ten (10) day period, the action of the fire marshal is final.

(d) If revoked, the revoked permit holder may reapply when conditions which caused the action have been corrected and if the fire marshal's office determines that the alarm system is likely to be maintained and operated in a responsible manner in accordance with the provisions of this article.  
(Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-148. Defense of prosecution.**

It shall be an affirmative defense to prosecution under this article that:

- (1) The activation of the fire alarm system was a result of an actual fire or emergency.
- (2) The alarm system was sounded solely for the purpose of testing the alarm and the person who tested the alarm took reasonable precautions to avoid any request being made to the fire department to respond to such alarm. This section shall not apply to conduct which is in violation of section 42.06 of the Penal Code of the state of Texas.

(Ord. No. 09-015, § I, 2-24-09)

**Sec. 11-149. Penalty for violation of section.**

Any violation of any provision of this article shall be deemed a Class C Misdemeanor and any person convicted of any such violation shall be fined not less than seventy-five dollars (\$75.00) nor more than two thousand dollars (\$2,000.00). Each day and every day that such violation shall continue shall be a separate offense. (Ord. No. 09-015, § I, 2-24-09)