

ORDINANCE NO. 6 -2007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARION, TEXAS, REQUIRING ALL DWELLINGS AND BUSINESSES WITHIN THE CITY TO HAVE INSTALLED AT LEAST ONE SMOKE DETECTOR AND CARBON MONOXIDE DETECTOR (FOR THOSE STRUCTURES WITH A GAS APPLIANCE), AND DECLARING AN EFFECTIVE DATE.

**WHEREAS**, the purpose of this Ordinance is to ensure public safety, health, and welfare insofar as they are affected by the hazards of fire and carbon monoxide in dwellings, dwelling units, rental units, and commercial structures in the City; and

**WHEREAS**, the City Council wants to provide adequate time for compliance with the provisions of this Ordinance; and

**WHEREAS**, the safety, health, and welfare of the residents, workers, and visitors in the City of Marion require that this Ordinance be applied to all identified structures in the City as soon as is reasonable because the danger of loss of life and injury is great to such persons and to property due to the hazards of fire and carbon monoxide poisoning; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, TEXAS:**

**Section 1: Definitions**

The following words, terms and phrases when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commercial structure* means any building or structure that is used in the conduct of a business, whether for profit or nonprofit.

*Dwelling* means any building or structure containing one or more dwelling units. It is intended that this definition shall include but not be limited to motels, hotels, lodging houses, boarding houses, tourist houses, and one-family, two-family, and multiple family residences.

*Dwelling Unit* means: 1) one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with living, sanitary and sleeping facilities, with or without cooking facilities; or 2) a room or group of rooms forming a single unit or intended to be used for living and sleeping on a temporary or permanent basis, whether or not for compensation.

*Owner* means the owner of the dwelling, dwelling unit and/or rental unit, commercial structure, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, or any other person, business, sole proprietorship, partnership, association, or corporation directly or

indirectly in control of a building, structure, or real property or their authorized agent.

*Rental Unit* means any building or structure containing one or more dwelling units which may be occupied by any individual, family member or non-family member in return for compensation in cash, services or forbearances to the owner, whether or not paid by the occupying individual(s). It is intended that this definition shall include but not be limited to any dwelling, hotel, motel, boarding house, rooming house, apartment, one or two-family dwelling unit, multiple dwelling unit, group home, and half-way house.

*Smoke Detector* means a device which includes reset buttons and is capable of sensing visible or invisible products of combustion approved or listed by a recognized independent testing laboratory and, when activated, provides an alarm suitable to warn all occupants within a dwelling, dwelling unit, or rental unit of the existence of such products of combustion.

*Carbon Monoxide Detector* means a device capable of sensing carbon monoxide a colorless, odorless gas that is produced as a result of incomplete burning of carbon-containing fuels approved or listed by a recognized independent testing laboratory and, when activated, provides an alarm suitable to warn all occupants within a dwelling, dwelling unit or rental unit of the colorless, odorless gas.

## **Section 2: Requirement for Dwellings and Dwelling Units.**

Each dwelling unit in the City shall be provided with a minimum of one smoke detector located in the bedroom, sleeping area, sleeping unit or room used for sleeping purposes and one additional smoke detector per floor or story, including basements, but not including crawl spaces and uninhabitable attics within each dwelling unit contained within each and every dwelling and dwelling unit, and one carbon monoxide detector on the uppermost floor or story possessed or used as living space by the occupants of the dwelling or dwelling unit if that dwelling is equipped with a gas appliance or connected to a gas service.

## **Section 3: Requirement for Commercial Structures.**

Each commercial structure in the City shall be provided with a minimum of one smoke detector located in each separate room of the structure that is used as a work area and one additional smoke detector per floor or story, including basements, but not including crawl spaces and storage areas within each commercial structure, and one carbon monoxide detector on the uppermost floor or story possessed or used as a work area by the occupants of the commercial structure if that structure is equipped with a gas appliance or connected to a gas service.

## **Section 4: Approved types of smoke and carbon monoxide detectors.**

Smoke detectors and carbon monoxide detectors required by this Ordinance may be either:

- (a) Battery operated by a self-monitored battery and the detectors shall emit a signal when the batteries are low;
- (b) Lithium battery operated smoke detector that is a sealed device, powered by a self-monitored, non-removable lithium battery that emits a signal when the battery is low, equipped reset buttons and approved or listed by a recognized independent testing laboratory;
- (c) Operated in a plug-in outlet which is fitted with a plug restrainer device, provided the outlet is not controlled by any switch other than the main electric power supply; or
- (d) Wired directly (hard-wired) to the building electric supply not controlled by any switch other than the main electric power supply and equipped with a battery backup and the detectors shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for over current protection. Where more than one smoke detector is required to be installed, the smoke detectors shall be interconnected in such a manner that the activation of one smoke detector will activate all of the smoke detectors.

