

CITY OF WILLOW PARK

ORDINANCE NO. 680-14

AN ORDINANCE AUTHORIZING AMENDING OF CHAPTER 5 "FIRE PROTECTION" OF THE MUNICIPAL CODE OF ORDINANCES OF THE CITY OF WILLOW PARK BY: REPEALING ARTICLE 5.200 "OFFICE OF FIRE MARSHAL" AND REPLACING IT AND REPEALING ARTICLE 5.600 "FIRE DEPARTMENT" AND REPLACING IT; ESTABLISHING A CITY FIRE DEPARTMENT; PROVIDING FOR CITY VOLUNTEER FIREFIGHTERS; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE OF OCTOBER 1, 2014.

WHEREAS, the City of Willow Park is a municipal corporation organized under the laws of the State of Texas; and

WHEREAS, it is intent of the City of Willow Park to protect the health, safety and welfare and well being of its citizens; and

WHEREAS, the City, may for the purpose of preventing calamitous fires and provide for the general safety of the citizens, adopt certain rules and regulations that the city council considers necessary pursuant to §342.003 TEX LOCAL GOV'T CODE; and

WHEREAS, the city council of the municipality may organize a fire department with a fire chief and prescribe the powers and duties of the fire department and its officers pursuant to §342.004 TEX LOCAL GOV'T CODE

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

SECTION 1. AUTHORITY

The Mayor, or Mayor designee, is hereby authorized and directed to implement the applicable provisions of this Ordinance.

SECTION 2. AMENDMENT-ARTICLE 5.200

Chapter 5, "FIRE PROTECTION" Article 5.200 "OFFICE OF FIRE MARSHAL" is amended by repealing Article 5.200 and replacing it as follows:

"ARTICLE §5.200 FIRE MARSHAL

§5.201 Office of Fire Marshal

The office of Fire Marshal is hereby created. The office will be independent of all other city offices or departments. The Fire Marshal will report directly to the Mayor and, as necessary to the city council. The Fire Marshal shall be appointed by the Mayor, with consent of the city council.

§5.202 Investigation

(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 fires or explosion and the amount of the loss.

(b) If the Fire Marshall 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.

§5.203 Failure to Cooperate

A person commits an offense if the person is a witness in connection with an investigation under § 5.202 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 not to exceed \$200.00.

§5.204 Authority to Charge

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 §5.203 above may file a complaint in a court of competent jurisdiction against a witness who refuses to cooperate with the investigation.

§ 5.205 Right to Enter

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.

§5.206 Inspection or Review

(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.

§5.207 Authority to Abate

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.

§5.208 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, multi-family dwelling, retail or commercial property for fire or life safety hazards.

§5.209 Fee Authorized

The city council by ordinance may authorize a fee, to be included in Appendix "A" of the Municipal Code, to be paid by an applicant or the owner of a business, a multi-family dwelling, retail or commercial property for a plan review or inspection conducted under this section in a reasonable amount determined by the city council to cover the cost of the plan review or inspection.

§5.2010 Dangerous Structures

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 not to exceed \$200.00. Each day of violation is a separate offense."

SECTION 3. AMENDMENT- ARTICLE 5.600

Chapter 5, "*FIRE PROTECTION*"
Article 5.600 "*Fire Department*" is amended by repealing Article 5.600 and replacing it as follows:

"ARTICLE 5.600 FIRE DEPARTMENT

§5.601 Organization

There is hereby established a Fire Department to serve and protect the lives and property of the residents of the City. The city shall maintain a Fire Department consisting both Emergency Medical Service (EMS) personnel and fire fighter personnel as authorized by the City's fiscal year budget. The Department may utilize the service of properly trained and qualified voluntary

firefighters who are members of a related Volunteer Fire Department. The Fire Department shall be known as the "Willow Park Fire and Rescue Department."

§5.602 Fire Chief

(a) The office of Fire Chief is created.
(b) The Department and volunteer firefighters assisting the Department shall be under the control, supervision and direction of the Fire Chief. The Fire Chief shall be appointed by the Mayor with the consent of the City Council. There is no term of office. The Fire Chief may be removed for any reason by written recommendation of the City Administrator and a 2/3 vote of the City Council.

(c) The Fire Chief shall meet the minimum requirements established by the State for such position.

(d) In case of disability or resignation of the Fire Chief, the Mayor shall appoint an Acting Fire Chief.

(e) The Fire Chief is the Chief Administrative Officer of the Department. The Fire Chief will direct all firefighting responses, the drafting and update of the Standard Operating Procedures, Department policies and procedures for firefighting and emergency medical and rescue responses, and shall provide opportunities for training drills and basic or advanced certifications.

(f) The Fire Chief is responsible to the City for the proper and efficient operation of the Department. The Fire Chief shall:

1. Supervise, regulate and manage the Department and maintain control of its activities.
2. Direct operations at fires
3. Designate the order of succession of leadership in his absence.

