LOCAL GOVERNMENT CODE

TITLE 11. PUBLIC SAFETY

SUBTITLE A. MUNICIPAL PUBLIC SAFETY

CHAPTER 342. MUNICIPAL FIRE PROTECTION

SUBCHAPTER A. PROVISIONS APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY

Sec. 342.001. SUBCHAPTER APPLICABLE TO TYPE A GENERAL-LAW MUNICIPALITY. This subchapter applies only to a Type A general-law municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.002. RULES RELATING TO FRAME BUILDINGS. (a) The governing body of the municipality may, for the purpose of preventing calamitous fires, prohibit the construction, location, relocation, or repair of wooden buildings within areas of the municipality designated by the governing body. Within those areas, the governing body may:

(1) prohibit the relocation of a wooden building from outside the area to a site in the area;

(2) prohibit the relocation of a wooden building from one site to another in the area;

(3) direct that all buildings within the area be constructed of fireproof materials;

(4) prohibit the rebuilding or repairing in the area of a wooden building that has been damaged to the extent of 50 percent or more of its value;

(5) declare to be a nuisance any dilapidated building; and

(6) declare to be a nuisance any wooden building that is in the area and that the governing body considers a danger to contiguous buildings or considers a cause or promoter of fires.

(b) The governing body may determine the method of ascertaining damage under Subsection (a)(4) and may direct the manner in which a building declared to be a nuisance under Subsection (a)(5) or (6) is to be repaired or removed or the

nuisance is to be abated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.003. FIRE REGULATIONS. (a) The governing body of the municipality may:

(1) prohibit dangerous chimneys, flues, fireplaces, stovepipes, ovens, and other apparatus used in or about any building, and require the apparatus to be removed or placed in a safe condition;

(2) prohibit the unsafe deposit of ashes;

(3) appoint officers who may enter any building or enclosure to examine and determine whether it is in a dangerous condition and, if the building or enclosure is in a dangerous condition, require that it be put in a safe condition;

(4) require the inhabitant of a building to maintain as many fire buckets and means of access to the roof as prescribed by the governing body, and regulate the use of those items in the event of a fire;

(5) require the owner or occupant of a building to maintain access to the roof and to stairs or ladders that lead to the roof;

(6) prohibit or otherwise regulate factories and other works that pose a danger of promoting or causing fires;

(7) prohibit or otherwise regulate the erection of cotton presses and sheds;

(8) prohibit or otherwise regulate the use of fireworks and firearms;

(9) prohibit, direct, or otherwise regulate the keeping and management of buildings within the municipality that are used to store gunpowder or other combustible, explosive, or dangerous materials, and regulate the keeping and conveying of those materials;

(10) regulate the building of parapet or party walls;

(11) authorize the mayor or other municipal officers, including the officers of fire companies, to keep away from the vicinity of any fire all idle, disorderly, or suspicious persons, and to arrest and confine those persons;

(12) compel municipal officers and all other persons to aid in extinguishing fires, preserving property exposed to the danger of fire, and preventing theft; and

(13) adopt other rules for the prevention and extinguishment of fires as the governing body considers necessary.

(b) Subsection (a)(8) or (9) does not authorize a municipality to adopt any prohibition or other regulation in violation of Section 229.001.

(c) Subsection (a)(8) does not authorize a municipality to confiscate packaged, unopened fireworks.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(t), eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 1420, Sec. 12.002(10), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 957 (H.B. 1813), Sec. 1, eff. June 14, 2013.

Sec. 342.004. FIRE DEPARTMENT. (a) The governing body of the municipality may organize a fire department consisting of fire companies and the chief and any assistant engineers. The governing body shall prescribe the powers and duties of the fire department and its officers.

(b) Each company may elect its own members and officers. A company may adopt a constitution and bylaws that are not inconsistent with the statutes and the municipal ordinances.

(c) The fire department engineers shall be chosen as determined by the department, subject to the approval of the governing body, which shall pass ordinances that it considers necessary for the welfare of the department. The mayor shall commission each elected officer approved by the governing body.

(d) The governing body may obtain fire engines and other fire-protection equipment, control the use of the equipment, and provide fire stations to preserve the equipment. The fire department shall maintain the fire engines and other fire-protection equipment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.005. DESTRUCTION OF BUILDINGS; CLAIM. (a) If a building in the municipality is on fire, the chief or acting chief engineer of the fire department with the concurrence of the mayor may order the burning building, or any other building determined to be hazardous and likely to transmit the fire to additional buildings, to be destroyed.

(b) Except as provided by Subsection (c), the municipality and the officers that act under Subsection (a) are not liable for damages resulting from the destruction.

