

CHAPTER 5
FIRE PROTECTION

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§ 1-00. FIRE DEPARTMENT

§ 1-01. Volunteer Fire Department Authorized

The volunteer fire department of the City of Payne Springs shall be an official body representing the City of Payne Springs, Texas even though it is supported by donations and has its own organization and by-laws, but the the fire department will report to and be under the supervision of the the city council of the City of Payne Springs, all of which is in conformity with the V.T.C.A. Local Government Code, § 342.004 and V.T.C.A. Civil Practice & Remedies Code, § 78.001 (formerly Revised Statutes of the State of Texas, Title 28, Article 1069 and 1070.1), which provide for the establishment of volunteer fire departments and limit the liability of volunteer firemen for any damage done in actions fighting or extinguishing any fires on property. (Ordinance No. 8 adopted March 9, 1976)

§ 1-02. Officers

(a) The department shall consist of a chief and other officers as the fire department may deem necessary for the effective operation of the department.

(b) The chief and other officers, except the fire marshal, shall be elected by the membership of the Payne Springs Volunteer Fire Department. The chief shall be technically qualified by training and shall have ability to command men and hold their respect and confidence.

§ 1-02. Identification Badge to be Issued to Firefighters

Each member of the department shall be issued an identification badge or card.

§ 1-03. Volunteer Fire Department Fund

All monies collected by the fire department shall go into a fund for the exclusive benefit of the fire department. The fire chief shall administer the fund and maintain a record of receipts and disbursements therefrom. In addition, the fire chief shall submit such financial reports as requested by the city council.

§ 1-04. By-Laws and Regulations

The department may establish its own by-laws and regulations provided they are not in conflict with any provision contained in this section and are approved by the city council. (Ordinance adopting Code)

§ 2-00 FIRE MARSHAL

§ 2-01. Office of Fire Marshal Created

The office of fire marshal is hereby created. Such office shall be independent of other city departments with 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 removed only for cause.

§ 2-02. Fire Marshal Shall 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 begin within 24 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 section.

§ 2-03. Fire Marshal to Take Testimony and Furnish Evidence for Prosecution

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 consult with a certified arson investigator to determine if such person should 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.

§ 2-04. Power to Summon Witnesses

The fire marshal shall have the power to request that the court summon witnesses before him to testify in relation to any matter which is by the provisions of this section 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.

§2-05. Unlawful to Disobey any Lawful Order of Fire Marshal

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.

§ 2-06. Investigation by Fire Marshal 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, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

§ 2-07. Authority to Enter and Examine Buildings Where Fire Has Occurred

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 section, 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 in concert with a certified peace officer and under due legal process as established by the municipal judge.

§ 2-08. Preventive Investigations and Appeal of Persons Aggrieved

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, 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 systems, 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 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 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 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 reports on each fire in the city during the month. In the event the fire marshal is denied entry onto the premises or building, he shall obtain entry in concert with a certified peace officer and under due legal process as established by the municipal judge.

§ 2-09. Unlawful to Maintain Fire Hazards

(a) Any owner or occupant of the 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 deemed guilty of a misdemeanor.

(b) 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 building, structure or premises other than the maintenance thereof, shall be guilty of a misdemeanor.

(c) No prosecution shall be brought under the provisions of (a) and (b) above, until the order provided for in § 2-08 be given, and the party notified shall fail or refuse to comply with the same. (Ordinance adopting Code)

§ 3-00. *ARSON REWARD*

§ 3-01. Arson Reward Established

The City of Payne Springs, Texas will pay out of the general fund of the city, the sum of \$250.00 as a reward to any person or persons giving information or otherwise causing the arrest and conviction of any person or persons found guilty of committing the crime of arson within the corporate limits of the City of Payne Springs. This reward is a standing offer. The city council shall be the sole and exclusive judge in determining whether or not a person or persons are entitled to such reward and in determining the proration between persons where more than one person is entitled to such reward, and the conclusions of the city council in such cases shall be final.

§ 3-02. Publicizing Reward Offer

(a) The city secretary is hereby authorized and directed to cause placards measuring 8 inches by 12 inches in size to be printed with the following language thereon:

ARSON REWARD

The City of Payne Springs, Texas hereby offers a reward of two hundred fifty dollars (\$250.00) for the arrest and conviction of any person or persons found guilty of committing the crime of arson within the city limits of the City of Payne Springs, Texas. This reward is a standing offer, and shall be paid out of the general fund of the City of Payne Springs, Texas.