4. Prescribe the specifications and manner of wear of the uniform and protective clothing.

5. Reorganize any part of the Department when in the judgment of the Chief such reorganization would best serve the Department.

6. Compile and present the Department's annual fiscal budget request, with projected revenue and expenditures, in a manner prescribed by the City Administrator.

§5.603 Certification Required

(a) Depending upon the level of service requested by the City, firefighters may be required to obtain certain certification or dual certifications as specified by the Standard Operating Procedures. If additional certifications become necessary to provide enhanced levels of Fire and EMS service for the City, Department personnel will be given an opportunity to obtain those certifications.

(b) Failure to acquire and maintain certification will be sufficient cause for the Fire Chief to transfer the person from their respective pay scale position to a lower pay scale position that correlates with the persons ability and level of certification.

§ 5.604 Emergency

In case of riot, conflagration or other emergency, the City Administrator, Mayor, or the Fire Chief may appoint additional firemen and officers for temporary service.

§ 5.605 Personnel

The Chief of the Fire Department shall have the right to discipline, suspend or take personnel action against any of the officers or employees under the Fire Chiefs supervision or control for certain acts, including but not limited to: incompetence, neglect of duty, immorality,

drunkenness, failure to obey orders from the proper authority or violation of federal, state, or local criminal laws. Any person disciplined or

against whom any an adverse personnel action has been taken pursuant to this section has a right to appeal said action. The rights of appeal and procedures which must be followed are specified in the City of Willow Park Employee Handbook in effect at that time.

§5.606 Report Required

The Fire Chief shall submit a monthly status report to the City Administrator relating to the activities of the Department. The report should contain sufficient data and facts required to evaluate the performance of the Department, its personnel and the readiness of the equipment and personnel to respond to routine or emergency calls. The Fire Chief shall keep the City Administrator advised of the readiness of the Volunteer Fire Department and any needs it may have with respect to equipment or personnel.

§ 5.607 Service Priority

The Department members shall give priority of response to Willow Park calls for service over other fire departments that they may be a member of or a mutual aid association or agreement that they may participate in.

§5.608 Volunteer Fire Department

(a) There is hereby established a Volunteer Fire Department within the Fire Department, which shall be composed of voluntary firefighters and referred to as the "Willow Park Volunteer Fire Department." The Volunteer Fire Department shall be composed only of volunteers, with no full or part time municipal employees. The Fire Chief, in consultation with the City, shall establish the size, composition and organization of the Volunteer Fire Department and may amend such size, composition and organization from time to time.

(b) Prior to performing any duties as a volunteer firefighter each volunteer firefighter applicant shall complete a minimum of State Fireman's and Fire Marshals' Association of Texas (SFFMA) Module 1 (One) Firefighter I (Introductory) training from the city's Fire Department. In addition, the city's Fire Department shall provide uniforms, gear and equipment to the members of the Volunteer Fire Department.

(c) The Volunteer Fire Department may incorporate as an IRS § 501(c) (3) or other tax exempt organization, at their sole discretion.

(d) No volunteer firefighter designated pursuant to this chapter shall be entitled to any compensation for service. A volunteer firefighter who sustains an injury in the course of performing official duties may receive hospital and medical assistance in the same matter as provided for full time firefighters. The Department shall maintain adequate worker's compensation insurance coverage for protection of the members of the Volunteer Fire Department.

(e) Members of the Volunteer Fire Department shall serve at the sole discretion of the Fire Chief once they have been so designated by the Fire Chief and may be called into service at any time. Volunteer firefighters of the city's Volunteer Fire Department shall serve as firefighters during their discharge of official duties, subject at all times to the direction, control and supervisory authority of the Fire Chief, and shall be subject to the same policies, and standard operating procedures as are applicable to Fire Department personnel.

§5.609 Interference with Fire Personnel

(a) It shall be unlawful for any person to interfere with or impede any firefighting activity or activity relating to responding to a fire or an emergency.

(b) It shall be unlawful for anyone to cause a vehicle to cross any fire hose while the same is being used, even if in the street, during training or in responding to a fire.

(c) The Fire Chief may file a complaint against a person violating this section which is a misdemeanor offense punishable by a fine not to exceed \$200.00."

SECTION 4. SEVERANCE

If for any reason any section, paragraph, subdivision, clause, phrase or provision of this Ordinance shall be held invalid, it shall not affect any valid provisions of this ordinance.

SECTION 5. REPEALER

To the extent any other ordinance or resolution is in-consistent with the provisions herein it is hereby repealed and superseded by the provisions herein.

SECTION 6. RECITALS

The City Council hereby finds and declares all precatory language herein to be true and correct and approves and adopts the same herein as part of this Resolution.

SECTION 7. PUBLICATION

The City Secretary of the City of Willow Park is hereby directed to publish in the official newspaper of the City of Willow Park the caption hereof and the effective date of this ordinance as required by Section 52.011 of the TEX LOCAL GOVERNMENT CODE.

SECTION 8. EFFECTIVE DATE

This Ordinance shall take effect on October 1, 2014, a date subsequent to its publication.