(c) Within six months after the date a building is destroyed under this section, a person who has an interest in the building may apply in writing to the governing body of the municipality to request the governing body to assess and pay the damages of the person. If the governing body and the claimant cannot agree on the terms of adjustment, they shall refer the application to three commissioners, one appointed by the claimant, one appointed by the governing body, and one appointed jointly by both parties. The commissioners must be qualified voters and owners of real property in the municipality. The commissioners shall swear to faithfully execute their duty to the best of their ability. They may subpoena and swear witnesses. They shall give all parties a fair and impartial hearing and shall give notice of the time and place of each meeting. They shall take into account the probabilities of the destruction of the building by fire if the municipality had not destroyed the building and the loss of any insurance on the property caused by the destruction. They may report that no damages should equitably be allowed to the claimant. If a report is made and confirmed for the appraisal of the damages, compliance with the terms of that report by the governing body constitutes full satisfaction of those damages.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. PROVISIONS APPLICABLE TO HOME-RULE MUNICIPALITY

Sec. 342.011. FIRE DEPARTMENT. A home-rule municipality may provide for a fire department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.012. DESIGNATION OF FIRE LIMITS; REMOVAL OR DESTRUCTION OF STRUCTURES. (a) A home-rule municipality may establish fire limits and may prescribe the kind and character of structures and other improvements erected within those limits.

(b) The municipality may provide for the erection of fireproof buildings within certain limits and may condemn dangerous buildings or other structures, dilapidated buildings, or buildings considered to increase the hazard of fire. The municipality may provide for the manner of the removal or destruction of those buildings or structures.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 342.013. CONFISCATION OF CERTAIN FIREWORKS PROHIBITED; AFFIRMATIVE DEFENSE. (a) A home-rule municipality that regulates fireworks may not confiscate packaged, unopened fireworks.

(b) It is an affirmative defense to prosecution for possession of fireworks brought under a municipal ordinance that:

(1) the defendant was operating or was a passenger in a motor vehicle that was being operated in a public place; and

(2) the fireworks were not in the passenger area of the vehicle.

(c) For purposes of Subsection (b), the "passenger area" of a motor vehicle means the area of the vehicle designed for the seating of the operator and the passengers of the vehicle. The term does not include:

(1) a locked glove compartment or similar locked storage area;

(2) the trunk of a vehicle; or

(3) the area behind the last upright seat of a vehicle that does not have a trunk.

Added by Acts 2013, 83rd Leg., R.S., Ch. 957 (H.B. 1813), Sec. 2, eff. June 14, 2013.

SUBCHAPTER C. MUTUAL FIRE-PROTECTION AGREEMENTS

Sec. 342.020. MUTUAL FIRE-PROTECTION AGREEMENTS IN BORDER

MUNICIPALITIES. (a) A municipality in this state that is located on the border between this state and the Republic of Mexico may make a mutual fire-protection agreement with its corresponding border municipality in the Republic of Mexico.

(b) Any fire fighter from a border municipality in this state who responds to a call for fire-fighting assistance from the corresponding border municipality in the Republic of Mexico under the terms of an agreement authorized by this section is performing the fire fighter's official duty for the purposes of Article III, Section 51-d, of the Texas Constitution.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(u), eff. Aug. 28, 1989.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 342.901. FIRE SUPPRESSION STANDARDS IN CERTAIN MUNICIPALITIES. (a) This section applies to a general law municipality that:

(1) has a population of less than 4,000;

(2) is located in a county that:

(A) has a population of more than 1.2 million; and

(B) is adjacent to a county with a population of more than 600,000; and

(3) is served by a district governed by Chapter 51, Water Code.

(b) Notwithstanding any other law, the governing body of a municipality may by ordinance establish water flow and water pressure standards sufficient to provide adequate pressure to fire suppression systems and require a district described by Subsection (a)(3) that provides water service in the municipality to take reasonable measures to comply with those standards.

(c) Before a municipality adopts an ordinance under this section, the municipality and the district described by Subsection (a)(3) that is subject to the proposed ordinance shall establish the scope of and estimate the costs associated with any capital improvements necessary to comply with the proposed ordinance.

(d) A district described by Subsection (a)(3) may recover the costs associated with complying with an ordinance adopted under this section through a surcharge assessed only to customers served in the municipality to the extent that:

(1) complying with the ordinance results in additional capital improvement costs for the district; and

(2) the ordinance establishes water flow and water pressure standards inside municipal boundaries that are more stringent than water flow and water pressure standards required outside municipal boundaries.

(e) To the extent of a conflict between this section and any other law, this section controls.

Added by Acts 2013, 83rd Leg., R.S., Ch. 720 (H.B. 3813), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 176, eff. September 1, 2023.