

Chapter 46 FIRE PREVENTION AND PROTECTION

Chapter 46 FIRE PREVENTION AND PROTECTION [\[u\]](#)

ARTICLE I. - IN GENERAL

ARTICLE II. - FIRE PREVENTION CODES

ARTICLE III. - FIRE MARSHAL

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 18; burning of solid waste prohibited, § 82-2. [\(Back\)](#)

State Law reference— Payment of hospitalization costs for firefighters, V.T.C.A., Local Government Code § 142.004; motor vehicle liability insurance for firefighters, V.T.C.A., Local Government Code § 142.006; hazardous substances, V.T.C.A., Health and Safety Code § 501.001 et seq.; flammable liquids, V.T.C.A., Health and Safety Code § 753.001 et seq.; fire escapes, V.T.C.A., Health and Safety Code § 791.001 et seq.; commission on fire protection, V.T.C.A., Government Code § 419.001 et seq.; fire detection and alarm devices. V.A.T.S. Insurance Code, art. 5.43-2; fire protection sprinkler systems, V.A.T.S. Insurance Code, art. 5.43-3; fireworks, V.A.T.S. Insurance Code, art. 5.43-4; municipal fire protection, V.T.C.A., Local Government Code § 342.001 et seq.; liquefied petroleum gas, V.T.C.A., Natural Resources Code § 113.001 et seq.; arson, V.T.C.A., Penal Code § 28.02; county fire protection, V.T.C.A., Local Government Code § 352.001 et seq.; smoke detectors in hotels, V.T.C.A., Health and Safety Code § 792.001 et seq.; disabling fire exit alarms, V.T.C.A., Health and Safety Code § 793.001 et seq.; smoke detectors in residential tenancies, V.T.C.A., Property Code §§ 92.006, 92.251 et seq. [\(Back\)](#)

ARTICLE I. IN GENERAL

[Sec. 46-1. Fireworks.](#)

[Sec. 46-2. Burning by fire department.](#)

[Sec. 46-3. Arson reward.](#)

[Secs. 46-4—46-35. Reserved.](#)

Sec. 46-1. Fireworks.

- (a) *Discharging.* No person shall cast, throw or fire any squib, rocket, cracker, torpedo, grenade, cap or cartridge, or other combustible fireworks of any kind in the city.
- (b) *Possessing, selling.* No person shall exhibit or have in his possession, with intent to give away or sell or offer for sale or sell, within the city, any squib, rocket, firecrackers of any character, grenade, cap

Chapter 46 FIRE PREVENTION AND PROTECTION

or other combustible fireworks of any kind; provided, however, that this subsection shall not apply to the sale of any such articles by wholesalers to each other or to the sale of any such articles at wholesale to merchants conducting business entirely outside the city, or to the sale by wholesalers for private or public demonstration as provided in this subsection.

- (c) *Exceptions.* Nothing in this section shall be construed to apply to the sale, storage or use of railroad track torpedoes or other signaling devices used by railroads, nor to the sale, storage or use of flashlight composition by photographers or dealers in photographic supplies, or prevent any public or private demonstration or display of fireworks of any kind if conducted under proper police supervision after application has been made and permit issued by the chief of the fire department or the fire marshal for such demonstration. The permit shall not be granted unless such demonstration or display shall be of such a character, and so located, discharged or fired, as in the opinion of the chief of the fire department after proper inspection, shall not be hazardous to property or endanger any person.

(Code 1978, § 18-2)

State Law reference— Local regulation of fireworks, V.A.T.S. Insurance Code, art. 5.43-4, § 3.

Sec. 46-2. Burning by fire department.

The volunteer fire department in strict compliance with the state air pollution control board may, at the discretion of the fire marshal or the fire chief, burn grass, weeds, tree limbs or other materials and may collect a fee for this service, the proceeds of which are to go directly into the treasury of the fire department. This would also include bonfires at public school or university functions.

(Code 1978, § 12-11)

Sec. 46-3. Arson reward.

The city hereby offers a reward of \$250.00 for the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the city. This reward shall be a standing offer.

(Code 1978, § 18-8)

State Law reference— Arson, V.T.C.A., Penal Code § 28.02.

Secs. 46-4—46-35. Reserved.

