

Chapter 7

FIRE PREVENTION AND PROTECTION\*

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ARTICLE I. IN GENERAL

Sec. 7-1. Arson reward.

The city will pay a reward in the sum of one hundred dollars (\$100.00) for information leading to the arrest and conviction of any person on a charge of arson in connection with the burning or attempted burning of property situated within the city. The city's liability for such reward shall not exceed the sum of one hundred dollars (\$100.00) for each offense, regardless of the number of persons convicted therefor, and regardless of the number of persons furnishing information leading to the arrest and conviction of such person.

(Code 1977, § 7-51)

Sec. 7-2. Reward placards to be posted in public buildings.

Placards at least eight (8) inches by twelve (12) inches in size, suitably framed under glass, shall be conspicuously posted at all times inside of public buildings, showing that the reward set forth in section 7-1 is offered, and the amount and conditions thereof. It shall be the duty of the fire marshal to enforce compliance with this section.

(Code 1977, § 7-52)

Sec. 7-3. Smoke detectors.

(a) *Definitions.* As used in this section:

*Approved locations* means locations approved by the fire chief as a result of investigation or tests conducted by him or by reason of accepted principles or tests by national authorities or by technical or scientific organizations.

*Approved smoke detector* means a smoke detector that has been approved by the fire chief as a result of investigation or tests conducted by him or by reason of accepted principles or tests by national authorities or by technical or scientific organizations.

\*Cross references-Ambulance service, Ch. 2.5; buildings and building regulations, Ch. 4; emergency management, Ch. 6; flood damage prevention and control, Ch. 8; health, safety and nuisances, Ch. 10.

(b) *Installation required.* Approved smoke detectors shall be installed in all approved locations in all buildings and structures in the following categories:

- (1) All businesses, industries and commercial establishments;
- (2) All existing one- and two-family dwellings, hereafter sold, and all one- and two-family dwellings which are altered, repaired, renovated or improved in any manner requiring a building permit shall be provided with approved smoke detectors;
- (3) Rented or leased residential occupancies:
  - a. All one-family, two-family and multifamily dwellings that are rented, leased or subleased shall be provided with approved smoke detectors. The smoke detectors shall be installed by the landlord prior to renting, leasing or subleasing the dwelling. For purposes of this section, "landlord" shall mean the owner, lessor or sublessor of a dwelling unit, or the manager or agent of the landlord.
  - b. Duty to inspect and repair:
    1. Upon commencement of a tenant's possession of a dwelling unit containing a smoke detector, the landlord shall have a duty to test the smoke detector to verify that it is in good working order. Upon installation of a smoke detector by a landlord after commencement of the tenant's possession of a dwelling unit, the landlord shall have a duty to test the smoke detector at that time to verify that it is in good working order.
    2. During the term of the rental agreement, or any renewal or extension thereof, the landlord shall have a duty to inspect and repair a smoke detector only if the tenant has given notice to the landlord of malfunction or has made a request to the landlord for inspection or repair. The notice to the landlord need not be in writing, unless written notice is required in the written rental agreement. The landlord shall comply with the tenant's request for inspection and repair within a reasonable time, considering the availability of materials, labor and utilities.
    3. A landlord shall not have a duty to inspect or repair a smoke detector *if* the damage or malfunction is caused by the tenant or the tenant's family, guests or invitees during the term of the rental agreement or any renewal or extension of the rental agreement. Provided, however, a landlord shall have a duty to repair or replace a smoke detector covered by this subsection if the tenant pays in advance for the reasonable cost of the repair or replacement, including labor, materials, taxes and overhead.
    4. A landlord shall have satisfied his duty to inspect or repair a damaged or malfunctioning smoke detector if, after a test of the smoke detector, the test indicates that the smoke detector is in good working order.
    5. After commencement of possession by the tenant of a dwelling unit, the landlord shall have no duty to provide replacement batteries for a battery-

operated smoke detector which was in good working order according to a test of the smoke detector at the time of commencement of possession by the tenant.

- c. A person commits an offense if, as landlord of a dwelling unit, he:
1. Fails to install a smoke detector in compliance with this chapter; or
  2. Fails to test or repair a smoke detector in compliance with this section,

(c) *Conditions.* The requirements for smoke detectors in this section are in addition to and not in place of any requirements under the Uniform Fire Code or the revised civil statutes.

