

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WILLOW PARK, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY OF WILLOW PARK, TEXAS, BY DELETING ARTICLE 5.03 “FIRE DEPARTMENT” IN ITS ENTIRETY; AMENDING ARTICLE 5.02 “FIRE MARSHAL” REGARDING THE APPOINTMENT, POWERS AND DUTIES OF THE FIRE MARSHAL; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED \$500.00; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Willow Park (“City”), located in Parker County, Texas, is a Type A, general law municipality authorized under Texas state law to legislate in the best interests of its residents; and

**WHEREAS**, Article 5.03 of the City’s Code of Ordinances provides for the establishment of a City Fire Department to provide fire protection services for the City; and

**WHEREAS**, Parker County Emergency Services District No. 1 (“ESD No. 1”) annexed the City of Willow Park at an election duly conducted by law on November 8, 2022 and will provide fire protection services for the City; and

**WHEREAS**, because of the provision of fire protection services by ESD No. 1, the City no longer needs a City Fire Department; and

**WHEREAS**, the City hereby desires to delete Article 5.03 in its entirety and amend the provisions regarding the appointment, powers and duties of the City Fire Marshal contained in Article 5.02; and

**WHEREAS**, Section 51.012 of the Texas Local Government Code provides, in part, that a municipality may adopt an ordinance “that is necessary for the government, interest, welfare, or good order of the municipality as a body politic”; and

**WHEREAS**, the City finds that this ordinance is necessary for the government, interest, welfare, or good order of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS, THAT:**

**SECTION 1.** All of the above premises are found to be true and correct legislative determinations of the City Council and they are hereby incorporated into the body of this Ordinance as if copied and set forth herein in their entirety.

**SECTION 2.** The Code of Ordinances of the City of Willow Park, Texas, Article 5.03 “Fire Department” is repealed in its entirety; and Article 5.02” Fire Marshal” is hereby amended by amending Section 5.02.001, adding a new Section 5.02.002 and renumbering the old Section 5.02.002 and the remaining sections of Article 5.02, such amendments to read as follows:

**“ARTICLE 5.02 FIRE MARSHAL**

**§ 5.02.001. Office created; appointment.**

The office of fire marshal is hereby created. The office will be independent of all other city offices or departments. The fire marshal shall be appointed by the City Administrator and shall report directly to the City Administrator.

**§ 5.02.002. Powers and duties of fire marshal; appointment and removal.**

(a) The fire marshal shall be the chief law enforcement officer for the fire marshal’s office and chief arson investigator and fire code enforcement officer for the City. He or she shall:

- (1) Organize and administer the fire marshal’s office in conformity with the ordinances of the City and the constitution and laws of the state and the United States;
- (2) Have immediate direction and control of the fire marshal’s office, subject to the supervision of the City Administrator and such rules, regulations and orders as the City Administrator may prescribe;
- (3) Consistent with policies and procedures established by the City Administrator, the fire marshal shall promulgate all orders, rules and regulations for government of the fire marshal’s office;
- (4) Appoint and discipline reserve or full-time arson investigators and other employees of the fire marshal’s office, who shall serve at his or her discretion, consistent with the city’s personnel policies and procedures where applicable;
- (5) Be responsible for all arson investigations and fire code enforcement services and perform such other duties as may be required by the City Administrator.

**§ 5.02.003. Investigation of fires.**

(a) The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within the city where property has been destroyed or damaged by fire or explosion, and shall determine whether such fire or explosion was a negligent, intentional or reckless act. Any investigation shall commence within twenty-four (24) hours, not including Sunday, of the occurrence of such fire. The fire marshal shall maintain a record of all fires, together

with all facts, statistics, and circumstances, including the origin of the fire or explosion and the amount of the loss.

(b) If the fire marshal determines that further investigation of a fire or of an attempt to set a fire is necessary, the fire marshal may:

- (1) Subpoena witnesses to testify regarding the fire or attempt;
- (2) Administer oaths to witnesses;
- (3) Take and preserve written statements, affidavits, and depositions; and
- (4) Require the collection of evidence and production of documents, whether written or electronically stored, that are pertinent to the investigation.

