

PROPOSED ORDINANCE

GARRETT COUNTY CODE OF ORDINANCE NO. 35.12

GARRETT COUNTY FIRE MARSHAL

AN ACT CONCERNING the Garrett County Fire Marshal FOR THE PURPOSE of authorizing the appointment of a Fire Marshal for Garrett County, Maryland; establishing the scope of the duties as well as the administration and implementation of the Office of the Fire Marshall for Garrett County, Maryland, and authorizing the Office of Fire Marshal to investigate the origin, cause and circumstances of fires, explosions and hazardous materials emergencies in Garrett County;

BY amending Section 35 of the Code of Public Local Laws of Garrett County, Maryland, the same being Article 12 of the Code of Public Local Laws of the State of Maryland (the "County Code") and adopting a new Section 35.12.

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND, a body politic and corporate and a political subdivision of the state of Maryland (the "County Commissioners") that Section 35 of the County Code be and is hereby amended by adding Subsection 35.12 to read, as follows:

35.12. Department Authorized-Fire Marshal

(a) The Office of the Fire Marshal (the "Fire Marshal") is hereby authorized and established as an office (the "Office") within the Garrett County Department of Emergency Services (the "Department"). The Fire Marshal shall be responsible for the functions of the Office as prescribed by the Code of Maryland Regulations (COMAR) Title 6; and in accordance with the Memorandum of Understanding between the Office of the State Fire Marshal (the "State Fire Marshal") and the County Commissioners acting on behalf of the Department Regarding the Roles and Responsibilities of the Office and the State Fire Marshal in Carrying Out their Respective Missions in Garrett County, Maryland.

(b) The Fire Marshal has the authority to investigate the origin, cause, and circumstances of every fire, explosion, or hazardous materials emergency in Garrett County. When the fire investigator has reason to believe that a fire, explosion, or hazardous materials incident may be the result of a violation of any law, the investigator may immediately take custody of and safeguard all physical evidence in connection with the incident.

35.12.1. General powers and responsibilities.

(a) It shall be the duty of the Fire Marshal to enforce all laws and ordinances covering the following:

- (1) The prevention of fires.

- (2) The storage and use of explosives and flammables.
 - (3) The installation and maintenance of automatic and other private fire alarm systems, and fire extinguishing equipment.
 - (4) The maintenance and regulation of fire escapes.
 - (5) The means and adequacy of exit, in case of fire.
 - (6) The investigation of the cause, origin and circumstances of fires.
- (b) They shall have such other powers and perform such other duties as are set forth in other sections of this chapter and as may be conferred and imposed from time to time by law.

35.12.2. Specific powers of Fire Marshal.

(a) General. Whenever the maintenance, operation or use of any land, building, structure, material or other object or any part thereof constitutes a fire hazard which is dangerous or unsafe or a menace to either the public health, safety or security and the action to be taken to eliminate such dangerous or unsafe condition or conditions which creates or tends to create the same is not specifically provided for in the Fire Prevention Code, the Fire Marshal is hereby authorized and empowered to take such action as may be necessary to eliminate such dangerous or unsafe condition or conditions in accordance with the provisions of the Fire Prevention Code.

(b) Enforcement by Fire Marshal.

(1) The Fire Marshal is hereby authorized, empowered and charged with the duty of enforcing the provisions of the Fire Prevention Code in the form and manner herein prescribed.

(2) The Fire Marshal is hereby authorized and empowered to institute or cause to be instituted any and all legal or equitable actions or proceedings of every kind and character which may be necessary and proper to enforce any and all provisions of the Fire Prevention Code.

(3) In any case where an emergency, as contemplated by the Fire Prevention Code, does not exist and any person fails in any respect to fully comply with any and all provisions of any notice, decision or order issued or made by the Fire Marshal, the Fire Marshal is hereby authorized and empowered to do or perform or have done or performed any and all work or operations and to take any other action which may be necessary to eliminate or make safe and secure any and all conditions of every kind and character which are in violation of the terms and provisions of the Fire Prevention Code.

(4) Nothing contained in the Fire Prevention Code shall be taken or construed to stop or prevent the Fire Marshal from instituting or causing to be instituted or fully prosecuting any and all legal or equitable actions or proceedings of every kind or character which may be necessary

or proper to compel full compliance with any and all of the provisions of the Fire Prevention Code even though criminal proceedings of any kind or character may be pending or may have been completed.

(c) Right of entry. The Fire Marshal or his authorized representatives, when in uniform or upon exhibiting the proper credentials, subject to the requirements of state and federal law, shall have the right to enter any building, structure or premises, except private residences, at any time during business or operating hours, or at such other times as may be necessary in an emergency resulting from or arising out of any causes that endanger or tend to endanger the public health or safety, for the purpose of performing his duties under the Fire Prevention Code or enforcing the provisions of the Fire Prevention Code.

