

ORDINANCE NO. 101

**AN ORDINANCE PROVIDING FOR THE DESIGNATION AND APPOINTMENT OF A FIRE MARSHALL FOR THE CITY OF SANCTUARY.**

**WHEREAS**, the City of Sanctuary is a Type A City acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the State of Texas Constitution and Chapter 9 of the Local Government Code, and

**WHEREAS**, the City, having reviewed the 2021 International Fire Code section 5, desires to appoint a fire marshall to meet the needs of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANCTUARY, TEXAS:**

**SECTION I.**

(Section 5.02.001) The office of fire marshal is hereby created. Such office shall be independent of other departments, and the fire marshal shall report directly to the Fire Chief. The office of fire marshal shall be filled by appointment of the mayor and the consent of the City Board of Alderpersons. The fire marshal shall be properly for the duties of said office and shall serve at the pleasure of the Board. He/She shall be removable by a simple majority of the Board. The fire marshall shall have the authority to appoint a sufficient number of deputies to assist him in his duties. Said deputies shall have the same rights, powers, and authority that are vested in the fire marshal. Deputies shall hold their office at the discretion of the fire marshal and shall not receive compensation for performing their duties.

**SECTION II.**

(Section 5.02.002) The fire marshall or his deputy shall investigate the cause and circumstances of every fire occurring within the corporate limits of the city (Sanctuary) by which property has been destroyed or damaged and shall especially make an investigation as to whether such fire was the result of carelessness or design. Such investigation shall begin, if possible, within twenty-four (24) hours of the occurrence of such fire. The fire marshall shall keep in his office a record of all fires together with all facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

**SECTION III.**

(Section 5.02.003) The fire marshall, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons believed to be cognizant of any facts, or believed to have knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing, and if he shall be of the opinion that there is criminal conduct in connection with such fire, he shall furnish to the proper prosecuting attorney all evidence in his possession or knowledge, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

**SECTION IV.**

(Section 5.02.004) The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper, or document deemed pertinent thereto. The fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

## **SECTION V.**

(Section 5.02.005) Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of the fire marshal, or who fails or refuses to produce any book, paper, or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor, and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted. Any person being convicted of any such misdemeanor shall be fined a sum not exceeding five hundred dollars (\$500.00). Provided, however, that any person so convicted shall have the right of appeal and provided further that nothing in this article shall authorize the fire marshal to do any act in violation of constitutional or statutory prohibitions against compelling a person to incriminate himself.

## **SECTION VI.**

(Section 5.02.006) All investigations held by or under the direction of the fire marshal may, in his discretion, be private and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

## **SECTION VII.**

(Section 5.02.007) The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article and the laws of the state, to enter upon and examine an building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and discretion.

## **SECTION VIII.**

(Section 5.02.008) The fire marshal, upon complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty to enter upon and make, or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied, and such order shall be complied with by the owner or occupant of said building or premises within ten (10) days. If, in the opinion of the fire marshal, such violation or fire hazard causes an immediate danger to the occupants therefore, he may order the premises closed and vacated until the violation or fire hazard is corrected and no longer exists. It shall be unlawful for any owner or occupant to fail to close or vacate such premises upon order of the fire marshal, and each day that the order is ignored shall constitute a separate offense. If said owner or occupant deems himself aggrieved by such order, he may, within five (5) days, appeal to the city council, who shall investigate the cause of the complaint, and unless by their authority the order is revoked, such order shall remain in force and be forthwith

complied with by said owner or occupant. If the aggrievance involves an order of immediate closing and vacating of premises, such premises shall remain closed and vacated until a decision is rendered by the City Council. At the end of each month, the fire marshal shall report to the state fire marshal all exiting hazardous conditions, together with separate report on each fire in the city during the month. Provided further that nothing herein shall authorize the fire marshal to do any act in violation of the constitutional or statutory provisions against unlawful searches or seizures.

#### **SECTION IX.**

(Section 5.02.009) Any owner or occupant of a building or other structure or premises who shall 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, shall be in violation of this article.

#### **SECTION X.**

(Section 5.02.010) Any owner or occupant of any building or other structure or premises, who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire, or health, or safety of persons or property of others, or who shall keep or maintain any building, other structure or premises with an improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, or refuse so as to be of such a nature as to be dangerous in the matter of fire, or with any other condition which shall be dangerous in character to the persons, health or property of others, or which shall be dangerous in the matter of promoting, augmenting or causing fires, or which shall create conditions dangerous to firemen or occupants of such building, structure or premises other than the maintain or thereof, shall be in violation of this article.

#### **SECTION XI.**

(Section 5.02.011) No prosecution shall be brought under sections 5.02.009 and 5.02.010 of this article until the order provided for in section 05.02.008 be given and the party notified shall fail or refuse to comply with the same.

#### **SECTION XII.**

(Section 5.02.012) It shall be unlawful for any person to in any manner interfere [with] or obstruct the fire marshal in the performance of his official duties.

#### **SECTION XIII.**

(Section 5.02.013) Any person found guilty of violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be sentence to pay a fine of not less than twenty-five (\$25) no more than two thousand dollars (\$2000). Said fines shall be recovered by the city in the same manner as provided by law for other misdemeanor violations.

#### **SECTION XIV.**

(Section 5.02.014) Every day's maintenance of any of the conditions prohibited in any of the foregoing sections shall be a distinct and separate offense.

**SECTION XV.**

All misdemeanors herein provided for shall be prosecuted, and all fines and forfeitures herein provided for shall be recovered and enforced, in the same manner as provided by law for the enforcement of fines, forfeitures, penalties and punishments for offenses generally against the city.

**SECTION XVI.**

This ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SANCTUARY, TEXAS, ON 6 JUNE 2023.**



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Mayor



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City Secretary