(d) *Maintenance.* All fire-alarm systems shall be maintained in an operative condition at all times and shall be replaced or repaired when defective. Such systems shall be extended, altered or augmented as necessary to maintain and continue protection whenever any building so equipped is altered, remodeled or added to,

(Ord, No. 328, §§ 2-4, 12-11-84)

**Sec. 7-4. Key lock box.**

(a) The following structures shall be equipped with a key lock box at or near the main entrance or such other location as required by the city fire marshal:

- (1) Commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access;
- (2) Multifamily residential structures with common areas that have restricted access through locked doors, gates or entrances;
- (3) Nursing homes, medical facilities, and similar care providers; and
- (4) Governmental buildings and structures.

(b) All newly constructed structures subject to this section shall have a key lock box installed and operational prior to the issuance of an occupancy permit.

(c) All structures in existence on the effective date of this section and subject to this section shall have one (1) year from the effective date of this section to have a key lock box installed and operational.

(d) All structures in existence on the effective date of this section, but not subject to this section, which are later altered or rebuilt in a manner that causes the structure to be subject to this section, shall have a key lock box installed and operational prior to the issuance of an occupancy permit.

(e) The city fire marshal shall designate the type of key lock box system to be implemented within the city and shall be authorized to implement rules and regulations for the use of the lock box system.

(f) The owner or operator of a structure required to have a key lock box shall, at all times, keep a key or other necessary access equipment in the lock box that will allow for access to the structure.

(Ord. No. 614, § I, 8-12-08)

**Secs. 7-5-7-25. Reserved.**

**ARTICLE II. CODE\***

**Sec. 7-26. Adopted.**

The 2009 International Fire Code is hereby adopted as the official fire code of the City of Everman, Texas. This fire code is fully incorporated by reference as though copied into this article in its entirety. The material contained in the International Fire Code shall not be included in the formal municipal codification of ordinances but shall be maintained as a public record in the office of the city secretary and will be available for public inspection and copying during regular business hours.

(Code 1977, § 7-1; Ord. No. 475, § 7, 10-13-98; Ord. No. 518, § 7, 1-8-02; Ord. No. 579, § 1, 2-14-06; Ord. No. 607, § 1, 3-11-08; Ord. No. 657, § 1, 5-8-12)

**Cross** reference-Administrative search warrants, § 2-1.

**Sec. 7-27. Amendments.**

The 2009 Edition of the International Fire Code, as adopted herein is hereby amended to meet the unique fire safety needs of the City of Everman, as shown on Exhibit "A" attached to Ord. No. 657. The material contained in Exhibit "A" to Ord. No. 657, although fully adopted and incorporated by reference, shall not be included in the formal municipal codification of ordinances. The material contained in Exhibit "A" shall instead be maintained as a public record in the office of the city secretary.

(Code 1977, § 7-3; Ord. No. 657, § 2,5-8-12)

**Secs. 7-28-7-55. Reserved.**

\***Editor's** note-Section 3 of Ord. No. 657, adopted May 8, 2012, repealed and reserved §§ 7-28-7-33, which had pertained to various amendments and provisions related to the Uniform Fire Code, and derived from §§ 7-4-7-9 of the 1977 Code; Ord. No. 315, adopted May 8, 1984; Ord. No. 475, adopted Oct. 13, 1998; Ord. No. 518, adopted Jan. 8, 2002; Ord. No. 579, adopted Feb. 14, 2006; and Ord. No. 607, adopted March 11, 2008. Similar provisions have been adopted by reference as set out in §§ 7-26 and 7-27.

**Cross** references-Administrative code, § 4-26 et seq.; building code, § 4-51 et seq.; dangerous buildings code, § 4-76 et seq.; electrical code, § 4-103; residential code, § 4-246 et seq.; mechanical code, § 4-271 et seq.; plumbing code, § 4-321 et seq.; sign code, § 4-371 et seq.; solar energy code, § 4-391 et seq.; swimming pool code, § 4-411 et seq.