(c) In a proceeding under this section, the fire marshal may:

- (1) Conduct an arson or fire origin 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.

#### **§ 5.02.004. Failure to cooperate.**

A person commits an offense if the person is a witness in connection with an investigation under section 5.02.002 above and refuses to be sworn, refuses to appear and testify, or fails and refuses to produce to the fire marshal any book, paper, or other document, whether written or electronically stored, relating to any matter under investigation, if instructed by the marshal to do so. An offense under this section is a misdemeanor punishable by a fine in accordance with the general penalty provided in section 1.01.009 of this code.

#### **§ 5.02.005. Authority to charge with crime.**

The fire marshal may file in a court of competent jurisdiction a complaint charging arson, attempted arson, conspiracy to defraud, or other related crimes against a person the marshal reasonably believes to be guilty. The fire marshal pursuant to section 5.02.003 above may file a complaint in a court of competent jurisdiction against a witness who refuses to cooperate with the investigation.

#### **§ 5.02.006. Right to enter premises where fire has occurred.**

In the performance of official duties, the fire marshal, at any time of the day, may enter and examine a structure where a fire has recently occurred and may with reasonable cause examine adjacent premises.

**§ 5.02.007. Inspections for hazardous conditions.**

(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 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 public safety and fire prevention, the 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 fire marshal shall inspect a structure for fire or life safety hazards if called upon to do so.

**§ 5.02.008. Order to abate hazardous condition.**

If the fire marshal determines the presence of a fire or life safety hazard, the fire 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.

**§ 5.02.009. Plan review.**

In the interest of public safety and fire prevention, the fire marshal shall, if required, and may, if requested, review the plans of a business, single-family residence, multifamily dwelling, or retail or commercial property for fire or life safety hazards.

**§ 5.02.010. Fee for plan review or inspection.**

The city council by ordinance may authorize a fee, in the amount established by city council, to be paid by an applicant or the owner of a business, a multifamily dwelling, or retail or commercial property for a plan review or inspection conducted under this article, in a reasonable amount determined by the city council to cover the cost of the plan review or inspection.

**§ 5.02.011. Dangerous structures prohibited.**

It is unlawful for any owner or occupant of a building or other structure or premises to keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein. An offense under this section is a misdemeanor and punishment

is by a fine in accordance with the general penalty provided in section 1.01.009 of this code. Each day of violation is a separate offense.”

**SECTION 3.** It is the intent of the City Council that each clause, phrase, sentence, paragraph, section, or subsection of this Ordinance be deemed severable, and should such clause, phrase, sentence, paragraph, section, or subsection be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration in invalidity or unconstitutionality shall not be construed to affect or impair the validity of those provisions of this Ordinance left standing, or the validity of any other ordinance of the City of Willow Park.

**SECTION 4.** The City of Willow Park Code of Ordinances shall remain in full force and effect save and except as amended herein.

**SECTION 5.** This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Willow Park, and this Ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances area hereby repealed.

**SECTION 6.** Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined a sum not to exceed Five Hundred Dollars (\$500.00) for each offense, and each and every violation or day such violation continues or exists shall be deemed a separate offense.

**SECTION 7.** The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of Willow Park, and this Ordinance shall take effect and shall be in full force from and after the date of its final passage and publication as provided by law.

**SECTION 8.** This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law.

**PASSED, APPROVED, and ADOPTED** by the City Council of the City of Willow Park, Texas, on this the 11<sup>th</sup> day of April, 2023.

\_\_\_\_\_  
Doyle Moss, Mayor

**ATTEST:**

\_\_\_\_\_  
Crystal Dozier, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
William P. Chesser, City Attorney

The Willow Park City Council is acting on Ordinance No. \_\_\_\_\_, did on the 11<sup>th</sup> day of April 2023  
vote as follows:

	<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
Doyle Moss	_____	_____	_____
Eric Contreras, Place 1	_____	_____	_____
Chawn Gilliland, Place 2	_____	_____	_____
Greg Runnebaum, Place 3	_____	_____	_____
Lea Young, Place 4	_____	_____	_____
Nathan Crummel Place 5	_____	_____	_____