(d) Duty to make inspections and tests. The Fire Marshal shall make any and all inspections and tests or cause any and all inspections and tests to be made as required by the provisions of the Fire Prevention Code.

(e) Authority to issue orders and notices. The Fire Marshal is hereby authorized and empowered to issue such orders and notices as may be necessary and proper to carry out the intent and purpose of the Fire Prevention Code.

(f) Duty to keep records and make reports. The Fire Marshal shall keep any and all and make any and all reports that may be necessary for the proper administration of the Fire Prevention Code.

(g) Deputies. The County Commissioners are hereby authorized and empowered to appoint such Deputy Fire Marshals as, in their judgment, may be necessary to make any and all of the examinations and inspections which are required to be made or which may be made in accordance with the provisions of the Fire Prevention Code, which deputies shall report, in writing, the results of their examinations or inspections so made to the Fire Marshal. For the purpose of making such examinations or inspections, such deputies as may be so appointed are hereby fully authorized and clothed with the same power and authority to enter upon or into and examine or inspect any premises, buildings or structures within the limits of Garrett County as is given to the Fire Marshal and his authorized representatives by the Fire Prevention Code.

35.12.3. Inspection and Test

(a) Scope of inspections and tests. Inspections and tests shall include any and all inspections, examinations, tests and investigations of the use, maintenance and operation of any and all land, buildings or other structures, or any and all parts thereof, or of any and all materials, types or kinds of methods of construction, electrical work, machinery, appliances, accessories or equipment therein or thereon, as well as any matter or thing pertaining or relating to any of the foregoing to determine if any or all of the aforesaid conform to the requirements of the Fire Prevention Code.

(b) Routine inspections by the Fire Marshal. The Fire Marshal or his duly authorized deputies shall make any and all routine inspections necessary to properly enforce the provisions of the Fire Prevention Code.

(c) Periodic inspections by the Fire Marshal. In order to ensure compliance with all laws, rules and regulations pertaining to fire and fire safety which are in effect in Garrett County, the Fire Marshal shall make such periodic inspections in accordance with the State Fire Prevention Code. All sprinkler, standpipe and foam systems and all water curtains required by law shall be inspected annually and, if deemed necessary, tested annually by and at the convenience of the owner of such systems in the presence of the Fire Marshal and in the manner prescribed by him. The owner of such systems or water curtains shall pay any and all costs for labor and materials, not usually furnished by the Fire Department, incurred in connection with making such tests.

(d) Quality assurance program. The quality assurance program is implemented in order to guarantee that fire protection systems are receiving consistent, quality service testing, inspection and maintenance, thereby helping to ensure that such fire protection systems will function as intended in the event of an emergency.

(1) The quality assurance program shall be administered by the Office.

(2) In implementing the quality assurance program, the Office may use a third-party vendor system and/or data collection agency as approved by the County Commissioners.

(3) All fire protection system inspection agencies, whether required to be licensed or not by an authorized state or County agency, shall comply with all regulations of the quality assurance program approved by the County Commissioners and administered by the Office and shall:

A. Complete all necessary forms;

B. Submit such forms within the established time period to the Office; and

C. Pay any and all fees associated with the quality assurance program as established by resolution by the County Commissioners.

35.12.4. Complaints

(a) Scope and records of complaints.

(1) Complaints shall include any and all written or oral complaints or information pertaining to any and all matters or things provided for by the provisions of the Fire Prevention Code.

(2) A record shall be made of any and all complaints received by the Fire Marshal. All complaints received by fire companies or any other County agency or municipality subject to the jurisdiction of the Fire Marshal dealing with violations of the Fire Prevention Code or other fire hazards shall be promptly forwarded to the Fire Marshal. The Fire Marshal shall maintain an orderly filing system for such complaints.

(b) Investigation of complaints. Every written, signed complaint which is received by the Fire Marshal shall be investigated by the Fire Marshal, and his findings with respect to such investigation shall be made in the form of a written report.

(c) Action on complaints. The Fire Marshal shall make a decision, in writing, on all complaints filed in accordance with the provisions of the Fire Prevention Code within ten (10) days after the date on which a complaint is received.

35.12.5. General requirements of notices.

(a) Every notice issued by the Fire Marshal shall be in such form as he may direct and shall set forth the pertinent facts relating to the matter covered thereby, the requirements which must be complied with in order to correct the conditions set forth therein and the period of time in which the same shall be complied with.

(b) Serving of notices.

(1) All notices issued by the Fire Marshal pursuant to or in connection with the provisions of the Fire Prevention Code shall be served on the owner or any one of several owners of the property which is the subject of any such notice or on any duly authorized agent of any such owner or owners. In the event that the property which is the subject of any such notice is occupied by some person other than the owner thereof, and the condition which caused the issuance of any such notice was created or permitted to occur or exist by the occupant of the property involved, then any and all notices issued by the Fire Marshal as aforesaid shall be served on the occupant of said property or on his duly authorized agent as well as on the owner of said property as aforesaid.

