

ORDINANCE NO. 2114

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAINT HEDWIG, TEXAS REPEALING ORDINANCE NO. 2110 ESTABLISHING THE OFFICE OF CITY MARSHAL AND RECOGNIZING SAID OFFICE AS A DESIGNATED LAW ENFORCEMENT AGENCY OF THE STATE OF TEXAS; PROVIDING FOR THE APPOINTMENT OF A CITY MARSHAL; DESIGNATING THE POWERS AND DUTIES OF THE OFFICE; PROVIDING A CUMULATIVE AND CONFLICTS CLAUSE, SEVERABILITY AND AN EFFECTIVE DATE; AND REVISING THE ESTABLISHMENT OF THE MARSHALS OFFICE AND RECOGNIZING SAID OFFICE AS A DESIGNATED LAW ENFORCEMENT AGENCY OF THE STATE OF TEXAS; PROVIDING FOR THE APPOINTMENT OF A CITY MARSHAL; DESIGNATING THE POWER AND DUTIES OF THE OFFICE TO INCULDE TO EXPANSION OF THE MARSHAL'S JURISDICTION AND AUTHORITY TO ALIGN WITH AND AS STATED IN THE TEXAS LOCAL GOVERNMENT CODE, TEXAS CODE OF CRIMINAL PROCEDURE AND THE TEXAS PENAL CODE.

WHEREAS, the City of Saint Hedwig, Bexar County, Texas (the "City") is a Type A General Law City as that term is defined within the Texas Local Government Code; and

WHEREAS, Texas Local Government Code, Chapter 22, governs Type A general law cities and specifically, Subchapter C governs other municipal officers, including the municipal officer titled "Marshal"; and

WHEREAS, the City Council found that it was in the best interests of the health, safety and welfare of the City and its residents to create the office of City Marshal, provide for the appointment of a City Marshal, authorize the appointment of deputy marshals, authorizes civilian staff as necessary to provide marshal services to the City, and establish qualifications for such officers appointed as marshals as provided under Local Government Code 51.001 for the good government, peace or order of the City and as is necessary for proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Local Government Code, Section 21.071 the City Council shall provide by ordinance or election for the appointment of a Marshall; and

WHEREAS, the City Council found that the appointment of Marshal by ordinance was in the best interest of the City; and

WHEREAS, pursuant to Texas Local Government Code, Section 341.021 the Marshal of a type A general law municipality is the ex officio chief of police; and

WHEREAS, the City Council finds that any member of the Saint Hedwig City Marshal's Office shall be a certified peace officer as described by Article 2.12 of the Texas Code of Criminal Procedure and shall have authority to enforce the criminal laws of the State of Texas and the ordinances and regulations of the City of Saint Hedwig.

Whereas; the City Council understands that crimes committed outside of the city limits may involve or effect the citizens of the City of Saint Hedwig, and the City Council does not intend to limit the authority of the City Marshal's Office which is bestowed by State of Texas law; and

WHEREAS, the City Council desires clarification as to the Marshal's authority outside city limits in order to fully perform their jobs to investigate crimes, execute warrants, to prevent and suppress crime, and to arrest offenders; and

WHEREAS Ordinance 2110 should not be interpreted to limit the authority of the City of Saint Hedwig's Marshal's Office to investigate crimes and enforce laws outside the city limits;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAINT HEDWIG, TEXAS THAT:

Section 1. Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as part of the judgment and findings of the City Council.

Section 2. Establishment of the Office of City Marshal. There is hereby established the Office of City Marshal for the City of Saint Hedwig. The marshal department shall be composed of the City Marshal and such other deputy marshals and employees as the City Council may provide. The jurisdiction of the marshal department shall be as stated in: TEXAS LOCAL GOVERNMENT CODE, TEXAS CODE OF CRIMINAL PROCEDURE and the TEXAS PENAL CODE, which includes authority to investigate crimes or enforce laws outside the City limits.

When outside the jurisdictional limits of the city, the marshals of the City of Saint Hedwig shall have and may exercise such authority and powers as may be granted to them as peace officers under the constitution and laws of the State of Texas and of the United States.

Section 3. Establishment and Appointment of Chief of Police. The Position of City Marshal (“Chief”) of the Saint Hedwig Marshal Department is hereby established. Pursuant to Texas Local Government Code the marshal is the ex officio chief of police. The Chief shall be appointed by a majority vote of the City Council. The Chief shall be in charge of the marshal department and shall organize the department in conformity with the laws of the state and ordinances of the City. The Chief may promulgate policies, procedures, rules, directives, and orders for the administration of the department including, but not limited to, discipline within the department.

