ORDINANCE NO. 542 OF THE CITY OF BIRMINGHAM, MICHIGAN

FIRE PREVENTION ORDINANCE

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AN ORDINANCE TO PROVIDE FOR THE PREVENTION OF FIRES AND THE PROTECTION OF PERSONS AND PROPERTY FROM EXPOSURE TO THE DANGERS OF FIRE OR EXPLOSION; TO AUTHORIZE INVESTIGATION OF FIRES; TO REQUIRE THE RATING, REPAIR OR ALTERATION OF BUILDINGS AND THE CLEARING AND IMPROVEMENT OF PREMISES WHICH CONSTITUTE A FIRE HAZARD OR A MENACE TO THE PEACE, SECURITY OR SAFETY OF PERSONS OR PROPERTY; TO CONTROL THE USE AND OCCUPANCY OF SUCH BUILDINGS AND PREMISES; TO PROVIDE FOR THE REGULATION OF THE STORAGE AND TRANSPORTATION OF INFLAMMABLE LIQUIDS AND GASES; TO PROVIDE FOR THE CREATION OF A BUREAU OF FIRE PREVENTION AND THE APPOINTMENT OF A CHIEF FIRE MARSHAL AND HIS ASSISTANTS AND DEPUTIES; TO PROVIDE PENALTIES FOR THE VIOLATION OF THE PROVISIONS HEREOF, AND FOR THE REPEALING OF ORDINANCES NO. 185, 306, 360, 380, 388, 422, 424 and 433.

CHAPTER I

ADMINISTRATION AND ENFORCEMENT

100.00 Short Title.—The short title of this ordinance shall be "Fire Ordinance".

100.01 Bureau of Fire Prevention.—There is hereby created a Bureau of Fire Prevention for the City of Birmingham, to consist of the Chief Fire Marshal, all Deputy Fire Marshals, and all inspectors. The Chief of the Fire Department of the City of Birmingham shall be a member ex officio of said Bureau.

100.01-1 Chief Fire Marshal and Deputies—With the approval of the City Commission and the City Manager the Chief of the Fire Department of the City of Birmingham is hereby authorized to appoint a Chief Fire Marshal for said City, and such number of deputy fire marshals as may, in the discretion of the Chief of the Fire Department, be required for the proper enforcement of this ordinance; such Chief Fire Marshal and all deputies to hold office at the discretion of the Chief of the Fire Department.

100.01-2 Inspectors.—The Chief of the Fire Department of the City of Birmingham is hereby authorized to appoint from his Department such number of inspectors as may in his judgment be required to properly administer and enforce the provisions of this ordinance and said inspectors to hold office at the discretion of the Chief of the Fire Department.

100.02 Administration and Enforcement.—The administration and enforcement of this ordinance is hereby vested in the Bureau of Fire Prevention.

100.03 Duties of Bureau.—It shall be the duty of the Bureau of Fire Prevention to enforce this ordinance, and all other laws or ordinances covering the prevention of fires, the storage and use of flammables and explosives, the installation and maintenance of fire alarm systems and fire extinguishing equipment, the maintenance and regulation of fire exits, and all other matters and conditions tending toward the prevention of fires, the preservation of property, and the safety of persons within the City of Birmingham.

100.04 Inspection of Buildings.—The Bureau of Fire Prevention shall cause periodic inspections to be made of all buildings and properties within the City of Birmingham, other than the interiors of private family dwellings, and upon a written and signed complaint of any person, or whenever the Chief Fire Marshal shall deem it necessary, shall at all reasonable times inspect or cause to be inspected all buildings and properties, including the interior of private dwellings, for the purpose of ascertaining the existance of conditions liable to cause fire, or any violation of the provisions or intent of this or any other ordinance of the City of Birmingham affecting fire hazard, and for the purpose of causing such condition to be corrected.

100.05 Powers.—Any member of the Bureau of Fire Prevention may, at all reasonable hours, enter any building or premises within the City of Birmingham for the purpose of making any inspection under the provision of this ordinance, which he may deem necessary to be made, without incurring any liability for trespass by reason of such entry.