(2) All notices shall be served by registered or certified mail or by a representative of the Fire Marshal or by the Garrett County Sheriff or one of his deputies. When personal service is so made, the party serving the notice shall note upon a copy of the notice the date, time and person served, as well as his own name, and return said copy to the Fire Marshal.

(3) Nothing contained in the Fire Prevention Code shall be taken or construed to excuse or relieve any person from fully complying with any and all of the provisions of the Fire Prevention Code at any and all times, regardless of whether or not any notice has been issued by the Fire Marshal in any particular case.

35.12.6. Procedure for emergency work.

(a) When notices cannot be served. In the event that the owner or occupant of any land, building or structure upon which a notice is to be served under the terms and provisions of the Fire Prevention Code does not reside in Garrett County or the whereabouts of any such owner or occupant cannot be ascertained by the Fire Marshal by examining the tax records of said Garrett County and the latest telephone directories and making inquiry of the occupants, if any, of any such land, building or structure, then any such notice shall be conspicuously posted by a duly authorized representative of the Fire Marshal upon that part of any land, building or structure to which such notice related, which is closest to a street, public highway or the usual entrance to said premises, so that such notice will be visible to the general public.

After any such notice has been posted as aforesaid, the Fire Marshal shall take no action in connection with any premises so posted until and after the expiration of a period of thirty (30) days, except that, in cases of emergency, the Fire Marshal shall proceed in accordance with the provisions of the Fire Prevention Code. In all cases where any such notice is posted on any land, building or structure as herein above provided, such posting shall be deemed to be adequate and sufficient service of such notice.

(b) Failure to comply with notices. In the event that any person fails to comply with the requirements of any notice issued pursuant to the provisions of the Fire Prevention Code, each failure shall constitute a violation of the Fire Prevention Code, and the Fire Marshal shall take any and all action that he may deem necessary or expedient and shall, with the consent of the County Commissioners, institute or cause to be instituted any and all appropriate legal actions or proceedings which may be necessary, expedient or proper to prevent the commencement or the continuation of or to eliminate, abate or correct the condition or conditions which are complained of or which are the subject matter of such notice.

(c) Extension of time limit on notices. The Fire Marshal may extend the period or periods of time within which the requirements of any notice must be complied with.

(d) Power of the Fire Marshal in emergencies. In case of the existence of an emergency where life or property is in immediate danger from any cause or thing covered or contemplated to be covered by the Fire Prevention Code and there is not sufficient time to comply with the provisions of the Fire Prevention Code, the Fire Marshal is hereby authorized and empowered to and shall promptly and immediately take any and all action that may be necessary to protect such life and property without complying with the provisions of the Fire Prevention Code.

(e) Labor and material for emergency work. In all such cases of emergency where life or property is in immediate danger and it is necessary to perform any work or operation to protect life or property (the "Work"), the Fire Marshal is hereby authorized and empowered to temporarily employ such persons and purchase such material, either directly or by contract, as may be necessary to perform the Work. In any and all such cases, the entire amount or amounts of all costs or expenses associated with the Work may be assessed against the party responsible for having caused the Work to be performed.

35.12.7. Violations and penalties.

State Fire Prevention Code adopted. The State Fire Prevention Code, as adopted by the State Fire Prevention Commission, is hereby adopted as a part of the Fire Prevention Code of Garrett County and enforceable pursuant to this Subtitle in Garrett County.

35.12.8 Authorization for additions and changes to State Code.

The County Commissioners and the Garrett County Fire Marshal shall have all rights, powers, duties and authorities prescribed by the Code of Maryland Regulations (COMAR) and all Codes of Ordinance of Garrett County, Maryland. The County Commissioners shall have the power and authority to make changes in and expended or incurred by the Fire Marshal in avoiding, abating, correcting or removing or having avoided, abated, corrected or removed such dangerous condition shall be and become a debt, jointly and severally, due and owing by each and every owner of the premises, building or other structure whereon or wherein the dangerous condition exists and by any other person responsible for the creating of said condition to the County Commissioners upon the completion of the work or operation necessary to eliminate such dangerous condition. The amounts of any and all of the aforesaid debts due and owing to the County Commissioners shall be collected or enforced in the same manner as any other debts due and owing to the County Commissioners are collected or enforced.

(a) Violations of Fire Prevention Code. Every person shall fully comply with all of the terms and provisions of the Fire Prevention Code and with all the terms and provisions of any notice, order or decision issued by the Fire Marshal or the County Commissioners. Any act or actions which are contrary to any provision or requirement of and any and all failures to comply with any provisions or requirements of the Fire Prevention Code or any such notice, order or decision shall constitute a violation of the Fire Prevention Code.

(b) Violations. Any person who violates the provisions of this Subtitle shall be guilty of a civil infraction.