ARTICLE II. FIRE PREVENTION CODES

[Sec. 46-36. Adoption.](#)

[Sec. 46-37. Responsibility of fire official.](#)

[Sec. 46-38. Establishment and duties of bureau of fire prevention.](#)

[Sec. 46-39. Definitions for fire prevention codes.](#)

[Sec. 46-40. Modifications in codes.](#)

[Sec. 46-41. Appeals under codes.](#)

[Sec. 46-42. New materials, processes or occupancies which may require permits.](#)

Chapter 46 FIRE PREVENTION AND PROTECTION

[Sec. 46-43. Violations.](#)

[Secs. 46-44—46-75. Reserved.](#)

Sec. 46-36. Adoption.

There is adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, those certain codes known as the Fire Prevention Code, recommended by the American Insurance Association, and the Standard Fire Prevention Code published by the Southern Building Code Congress International, Inc., being particularly the current and most recently adopted editions thereof and the whole thereof, save and except such portions as are deleted, modified or amended by this article, and a true copy of which is on file with the city secretary.

(Code 1978, § 11-1)

Sec. 46-37. Responsibility of fire official.

Section 102.7 is hereby added to the Standard Fire Prevention Code to read as follows: "The fire official shall enforce the provisions of this code and all state laws under his jurisdiction pertaining to the prevention, suppression or extinguishing of fires. The fire official shall have the powers as designated by city ordinance in performing his duties under this code."

(Code 1978, § 11-1.1)

Sec. 46-38. Establishment and duties of bureau of fire prevention.

- (a) The fire prevention code shall be enforced by the bureau of fire prevention in the fire department which is established and which shall be operated under the supervision of the chief of the fire department.
- (b) The chief in charge of the bureau of fire prevention shall be appointed by the council on the basis of examination to determine his qualifications. His appointment shall continue during good behavior and satisfactory service, and he shall not be removed from office except for cause after public trial.
- (c) The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the council the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.
- (d) A report of the bureau of fire prevention shall be made annually and transmitted to the city manager; it shall contain all proceedings under this code, with such statistics as the chief of the fire department may wish to include in the report. The chief of the fire department shall also recommend any amendments to the code which, in his judgment, shall be desirable.

(Code 1978, § 11-2)

Chapter 46 FIRE PREVENTION AND PROTECTION

Sec. 46-39. Definitions for fire prevention codes.

- (a) Wherever the word "municipality" is used in the fire prevention codes, it shall be held to mean the City of Alpine.
- (b) Wherever the term "corporation counsel" is used in the fire prevention codes, it shall be held to mean the attorney for the City of Alpine.

(Code 1978, § 11-3)

Cross reference— Definitions generally, § 1-2.

Sec. 46-40. Modifications in codes.

The chief of the bureau of fire prevention shall have power to modify any of the provisions of the fire prevention codes upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the bureau of fire prevention shall be entered upon the records of the department, and a signed copy shall be furnished to the applicant.

(Code 1978, § 11-4)

Sec. 46-41. Appeals under codes.

Whenever the chief of the bureau of fire prevention shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the codes do not apply, or that the true intent and meaning of the codes have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the bureau of fire prevention to the city council within 30 days from the date of the decision appealed.

(Code 1978, § 11-5)

Sec. 46-42. New materials, processes or occupancies which may require permits.

The city manager, the chief of the fire department and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the codes. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and shall distribute copies to interested persons.

(Code 1978, § 11-6)

Sec. 46-43. Violations.

- (a) Any person who shall violate any of the provisions of the codes adopted by this article, or fail to comply with the provisions of the codes, or who shall violate or fail to comply with any order made by the provisions of the codes, or who shall build in violation of any detailed statement of specifications or plans submitted and approved by the provisions of the codes, or any certificate or permit issued

Chapter 46 FIRE PREVENTION AND PROTECTION

by the provisions of the codes, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within the time fixed in this article, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor.

- (b) The application of the penalty in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1978, § 11-7)

Secs. 46-44—46-75. Reserved.