100.06 Inspections.—Whenever any member of the Bureau of Fire Prevention shall find in any building or upon any premises combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulation of waste paper, boxes, shavings, or other flammable materials, and which is so situated as to endanger life or property, or shall find any obstructions to or on any fire escapes, stairs, passageways, doors or windows, liable to interfere with the operations of the Fire Department, or egress of the occupants in case of fire, or shall find any building or other structure which, for want of repair, lack of sufficient fire escapes, approved fire alarm apparatus or fire extinguishing equipment, or which by reason of age or dilapidated condition, or from any other cause is especially liable to create a fire hazard, and which is so situated as to endanger other property or the occupants thereof, or the persons occupying such buildings, said findings shall forthwith be reported to the Chief Fire Marshal. Such Chief Fire Marshal shall make such further inspections as he may deem advisable or necessary, and shall prepare written notice requiring the faulty conditions to be fully corrected, remedied or removed.

100.07 Service of Notice.—Where any written notice is prepared in conformity with the provisions of the preceding section, or where there is any violation of any provision of this ordinance, with a corresponding notice or order for correction of the same, such notice or order shall be served upon the occupant of the premises where the violation occurs by delivering the same to and leaving it with any person in charge of said premises, or in case no such person is found on the premises, by affixing a copy thereof in a conspicuous place on the doorway at all entrances of said premises. If it appears that the occupant of said premises or the person in charge thereof is a lessee or his agent, a copy of such notice shall forthwith be sent by mail to the owner of said premises as shown upon the tax rolls of the City of Birmingham. In the event there is no person in charge of said premises, and the owner thereof cannot be found, a copy of said notice or order shall be published at least once in a newspaper of general circulation in the City of Birmingham.

100.08 Time of Compliance—It shall be the duty of any occupant or owner of said building to comply with an order of the Bureau of Fire Prevention within forty-eight (48) hours after the entry of such order, unless additional time is applied for and granted by the Chief Fire Marshal.

100.09 Appeals.—Any person who desires to appeal from any notice, order or ruling of the Bureau of Fire Prevention may appeal to the Board of Appeals. Application for appeal may also be made when it is claimed that the provisions of the code do not fully apply, or an equally good or better solution to the situation can be achieved.

An appeal must be filed within 48 hours from the date of service of notice as provided in Section 100.07, by filing with the Bureau of Fire Prevention a notice of appeal, specifying the ground thereof. The Fire Marshal shall forthwith transmit to the Board of Appeals all papers upon which the action appealed from was taken.

100.09-1 Board of Appeals.—A Board of Appeals shall be appointed by the Commission of the City of Birmingham; such Board shall consist of five members appointed by the City Commission, one member to be appointed for five years, one for four years, one for three years, one for two years, and one to serve one year, and thereafter each new member to serve for five years or until his successor has been appointed.

One member of the Board shall be a registered professional engineer, another a registered architect, in the State of Michigan and another a builder or superintendent of building construction of at least ten years experience.

The Board shall select one of its members to serve as chairman. The Fire Marshal shall serve as secretary to the Board and shall keep a detailed record of all proceedings on file in the Bureau of Fire Prevention.

The Board shall meet upon notice of the chairman of the board within seven (7) days of the filing of an appeal or at stated periodic meetings if warranted by the volume of work. The appellant shall be notified at least 48 hours in advance of such meeting and shall be afforded the opportunity of being heard at such meeting. All actions of the board shall be by resolution and a copy of such resolution shall be furnished the appellant. The Fire Marshal shall take immediate action in accordance with the decision of the board. No member of the board shall pass on any question on which he is engaged, as a contractor or material dealer, in the preparation of plans or specifications, or in which he has any personal interest.

The Board of Appeals shall hear and decide matters where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or action of the Bureau of Fire Prevention or on the part of any other administrative official charged with carrying out or enforcing this ordinance; it shall hear and decide requests for special exceptions for the application of this ordinance where owing to special conditions a literal enforcement of the ordinance results in undue hardship and where such variance can be allowed without endangering the public safety and where such variance is not inconsistent with the spirit and intent of this ordinance. Action of the Board of Appeals shall be by a concurring vote of at least three of its members.

