

RESOLUTION R18-12



**ACKNOWLEDGING GEORGE FITZGERALD, IV
AS A DEPUTY FIRE MARSHAL WITH POLICE POWERS**

WHEREAS, Virginia Code § 27-30 provides that the governing body of a city may appoint a fire marshal and Sec. 34-64 of the Waynesboro City Code establishes the Office of the Fire Marshal;

WHEREAS, Sec. 34-65 of the Waynesboro City Codes recognize the Fire Marshal as the City of Waynesboro's Fire Official for the duties and responsibilities as established by Title 27 of the Code of Virginia, the Virginia Statewide Fire Code, and the Waynesboro City Code;

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of the city may authorize the fire marshal to have the same police powers as a sheriff, police officer, or law enforcement officers upon completion of the training discussed in such section;

WHEREAS, Virginia Code § 27-36 provides that the governing body of a city may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal;

WHEREAS, on January 27, 2017, George Fitzgerald, IV was appointed as a Deputy Fire Marshal without police powers; and,

WHEREAS, the appointment of George Fitzgerald, IV as a Deputy Fire Marshal with police powers is deemed expedient and will promote the efficient and effective operation of the City of Waynesboro Fire Department.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAYNESBORO, VIRGINIA AS FOLLOWS:

1. The Waynesboro City Council hereby acknowledges the appointment of George Fitzgerald, IV as a Deputy Fire Marshal with full police powers of the Fire Marshal as authorized in Virginia Code §§ 27-34.2:1 and 27-36 and Waynesboro City Code Sec. 34-65; and

2. The City Manager was authorized to take any actions or execute any documents that are reasonable and necessary to effectuate the appointment.

[SEAL]

ATTEST:

Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia

AMENDED ORDINANCE NUMBER 2018-



AMENDING CHAPTER 34, ARTICLE II, FIRE
DEPARTMENT, SECTION 34-53 AND ADOPTING SECTIONS 34-64 AND 34-65
OF THE CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
WAYNESBORO, VIRGINIA THAT:

1. Chapter 34, Article II, Fire Department, Division 2 Personnel, Section 34-53 of the City Code of the City of Waynesboro, Virginia is amended and Chapter 34, Article II, Fire Department, Division 2 Personnel, Sections 34-64 and 34-65 of the City Code of the City of Waynesboro, Virginia are adopted as follows:

Article II Fire Department

Division 2 Personnel

Sec. 34-53. Same - Powers and duties generally.

- (a) The fire chief shall be on duty at the fire department at such times as specified by the city manager, and shall remain there at all times as far as practical and shall not at any time depart therefrom without leaving some other officer in charge.
- (b) He shall be the custodian of and responsible for all fire equipment and apparatus.
- (c) He shall be responsible for and in charge of all drills.
- (d) He shall attend all regular and called meetings of the fire department.
- (e) He shall be responsible for all aspects of life safety as it relates to fires, entrapment and rescue situations. At the scene of any fire or life-threatening incident, the fire chief, or his designee, shall assume command and exercise control over the operation.
- (f) He is hereby appointed to serve as: i) the fire official, as that term is used from time to time in the Code of Virginia (1950), as amended, ii) the fire marshal, as set forth in Va. Code § 27-30, *et seq.*, iii) the hazardous materials coordinator, as set forth in Va. Code § 44-146.34, *et seq.*, and iv); and he is authorized to and shall exercise all of the powers and carry out the duties enunciated in the Code of Virginia.
- (g) He is empowered to appoint one (1) or more assistant fire marshals, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal.

(Virginia Code § 27-14)

Sec. 34-64. Office of the Fire Marshal.

- (a) The Office of the City Fire Marshal is hereby established. The fire chief, with approval of the city manager, shall appoint a deputy fire marshal and assistant fire marshals, as deemed necessary.
- (b) The deputy fire marshal and his assistants shall, before entering upon their duties, take an oath, before any officer authorized to administer oaths, to faithfully discharge the duties of their office.

(Va. Code § 27-30)

Sec. 34-65. Same-Powers and duties generally.

- (a) The deputy fire marshal and his assistants shall be authorized to exercise all of the powers authorized by Title 27, Chapter 3 of the Code of Virginia.
- (b) In addition to any other duties prescribed by law, the deputy fire marshal and his assistants shall have the authority to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of fire prevention and fire safety laws and related ordinances, in accordance with the provisions of § 27-34.2 of the Code of Virginia, as amended.
- (c) The deputy fire marshal and his assistants shall have the same police powers as a sheriff, police officer, or law enforcement officer, and shall have responsibility for the investigation and prosecution of offenses involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, and the possession and manufacture of explosive devices, substances and fire bombs, in accordance with the provisions of § 27-34.2:1 of the Code of Virginia, as amended.
- (d) The deputy fire marshal shall have the right to enter upon any property from which a release of any hazardous material, hazardous waste, or regulated substance, as defined in § 10.1-1400 or § 62.1-44.34:8 of the Code of Virginia, as amended, has occurred or is reasonably suspected to have occurred, and which has entered into the ground water, surface water, or soils of the city, in accordance with the provisions of § 27-37.1 of the Code of Virginia, as amended.

Except as amended hereby, Chapter 34, Article II shall remain in full force and effect.

2. The City Manager is hereby authorized to take all actions reasonably necessary, including executing such documents as are reasonably necessary, to effectuate and carry out the purposes of this Ordinance.

3. This Ordinance shall take effect immediately upon adoption by the City Council.

INTRODUCED: ON JULY 9, 2018 BY COUNCILMAN BRUCE ALLEN

ADOPTED:

EFFECTIVE:

[SEAL]

ATTEST: _____
Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia