

Sec. 352.011. CREATION OF OFFICE; TERM. (a) The commissioners court of a county may establish the office of county fire marshal and provide office facilities, equipment, transportation, assistants, and professional services for that office.

(b) The commissioners court shall establish the term of office for a county fire marshal for a period not to exceed two years.

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

Sec. 352.012. QUALIFICATIONS FOR OFFICE. (a) To qualify for office, the county fire marshal must take the oath prescribed by the constitution of this state and post a bond as required by the commissioners court conditioned that the marshal will faithfully and strictly perform the duties of the office.

(b) The county fire marshal may not be directly or indirectly interested in the sale of fire-fighting equipment and may not be engaged in any type of fire insurance business.

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

Sec. 352.013. INVESTIGATION OF FIRES. (a) The county fire marshal shall:

(1) investigate the cause, origin, and circumstances of fires that occur within the county but outside the municipalities in the county and that destroy or damage property or cause injury; and

(2) determine whether a fire was the result of negligent or intentional conduct.

(b) The commissioners court of a county, with the advice of the county fire marshal, shall adopt rules and procedures for determining which fires warrant investigation by the county fire marshal. The county fire marshal shall begin an investigation within 24 hours after the receipt of information regarding a fire that warrants investigation under commissioners court rules and procedures. The 24-hour period does not include a Sunday.

(c) In the performance of official duties, the county fire marshal, at any time of day, may enter and examine a structure where a fire has occurred and may examine adjacent premises.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 1, eff. Sept. 1, 2003.

Sec. 352.014. RECORD OF INVESTIGATION. The county fire marshal shall keep a record of each fire that the marshal is required to investigate. The record must include the facts, statistics, and circumstances determined by the investigation, including the origin of the fire and the estimated amount of the loss. Each fire department and state or local agency that provides emergency medical services must submit reports requested by the county fire marshal in a timely manner.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 64, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 371, Sec. 1, eff. Sept. 1, 2003.

Sec. 352.015. ARSON INVESTIGATION. (a) If the county fire marshal determines that further investigation of a fire or of an attempt to set a fire is necessary, the marshal may:

(1) subpoena witnesses to testify regarding the fire or attempt; (2) administer oaths to the witnesses;

(3) take and preserve written statements, affidavits, and depositions; and

(4) require the production of an instrument that is pertinent to the investigation.

(b) The county fire marshal shall file in a court of competent jurisdiction a complaint charging arson, attempted arson, conspiracy to defraud, or any other crime against a person the marshal believes to be guilty. (c) The county fire marshal shall file charges under Section 352.021 in a court of competent jurisdiction against a witness who refuses to cooperate with the investigation.

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

Sec. 352.016. INSPECTION OR REVIEW OF PLAN FOR FIRE OR LIFE SAFETY HAZARDS. (a) In this section, "fire or life safety hazard" means any condition that endangers the safety of a structure or its occupants and promotes or causes fire or combustion, including:

- (1) the presence of a flammable substance;
- (2) a dangerous or dilapidated wall, ceiling, or other structural element;
- (3) improper electrical components, heating, or other building services or facilities;
- (4) the presence of a dangerous chimney, flue, pipe, main, or stove, or of dangerous wiring;
- (5) dangerous storage, including storage or use of hazardous substances; or
- (6) inappropriate means of egress, fire protection, or other fire-related safeguard.

(b) In the interest of safety and fire prevention, the county fire marshal may inspect for fire or life safety hazards any structure,

appurtenance, fixture, or real property located within 500 feet of a structure, appurtenance, or fixture. The marshal shall inspect a structure for fire or life safety hazards if called on to do so. In the absence of a county fire code, the county fire marshal may conduct an inspection using any nationally recognized code or standard adopted by the state. If the marshal determines

the presence of a fire or life safety hazard, the marshal may order the owner or occupant of the premises to correct the hazardous situation. If ordered to do so, an owner or occupant shall correct the hazardous situation in accordance with the order.

(b-1) In the interest of safety and fire prevention, the county fire marshal shall, if required, and may, if requested, review the plans of a business, single-family residence, multi-family dwelling, or commercial property for fire or life safety hazards.

(c) The commissioners court by order may authorize the county fire marshal to charge a fee to the owner of a business, a multi-family dwelling, or commercial property for a plan review or inspection conducted under this section in a reasonable amount determined by the commissioners court to cover the cost of the plan review or inspection.

(d) The commissioners court by order may authorize the county fire marshal to charge a fee to the owner of a single-family residence for a plan review or inspection conducted under this section in a reasonable amount determined by the commissioners court to cover the cost of the plan review or inspection, if the plan review or inspection is requested by the owner of the property.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 358, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 760, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 851, Sec. 1, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 371, Sec. 1, eff. Sept. 1, 2003.

Sec. 352.017. PRIVACY OF EXAMINATIONS; SERVICE OF PROCESS. (a) In a proceeding under this subchapter, the county fire marshal may:

- (1) conduct an investigation or examination in private;
- (2) exclude a person who is not under examination; and
- (3) separate witnesses from each other until each witness is examined.

(b) Service of process required by this subchapter shall be made by a peace officer and shall be signed by the county fire marshal or the fire marshal's deputy.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 2, eff. Sept. 1, 2003.

Sec. 352.018. EFFECT ON CIVIL ACTIONS. (a) An action taken by a county fire marshal in the investigation of a fire does not affect the rights of a policyholder or of any company regarding a loss caused by the fire.

(b) The result of an investigation by the county fire marshal of a fire may not be admitted in evidence in the trial of a civil action brought under the insurance policy.

(c) The statement of an insurance company, the company's officers, agents, or adjusters, or of a policyholder or the policyholder's representative, that is made to the county fire marshal or his representative with respect to the origin or cause or supposed origin or cause of the fire may not be admitted in evidence in or made the basis of a civil action for damages.

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

Sec. 352.019. COOPERATION WITH OTHER FIRE PROTECTION AGENCIES. (a) The county fire marshal shall enforce all state and county regulations that relate to fires, explosions, or damages of any kind caused by a fire or explosion.

(b) The county fire marshal shall coordinate the work of the various fire-fighting and fire prevention units in the county. On request, the county fire marshal may assist a rural fire prevention district or emergency services district located wholly or partially in the county to accomplish its powers and duties.

(b-1) If the commissioners court establishes procedures for firefighter certification under Subsection (b), the commissioners court must ensure that the procedures are at least as stringent as the minimum qualifications set by the Texas Commission on Fire Protection under Section 419.032, Government Code. This subsection does not apply to a volunteer firefighter as defined by Section 419.001, Government Code.

(c) The county fire marshal or the county fire marshal's designee may perform as the incident commander in a major event if the incident commander of the responsible fire department consents. The county fire marshal may not enforce orders and decrees within a municipality in the county unless specifically required to do so by interlocal agreement and may act in a cooperative and advisory capacity there only on request.

(d) The county fire marshal shall cooperate with the state fire marshal to conduct fire prevention and fire-fighting activities or postfire investigations. The county fire marshal shall aid or conduct an investigation in a municipality if requested by the state fire marshal, the municipality, or the fire chief of the municipality.

(e) A county commissioners court may authorize the fire marshal to provide training programs and operate a training facility for the various fire-fighting and fire prevention units in the county. The county may establish and collect a reasonable fee for the training programs, use of the facility, and services provided by the facility.

(f) The commissioners court and county fire marshal may jointly adopt voluntary guidelines, including voluntary funding guidelines, for fire departments located in unincorporated areas of the county, including fire departments located within rural fire prevention districts or emergency services districts, regarding participation in the Texas Fire Incident Reporting System (TXFIRS) or the National Fire Incident Reporting System (NFIRS), or both. The commissioners court may establish model procedures for voluntary use by the various fire departments in the county with respect to:

(1) emergency incident management; (2) firefighter certification; and (3) automatic mutual aid.

(g) If a commissioners court authorizes a fire marshal to provide training programs and operate a training facility under Subsection (e), the fire marshal must ensure that the training programs and operation of the training facility are at least as stringent as the minimum qualifications set by the Texas Commission on Fire Protection under Section 419.032, Government Code. This subsection does not apply to a volunteer firefighter as defined by Section 419.001, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 3, eff. Sept. 1, 2003.

Sec. 352.020. LIABILITY. The county fire marshal and the assistants and employees of the office are not liable in damages for any acts or omissions in the performance of their duties except in cases of gross negligence or wilful malfeasance.

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

Sec. 352.021. CONTEMPT OF FIRE INVESTIGATION PROCEEDINGS. (a) A person commits an offense if the person is a witness in connection with an investigation under Section 352.015 and refuses to be sworn, refuses to appear and testify, or fails and refuses to produce before the county fire marshal any book, paper, or other document relating to any matter under investigation if called on by the marshal to do so.

(a-1) A person commits an offense if the person is the owner of property subject to an investigation under Section 352.015 and the person refuses to be sworn, refuses to appear and testify, or fails and refuses to produce before the county fire marshal any book, paper, or other document relating to any matter under investigation if called on by the marshal to do so.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$2,000.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 4, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., Ch. [960](#), Sec. 2, eff. September 1, 2005.

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. An owner or occupant who is subject to an order issued under Section 352.016 commits an offense if that person fails to comply with the order. Each refusal to comply is a separate offense. The offense is a Class B misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, in which event the offense is a state jail felony.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 371, Sec. 5, eff. Sept. 1, 2003.

Sec. 352.023. EXEMPTION. This subchapter does not apply to a state agency that is authorized to prevent and extinguish forest and grass fires.

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