#### **Section 5: Requirements for Residential Rental Units.**

- (a) Each dwelling or dwelling unit contained within each and every residential rental unit in the City shall be provided with a minimum of one smoke detector per bedroom, sleeping area, sleeping unit or room used for sleeping purposes and one additional smoke detector per floor or story, including basements, but not including crawl spaces and uninhabitable attics within each dwelling or dwelling unit within each and every rental unit and one carbon monoxide detector on the uppermost floor or story possessed or used as living space by the occupants of the dwelling or dwelling units within each and every rental unit in the City.
- (b) Where more than one smoke detector or carbon monoxide detector is required to be installed within a rental unit, the smoke detectors and carbon monoxide detectors shall be interconnected in such a manner that the activation of one smoke detector will activate all of the smoke detectors and activation of one of the carbon monoxide detectors will activate all of the carbon monoxide detectors. The detectors shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
- (c) When installation of the detecting devices is complete, each detector and interconnecting wiring for multiple-station alarm devices shall be tested in accordance with the household warning equipment provisions of the National Fire Prevention Association 72.

#### **Section 6: Time for Compliance.**

- (a) This ordinance is remedial and applies to all existing dwellings and commercial structures now

in existence in the City, as well as those constructed in the future.

(b) All dwellings and dwelling units within the City that do not contain rental units shall be equipped with smoke detectors and carbon monoxide detectors within six (6) months of the effective date of this Ordinance.

(c) All dwellings or dwelling units within each and every rental unit in the City shall be equipped with lithium battery operated smoke detectors and carbon monoxide detectors within six (6) months of the effective date of this Ordinance.

(d) All commercial structures within the City shall be equipped with smoke detectors and carbon monoxide detectors within six (6) months of the effective date of this Ordinance.

**Section 7: Compliance required; penalty for violation of Ordinance.**

(a) Any person owning or managing a dwelling, dwelling unit, rental unit, or commercial structure in the City shall comply with the provisions of this Ordinance.

(b) It shall be unlawful for any person to remove batteries from or in any way render inoperable a carbon monoxide detector or smoke detector that is required by the provisions of this Ordinance.

(c) Violation of any provisions of this Ordinance shall be deemed a municipal civil infraction, punishable by a fine of not less than \$100.00, or more than \$500.00; plus any costs, damages, and expenses of investigation and prosecution. This Ordinance is further subject to increased penalties for repeat offenses. As used herein, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision (i) committed by a person and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

(1) The fine for any offense, which is a first, repeat offense shall be not less than \$300.00, plus costs, damages, and expenses of investigation and prosecution.

(2) The fine for any offense, which is a second repeat offense or any subsequent repeat offense shall be not less than \$500.00, plus costs, damages, and expenses of investigation and prosecution.

(d) Each day on which any violation of this ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition, upon a finding of responsibility for violating this ordinance, the city may seek in the appropriate court an injunction against an owner, person, or company to restrain, prevent, or abate any violation of this ordinance and to compel compliance. This does not bar the City from any other applicable remedy at law or equity.

**Section 8: Severability.**

This Ordinance and the various parts, sections and clauses are hereby declared to be severable. If any part, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected, impaired, or invalidated thereby.

**Section 9. Repealer and Inconsistencies**

Any Ordinance or parts of Ordinances in conflict herewith are hereby repealed, to the extent that they are inconsistent with the provisions herein provided, however, if any other Ordinance of the City or State Law shall provide a higher standard of protection of the public health, safety and welfare than the provisions hereof, then those provisions shall prevail and are not repealed.

**Section 10. Effective Date.**

This Ordinance shall take effect immediately upon the date of passage by the City Council of the City of Marion which action is necessary for the immediate preservation of the health, safety, and welfare of the citizens of, workers in, and visitors to the City of Marion, Texas

This Ordinance shall be effective from and after 5<sup>th</sup> February 2007.

PASSED AND APPROVED on the 5<sup>th</sup> day of February, 2007.



Glenn Hild, MAYOR

ATTEST:



Laurie Huebinger, CITY SECRETARY