100.10 Nuisance.—Any condition existing on any property, or in any building in the City of Birmingham so determined by the Bureau of Fire Prevention to be a hazardous condition, and a hazard to adjacent properties and to human lives, and any building which constitutes a hazard to adjoining properties or to lives, shall be deemed a public nuisance, and shall be abated in accordance with provisions of the law pertaining to abatement of nuisances. Whenever the Bureau of Fire Prevention shall find any such hazard existing, and when action is not taken within the time limit in said order for the abatement of such nuisance by the owner or occupant of said premises, the Bureau of Fire Prevent may, upon approval of the Commission of the City of Birmingham, bring, or cause to be brought in the Circuit Court of the County of Oakland, an action In Chancery in the name of the City of Birmingham, for the purpose of abating, removing, correcting or discontinuing such nuisance, and the related fire hazard.

100.11 Vacant Buildings.—Any building which is found by the Bureau of Fire Prevention to constitute a fire hazard shall be boarded and locked, under supervision of a member of the Bureau, to prevent ingress thereto, except upon specific authorization of the Bureau, or in lieu thereof shall be torn down by the owner within such time as the Bureau may order.

100.12 Fire Investigation.

100.12-1 The Fire Department of the City of Birmingham, aided when necessary by the Police Department of said City, shall make an investigation of any and all premises in said City, including private dwellings, wherein any fire, asphyxiation or explosion has occurred, for the purpose of determining the cause, origin and circumstances of any such fire, asphyxiation or explosion.

100.12-2 Such investigation shall be made under the direct supervision of the Chief of the Fire Department or his authorized deputy, and shall be made as soon as possible following such fire, asphyxiation or explosion.

100.12-3 No person nor any employee, agent or servant thereof shall touch, tamper with, repair, remove or alter any appliance, or equipment, installation or service in any building, or in any portion of such building, following the occurrence of a fire, asphyxiation or explosion, unless authorized in writing to do so by the Chief of the Fire Department or his authorized deputy.

100.12-4 No electrical, gas or oil burning appliance shall be removed from any building in said City where a fire, asphyxiation or explosion has occurred, unless such removal shall be authorized in writing by the Chief of the Fire Department or his authorized deputy.

100.12-5 No person nor any employee, agent or servant thereof, shall in any way interfere with the full and complete investigation by the Fire Department, or any authorized agency or agent, of the cause, origin or circumstances of any fire, asphyxiation or explosion in the City of Birmingham, or remove, alter, destroy or conceal any evidence, exhibit or information which might be of material value in arriving at the proper determination of such cause, origin or circumstances.

100.12-6 Nothing herein contained shall be interpreted to prevent the owner of any premises from placing temporary protective coverings over the roof, windows or doors of such property, or from taking such steps as may be necessary to prevent further damage to such building or to prevent vandalism or the stealing or removing therefrom of property.

100.12-7 Nothing herein contained shall be interpreted to prevent the turning off at the street valve of any gas supply to any such building, or the discontinuing of electrical service to such building.

100.12-8 The Chief of the Fire Department shall have such time as may reasonably be necessary to complete such investigation and if the same shall require more than 24 hours following the occurrence of any fire, asphyxiation or explosion, he shall post in one or more conspicuous places on such premises a notice setting forth the fact that such investigation is being made, and specifying that the same is made pursuant to provisions of this ordinance. Any willful removal, obliteration or concealing of such notice shall be deemed a violation of this ordinance.

100.13 Penalties.—Any person, firm or corporation who shall violate any provisions of this ordinance, or who shall fail to comply therewith, or with any lawful order of the Bureau of Fire Prevention in relation to the matters and things herein contained, shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by a fine of not to exceed One Hundred Dollars ($100.00), together with costs of prosecution, or by imprisonment in the County Jail for a period of not to exceed ninety (90) days, or by both such fine and imprisonment in the discretion of the court. Each and every day on which any violation continues, shall constitute a separate offense. Provided, however, that action for enforcement of the ordinance by way of imposition of a penalty as hereinbefore provided shall not in any wise impair or affect the powers hereinbefore granted to apply to the Circuit Court for abatement of a nuisance, or the removal of any hazardous conditions.

100.14 Ordinances Repealed.—All ordinances or parts of ordinances in conflict herewith, and particularly Ordinances 185, 306, 360, 388, 422, 424 and 433 of the City of Birmingham, are hereby repealed.

100.15 Validity of Ordinance.—The several paragraphs, provisions and sections of this ordinance are hereby declared to be severable, and the holdings as invalid or unconstitutional by any court of competent jurisdiction of any section or provision hereof shall not invalidate or impair the remaining sections of this ordinance.