Mayor, City of Payne Springs, Texas

ATTEST:

City Secretary
City of Payne Springs, Texas

(b) The city secretary is hereby authorized and directed to post in public buildings within the corporate limits, not less than six of such placards behind glass, to keep an additional supply of placards on hand and replace any placards worn or defaced, and to furnish to the State Board of Insurance a copy of this section, a copy of one such placard, and a list of the buildings where the placards have been posted in the corporate limits. **(Ordinance adopting Code)**

§ 4-00. *OUTDOOR BURNING*

§ 4-01. Outdoor Burning Prohibited

No person may cause, suffer, allow, or permit any outdoor burning within the city limits of Payne Springs except as provided for in § 4-02 below.

§ 4-02. Exceptions

Outdoor burning is authorized in each of the following instances:

(a) Pursuant to a written grant of authority from the Texas Air Control Board or Executive Director, who, before granting such authority, must determine that there is no practical alternative to outdoor burning, and the burning will cause or contribute to a violation of any federal primary or secondary ambient air standard.

(b) Outdoor burning for the purpose of training fire fighting personnel when requested by certified mail and when authorized in writing by the local air pollution control agency or local health unit. If notice of denial from the local air pollution control agency or local health unit is not received within 10 days of the request, the burning is authorized.

(c) Outdoor burning consisting of campfires and fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather.

(d) Outdoor burning of diseased animals when burning is the most effective means of controlling the spread of disease.

(e) Outdoor burning of hydrocarbons from pipeline breaks and oil spills may be allowed upon proper notification to the City of Payne Springs and the Executive Director of the Texas Air Control Board if it is determined that the burning is necessary to protect the

public welfare. Burning shall not be commenced when surface wind is predicted to be less than 6 mph (5 knots) or greater than 23 mph (20 knots) during the burning period and shall only commence after 9:00 a.m. and be completely consumed by 5:00 p.m.

§ 4-03. Disposal Or Depositing of Spontaneously Igniting Material

No disposal or deposit of any material capable of igniting spontaneously is allowed outdoors except where the disposal or deposit is made pursuant to a specific grant of authority by the Texas Air Control Board.

§ 4-04. Liability and Compliance With Other Applicable Laws

The authority to conduct outdoor burning under these provisions does not exempt or excuse the person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations and orders of governmental entities having jurisdiction even though the burning is otherwise conducted in compliance with the regulation. The city does not accept responsibility for the conduct of such outdoor burning activities even if in compliance with this section. (Ordinance adopting Code)

§5-00. *STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS*

§ 5-01. Definitions

(a) Combustible Liquid means a liquid having a flash point at or above one hundred degrees Fahrenheit (100°F). Combustible liquids shall be divided as follows:

- (1) Class II Liquids shall include those having flash points at or above one hundred degrees Fahrenheit (100°F), and below one hundred forty degrees Fahrenheit (140°F).
- (2) Class III Liquids shall include those having flash points at or above one hundred forty degrees Fahrenheit (140°F).

(b) Flammable Liquids means having a flash point below one hundred forty degrees Fahrenheit (140°F), and a vapor pressure not exceeding forty pounds per square inch (40 psi) (absolute) at one hundred degrees Fahrenheit (100°F). Flammable liquids are classified as Class I liquids.

(c) Flash Point means the minimum temperature in which a flammable liquid will give off flammable vapor as determined by appropriate test procedures and apparatus.

(d) Liquefied Petroleum Gas (LP Gas) is any material which is composed predominantly of the following hydrocarbons or mixtures of them: propane, propylene, butane (normal butane or isobutane) and butylenes.

(e) Cryogenic Fluids are those fluids that have a normal boiling point below minus one hundred fifty degrees Fahrenheit (-150°F).

(f) Flammable Cryogenic Fluids are those cryogenic fluids which are flammable in their vapor state.

§ 5-02. Above Ground Storage Outside of Buildings

The storage of Class I and II liquids and flammable cryogenic fluids, excluding liquefied petroleum gas (LP gas), in aboveground storage tanks or containers outside of buildings is prohibited within the city limits when such storage exceeds more than 10 gallons not in nationally approved safety cans or containers and 25 gallons in such nationally approved safety cans or containers.

§ 5-03. Above Ground Storage Inside of Buildings

Tanks for storage of flammable or combustible liquids or flammable cryogenic fluids shall not be installed inside of buildings except in accordance with the construction and occupancy requirements of the Uniform Building Code for Group H Occupancies and in accordance with the National Fire Protection Association's (NEPA) Pamphlet 30, "Flammable and Combustible Liquids Code."