**ARTICLE III. FIRE DEPARTMENT\***

## DIVISION 1. GENERALLY

**Sec. 7-56. Created.**

There is hereby created a fire department of the city.  
(Code 1977, § 1-101)

**Sec. 7-57. Responsible to city manager.**

The fire department of the city shall be directly responsible to the city manager.  
(Code 1977, § 1-102)

**Sec. 7-58. Right to use facilities.**

The fire department of the city shall have the right to use all facilities and all properties of all kinds formerly used and operated by the city volunteer fire department known as company 1; and all obligations of such former department shall be assumed and undertaken by the department created in this article.  
(Code 1977, § 1-103)

**Sec. 7-59. Powers and duties.**

The city fire department shall have all power and authority to provide equipment and all necessary or proper apparatus, machinery or instruments for the prevention of fires and for the fighting of fires; and the fire department shall have all the duties and responsibilities enumerated in the ordinances of the city and in the statutes of the state. The fire department and those performing functions and services in its behalf shall be entitled to all rights and privileges provided by law in the discharging of their duties.  
(Code 1977, § 1-104)

**Secs. 7-60-7-80. Reserved.**DIVISION 2. FIRE MARSHAL<sup>t</sup>**Sec. 7-81. Fire marshal.**

The office of fire marshal is hereby created. Such office shall be independent of other city departments, the fire marshal reporting directly to the city manager. Such office shall be filled by appointment of the city manager, by and with the consent of the city council. The fire marshal shall be properly qualified for the duties of the office and shall be removed only by the city manager, by and with the consent of the city council.  
(Code 1977, § 7-11)

\***Cross** reference-Administration generally, Ch. 2.

<sup>t</sup>Cross reference-Arson investigators under police department, § 16-46 et seq.

Sec. 7-82. Refusal of person to be sworn, to testify, or to obey any lawful order of the Fire marshal.

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 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 such 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.

(Code 1977, § 7-15)

Sec. 7-83. Investigations 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 kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(Code 1977, § 7-16)

Secs. 7-84-7-105. Reserved.

DIVISION 3. RESERVED

Secs. 7-106,7-107. Reserved.

Editor's note-Section XI of Ord. No. 389, adopted June 14, 1988, repealed Ord. No. 193, adopted May 21, 1974, whose provisions originally had been codified in the 1977 Code, §§ 1-121 and 1-122, and subsequently codified in this Code as Div. 3, §§ 7-106 and 7-107, pertaining to the creation of the ambulance rescue squad (operating as part of the city volunteer fire department) and its responsibility to the city manager, respectively,

Secs. 7-108-7-130. Reserved.

ARTICLE IV. FIREWORKS\*

Sec. 7-131. Fireworks defined.

The term "fireworks" shall mean and include any firecrackers, cannon crackers, sky rockets, torpedoes, roman candles, sparklers, squibs, fire balloons, star shells, gerbs or any other substance in whatever combination by any designated name intended for use in obtaining

"Editor-'s note-Section 2 of Ord. No. 480, adopted June 8, 1999, repealed Ord. Nos. 335 and 233 from which Art. IV derived. Section 1 of Ord. No. 480 adopted similar provisions to read as herein set out.

visible or audible pyrotechnic display, and such term shall include all articles or substances within the commonly accepted meaning of fireworks whether herein specifically designated and defined or not.

(Ord. No. 480, § 1, 6-8-99)

**Sec. 7.132. Nuisance declared.**

The manufacture, use, possession, sale, discharge, explosion, ignition storage or warehousing of fireworks in any manner other than in strict accordance with this Code is hereby declared to be a nuisance.

(Ord. No. 480, § 1, 6-8-99)

**Sec. 7-133. Sale and use of fireworks.**

It shall be unlawful for any person, firm or corporation to manufacture, use, shoot, discharge, explode, ignite, sell, possess, handle, store or warehouse any fireworks within the corporate limits or within five thousand (5,000) feet of the corporate limits of the City of Everman, without prior approval written by resolution of the city council.

(Ord. No. 480, § 1, 6-8-99)

**Sec. 7-134. Enforcement.**

In addition to any other penalty provided by this Code, any fireworks found in the possession of any person, firm, or corporation selling, using, shooting, discharging, possessing, storing, warehousing or igniting fireworks in violation of this Code shall be confiscated without compensation by the fire marshal or any peace officer of the city.

(Ord. No. 480, § 1,6-8-99)

**Sec. 7-135. Exceptions.**

This article shall not apply to articles used by railroads or transportation companies nor to high explosives used for blasting or similar purposes when used solely for the necessary conduct of construction, transportation, manufacturing or industry, nor to the conduct of the affairs of the army, navy, or militia.

COrd. No. 480, § 1, 6-8-99)

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