ARTICLE III. FIRE MARSHAL ^[2]

[Sec. 46-76. Office created; appointment.](#)

[Sec. 46-77. Qualifications; removal; salary.](#)

[Sec. 46-78. Duty to investigate fires.](#)

[Sec. 46-79. Duty to keep record of fires.](#)

[Sec. 46-80. Taking testimony generally.](#)

[Sec. 46-81. Duty when evidence indicates crime.](#)

[Sec. 46-82. Authority to summon witnesses, require production of evidence, administer oaths.](#)

[Sec. 46-83. Misconduct of witness.](#)

[Sec. 46-84. Investigations may be private; separation of witnesses.](#)

[Sec. 46-85. Right of entry.](#)

[Sec. 46-86. Inspection of premises.](#)

[Sec. 46-87. Correction of dangerous conditions.](#)

Sec. 46-76. Office created; appointment.

The office of fire marshal is created. Such office shall be independent of other city departments, the fire marshal reporting directly to the mayor and council. Such office shall be filled by appointment by the mayor, by and with the consent of the council.

(Code 1978, § 11-19)

Sec. 46-77. Qualifications; removal; salary.

The fire marshal shall be properly qualified for the duties of his office, and shall be removed only for cause. The fire marshal shall receive an annual salary, payable in monthly installments, as full compensation for his services.

(Code 1978, § 11-20)

Chapter 46 FIRE PREVENTION AND PROTECTION

Sec. 46-78. Duty to investigate fires.

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within the 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 24 hours, not including Sunday, of the occurrence of such fire.

(Code 1978, § 11-21)

Sec. 46-79. Duty to keep record of fires.

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.

(Code 1978, § 11-22)

Sec. 46-80. Taking testimony generally.

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 fact, or to have means of knowledge, in relation to the matter under investigation, and shall cause the investigation to be reduced to writing.

(Code 1978, § 11-23)

Sec. 46-81. Duty when evidence indicates crime.

If the fire marshal is of the opinion there is sufficient evidence to charge any person with the crime of arson, 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 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 1978, § 11-24)

Sec. 46-82. Authority to summon witnesses, require production of evidence, administer oaths.

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 to the investigation. The fire marshal is authorized and empowered to administer oaths and affirmations to any person appearing as witness before him.

(Code 1978, § 11-25)

Chapter 46 FIRE PREVENTION AND PROTECTION

Sec. 46-83. Misconduct of witness.

Any witness who refuses to be sworn, who refuses to appear to testify, who disobeys any lawful order of the fire marshal, who fails or refuses to produce any book, paper or document touching any matter under investigation or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of the investigation or inquiry, after being summoned to give testimony in relation to any matter under the investigation, 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.

(Code 1978, § 11-26)

Sec. 46-84. Investigations may be private; separation of witnesses.

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 1978, § 11-27)

Sec. 46-85. Right of entry.

The fire marshal, at any time, may enter a building or premises at which a fire is in progress, or has occurred, and is under control of law enforcement or fire service officials, to investigate the cause, origin and circumstances of the fire. If control of the building or premises has been relinquished, entry must be in compliance with search and seizure law and applicable federal law.

(Code 1978, § 11-28)

Sec. 46-86. Inspection of premises.

The fire marshal, upon complaint of any person having an interest in any building or property adjacent to such building or property, and without any complaint, shall have the right at all reasonable hours, for the purpose of examination, to enter into and upon all the buildings and premises within the city. It shall be the duty of the fire marshal, quarterly or more often, to enter upon and make, or cause to be entered upon and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto.

(Code 1978, § 11-29)

Sec. 46-87. Correction of dangerous conditions.

Whenever the fire marshal 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 occupied that fire would endanger persons or property in such building or other structure; and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind, including chimneys, flues and pipes with which the stoves, ranges, furnaces or other heating appliances may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous

Chapter 46 FIRE PREVENTION AND PROTECTION

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 conditions to be removed or remedied, and such order shall be complied with by the owner or occupant of such building or premises; provided, however, that if the owner or occupant deems himself aggrieved by such order, he may, within five 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 complied with by the owner or occupant. Any owner or occupant who fails to comply with such order within a ten-day period from the date of such notice shall be deemed guilty of a misdemeanor.

(Code 1978, § 11-30)

FOOTNOTE(S):

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Cross reference— Officers and employees, § 2-36 et seq. ([Back](#))