100.16 Effective Date.—This ordinance shall be effective upon publication following the passage hereof.

CHAPTER II

LICENSES AND PERMITS

200.01 License Required.—Licenses shall be obtained from the City of Birmingham before engaging in the following business or occupations:

200.01-1(a) THE STORAGE OF FLAMMABLE LIQUIDS as defined in sections 300.04, 300.05 and 300.14.

200.01-1(b) THE SALE OF FLAMMABLE LIQUIDS AT RETAIL STATIONS as defined in sections 300.14 and 300.22. No license shall be required to store for sale kerosene up to 60 gallons or lubricating oil in any quantity when such oils are stored in original sealed metal containers not exceeding five gallons capacity each.

200.01-1(c) THE TANK TRUCK DELIVERY OF FLAMMABLE LIQUIDS as defined in sections 300.14, 300.24 and 300.25.

200.01-2 DRY CLEANING AND DRY DYEING as defined in sections 300.08, 300.09, 300.23 and 600.01-7.

200.01-3 OPERATION OF A PUBLIC GARAGE as defined in section 300.16.

200.01-4 LUMBER STORAGE OR LUMBER PROCESSING as defined in section 700.06.

200.01-5 THE STORAGE OR DELIVERY OF LIQUIFIED GAS OR COMPRESSED GASES as defined in sections 1200.02-1 and 1200.15.

200.01-6 STORAGE OR USE OF CALCIUM CARBIDE as defined in section 1100.01.

200.02 Permits Required.—Permits shall be obtained for installation and operation in the City of Birmingham as listed below:

For the use of explosives, (special purpose only—see section 1000.13-4).

For the installation of tanks for the storage of flammable liquids.

For the installation of dry cleaning or dry dyeing equipment.

For the burning of grass. See section 1000.09.

For the installation of liquefied gas systems. See section 1200.02-2.

For pyrotechnic displays. See section 1000.27.

For the burning of rubbish. See section 1000.07-1.

200.03 Where Obtained.—Application for all permits and licenses required by this ordinance shall be filed with the Bureau of Fire Prevention in such form and containing such information as it may require.

200.03-1 All licenses and permits required by this ordinance, (except burning permits issued at the Fire Department) shall be issued by the City Clerk when the application for the same has been approved by the Bureau of Fire Prevention.

200.04 Fees.—The fees for licenses and permits shall be as determined from time to time by resolution of the City Commission.

200.05 Bond Required.—Before the issuance of any permit for the use of explosives, the Bureau of Fire Prevention shall require that the applicant for such permit file with the City Clerk an indemnity bond in the amount of not less than five thousand dollars ($5,000.00) in such form as may be approved by the City Attorney and with such sureties as may be approved by the City Treasurer.

200.06 Expiration of Licenses and Permits.—All licenses shall expire on January 1st. of each year.

All permits shall expire three months after date of issue, except that permits for the use of explosives, pyrotechnic displays and grass rubbish fires shall be for a period of one day only, unless noted otherwise on the permit.

CHAPTER III

DEFINITIONS

For The Purpose Of This Ordinance Certain Words And Terms Used Herein Are Hereby Defined As Follows:

300.01 Above Ground Storage.—The term ABOVE GROUND STORAGE shall mean any storage of flammable liquids above ground in any container or tank.

300.02 Approved.—APPROVED when applied to materials, installations, type of construction or appliances, refers to approval by the Chief of the Bureau of Fire Prevention as a result of investigation and tests conducted by him or by reason of accepted principals or tests by the National Board of Fire Underwriters, the Underwriters' Laboratories Inc., or any other nationally recognized testing laboratories.

300.03 Building.—The word BUILDING shall mean any structure, framework, or housing, public or private, and includes tanks, receptacles and containers for the storage of commodities or other materials.

300.04 Bulk Plant.—The term BULK PLANT shall mean any tankage, loading facilities and buildings used for the storage and distribution of flammable liquids by tank truck, tank car, pipe line or other form of conveyance.

300.05 Bulk Storage Station.—The term BULK STORAGE STATION shall mean any installation for the storage, handling or selling of flammable liquids, from which such products are sold at wholesale or distributed to retail stations or private storage by tank trucks or tank wagons.

300.06 Bureau.—The term BUREAU shall mean the Bureau of Fire

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