§ 5-04. Underground Storage

A flammable or combustible liquid storage tank may be located underground, outside, or under a building, if such installation meets the following requirements:

(a) The distance from any part of a tank storing Class II or III liquids to the nearest wall of any basement, pit, cellar, or property lines shall not be less than one foot. The distance between Class I liquids to the nearest wall of any basement, pit, or cellar, shall not be less than one foot and from any property line not less than three feet.

(b) A minimum distance of one foot, shell to shell, shall be maintained between underground tanks.

(c) Excavation for underground storage tanks shall be made to avoid undermining of foundations of existing structures.

(d) Underground tanks shall be installed on foundations and shall be bedded and covered in accordance with the National Fire Protection Association's (NFPA) Pamphlet 30, "Flammable and Combustible Liquids Code."

§ 5-05. Abandonment of Storage Tanks

Any tank not used for a period of 90 days, shall be properly safeguarded or removed. Any tank which has been abandoned for a period of one year shall be removed from the property. If circumstances warrant, however, such tank may be abandoned in place and safeguarded in a manner approved by the fire marshal.

§ 5-06. Used Tanks

Tanks which are to be reused shall be tested in an approved manner as provided for in § 5-07 hereafter.

§ 5-07. Testing

(a) All tanks, and that piping which is in a suction system, before being covered or placed in use, shall be tested hydrostatically or with air pressure, at not less than three pounds per square inch gauge (3 psig) nor more than five pounds per square inch gauge (5 psig). Pressure piping shall be tested to one and one-half (1-1/2) times the working pressure, or 75 psig, whichever is greater. Test shall be maintained for at least 30 minutes and shall be witnessed by the fire marshal, or other designated authority. The tank owner shall be responsible for scheduling such inspection at the convenience of the fire marshal, or other designated authority and shall incur all costs associated with the inspection.

(b) Existing underground storage tanks and piping shall be tested for leakage at the owner's expense when there is reason to believe a leak exists in the location in question. (Ordinance adopting Code)

§ 6-00. *TANK VEHICLES FOR FLAMMABLE AND COMBUSTIBLE LIQUIDS*

§ 6-01. Tank Vehicle Designed

Tank vehicle means any vehicle other than railroad tank cars and boats, with a cargo tank mounted thereon or built as an integral part thereof used for the transportation of flammable or combustible liquids, LP gas or hazardous chemicals. Tank vehicles include self-propelled vehicles, full trailers, and semi-trailers with or without motive power and carrying part or all of the load.

§ 6-02. Parking and Garaging

(a) Except in an emergency, no tank vehicle shall be left unattended on any street, highway, avenue or alley, provided that this shall not prevent a driver from the necessary absence from the truck in connection with the delivery of his load, except that during actual discharge of the liquid some responsible person shall be present at the vehicle nor shall it prevent stops for meals during the day or night if the street is well lighted at point of parking.

(b) Tank vehicles containing flammable or combustible liquids shall not be parked out of doors at any point for longer than one hour, except off the street, and at least 25 feet from any buildings used for assembly, institutional or residential occupancy.

(c) Tank vehicles shall not be parked or garaged in any building within the city limits other than those specifically approved for such use by the fire marshal.

§ 6-03. Smoking Near Tank Vehicle Prohibited

Smoking by tank vehicle drivers, helpers, repairmen, or other personnel is prohibited while they are driving, making deliveries, filling, or making repairs to tank vehicles. (Ordinance adopting Code)

§ 7-00. *FALSE ALARMS.*

It shall be unlawful for any person or persons to give or cause to be given any false alarm with reference to the existence of any fire within the corporate limits of the City of Payne Springs, Texas. (Ordinance adopting Code)

§ 8-00. *FIREWORKS*

§ 8-01. Fireworks Prohibited

No person shall cast, throw, or fire any squib, rocket, cracker, torpedo, grenade, cap, cartridge or other combustible fireworks of any kind in the city, nor shall any person exhibit or have in his possession with intent to give away or sell within the city, any squib, rocket, cracker, torpedo, grenade, or other combustible fireworks of any kind, provided, however, that this section shall not apply to the sale of any such article or articles by wholesalers to each other or to the sale of any such article or articles at wholesale to merchants conducting business entirely outside the city or for the demonstration as provided for below.

§ 8-02. 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 to prevent any public or private demonstration or display of fireworks of any kind, if, conducted under proper police supervision after an application has been made and a permit issued by the city council for such demonstration. Such permit shall not be granted unless such demonstration or display shall be of such character and so located, discharged or fired, as in the opinion of the city council after proper inspection, shall not be hazardous to property or endanger any person. (Ordinance adopting Code)