Section 4. Duration of Office. The term of office shall be for two (2) years from the date of appointment in accordance with this Ordinance. The Marshall be removed from office in accordance with section 22.077 of the Texas Local Government Code, as amended.

Section 5. Qualifications and Appointment as Marshall.

- (a) The marshal shall have the power, rights, duties and jurisdiction granted to or imposed on a peace officer by the Texas Code of Criminal Procedure, Texas Local Government Code Section 341.021, and such other powers and duties as may be prescribed by the City Council.
- (b) The marshal shall train, supervise, and discipline deputies and shall establish and maintain civil and criminal law enforcement procedures consistent with the requirements and limitations of the Texas Code of Criminal Procedure.
- (c) The marshal, in addition to performing the duties set out elsewhere in this Ordinance, shall:
 - 1) Be the head of the office of marshal and have supervision over all officers and members thereof;
 - 2) Keep such records and make such reports concerning the activities of the department as may be required by statute or by the City Council;
 - 3) Be responsible for the performance of the office of marshal and its functions and responsive to the citizens of the City and the ordinances adopted by the City Council;
 - 4) Prescribe such rules and regulations as he shall deem advisable. Such rules and regulations and amendments thereto shall be binding on members of the office. Such rules and regulations shall be within the marshal's budget. Such rules and regulations may cover uniforms and equipment to be worn or carried, hours of service, vacations, and all other matters necessary for the efficiency of the office;
 - 5) Have custody of all lost, abandoned, or stolen property recovered by the City;

- 6) Carry out such other duties as may be directed by the Mayor or City Council;
 - 7) All Duties as outlined in Exhibit A.
- (d) Shall execute a bond with the City, with such bond conditioned on the officer's faithful performance of his or her duties.

Section 6. Rank Structure. The members of the Saint Hedwig Police Department shall be under the authority, control, and command of the Chief, subject to federal and state law, and City ordinances. The City Council hereby authorizes the positions of Lieutenant, Sergeant, Corporal, and additional Marshals and such positions shall be funded as deemed necessary by the City Council and accounted for in the fiscal budget of the City. A copy of the organizational chart is attached hereto as Exhibit A and incorporated by for all purposes. Civilian staff may be employed as administrative support for the department and such position(s) shall be accounted for in the fiscal budget of the City.

Section 7. Reserve Force. The City Council hereby by authorizes a reserve force as set for the below:

- (a) Reserve officers are not considered employees of the city but appointed as part of the reserve force by the marshal and approved by the City Council prior to being allowed to carry a firearm or serve as a peace officer within the city. All appointments to, promotions within, terminations from or actions which affect the commissions of any reserve officer shall be made by the marshal only after such action has been approved by the City Council.
- (b) No reserve officer shall be considered a "municipal officer" within the meaning of section 22.071 of the Texas Local Government Code. All officers, including deputies and reserve, of the city shall serve at the pleasure of the city council, subject to recommendations of the marshal.
- (c) There is no compensation for reserve police officers provided for in the city budget.
- (d) A reserve officer of the city shall have the powers, rights, duties, and jurisdiction granted to or imposed on a peace officer by the Texas Code of Criminal Procedure and such other powers and duties as may be prescribed by the City Council.

Section 8. This Ordinance shall be cumulative of all provisions of ordinances of the City of Saint Hedwig, Texas, except where the provisions of the ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section 9. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 10. It is officially found, determined, and declared the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting including this Ordinance, was given, as required by Chapter 551, Texas Government Code, as amended.

Section 11. This ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED, the 4th day of November 2021.



DEE GRIMM, MAYOR

ATTEST:



JANICE STAUDT, CITY SECRETARY

APPROVED AS TO FORM:



Denton Navarro Rocha Bernal and Zech, P.C.



EXHIBIT A

The City Marshal, and duly authorized deputies, shall perform the following duties:

- (1) serve as a Peace Officer pursuant to the Texas Code of Criminal Procedure, to enforce the criminal laws of the State of Texas, with jurisdiction and authority of the Marshal as stated in: TEXAS LOCAL GOVERNMENT CODE, TEXAS CODE OF CRIMINAL PROCEDURE and the TEXAS PENAL CODE, which includes authority to investigate crimes or enforce laws outside the City limits.
- (2) assist the municipal court of the city, upon creation and establishment, in the operation of its functions;
- (3) serve as peace officer for the municipal court;
- (4) serve as court bailiff in the municipal court;
- (5) execute warrants of arrest, subpoenas and other legal process issuing out of municipal court;
- (6) enforce all codes and ordinances of the City;
- (7) issue citations for code enforcement upon information from the Building Official and/or Code Enforcement Official as needed; and
- (8) other duties as assigned, such duties not to be in conflict with provisions of this section.