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PLANNING BOARD

§ 30.01 ESTABLISHMENT.

There is hereby created a Planning Board for the city composed of not less than five nor more than seven members, each of whom shall be a resident of the city, and who shall serve without pay.
(Ord. 246, passed 9-6-60)

§ 30.02 APPOINTMENT; TERMS.

(A) The Mayor shall appoint the members of the Planning Board and each person so appointed must be approved by three-fourths of a majority of the Board of Commissioners before becoming a member thereof. The Mayor, with three-fourths majority approval of the Board of Commissioners, shall appoint not less than five nor more than seven persons who shall serve on the Planning Board for a period of three years.

(B) At the option of the Mayor and with the three-fourths majority approval of the Commissioners, terms may be staggered for one, two, and three years so that not more than two persons shall be appointed any one year to replace individuals appointed and acting as members of such Board. Terms of office of members of such Board shall begin immediately, and shall end on January 1 next, in accordance with their appointment.

(C) All vacancies on the Board shall be filled by appointment of the Mayor, with the consent and approval of three-fourths of the Board

of Commissioners, and shall be for the remainder of the term of the vacating member.

(D) Any member of the Planning Board may be removed from his office, at any time, by a three-fourths majority vote of the Board of Commissioners, without any reason being given therefor.

(Ord. 246, passed 9-6-60)

§ 30.03 JURISDICTION.

State statutes authorizing and empowering cities to regulate the platting and recording of subdivisions or additions situated within the corporate limits, or within one mile of such city, the same being Article 974a, V.T.C.S., are hereby adopted for and on behalf of the city.

(Ord. 246, passed 9-6-60)

§ 30.04 POWERS AND DUTIES.

The powers and duties of the Planning Board are the following:

(A) To confer with and advise private property owners pertaining to location and erection of private structures with the view of having same conform to the over-all city plan, and to advise with the building inspectors and Department of Public Works in the performance of their duties.

(B) To aid and assist the Board of Commissioners in the preparation of budgets and determination of sources of funds, and in the procuring of financial and other assistance for the city from the state and federal governments and their agencies for each and all of the purposes herein enumerated.

(C) To act with and assist all other municipal and governmental agencies, and particularly the Board of Commissioners, in formulating and executing proper plans of municipal development and growth.

(D) To plan and recommend the location, plan, and extent of city alleyways, viaducts, bridges, subways, airports, automobile parking places, and other public grounds and public improvements; for the location of public buildings, schools, and other public properties; and of public utilities, including bus terminals, railroads, railroad depots, and terminals, whether publicly or privately owned; for water, lights, sanitation, sewerage, sewage disposal, drainage, flood control, transportation, communication, marketing, and shipping facilities, power, and other purposes; and for the removal, relocation, widening, extension, narrowing, vacation, abandonment, or change of use of any of the foregoing public places, facilities, or utilities.

(E) To select and recommend to the Board of Commissioners routes of streets, avenues, and boulevards, including the opening, widening, and abandoning of the same, or of any alley, or the changing thereof to conform with the city's system, present and future, with reference to traffic.

(F) To investigate, consider, and report to the Board of Commissioners upon the layout or platting of any new subdivision of the city or of property situated within five miles of the city limits, and to recommend the approval of all plans, plats, or replats of additions within the city limits or within five miles of the same, or of the rejection of either.

(G) To suggest, to the Board of Commissioners, plans for clearing the city of slums and blighted areas.

(H) To make any recommendation that seems expedient and in consonance with future zoning plans or laws, and with reference to the use of the present zoning of the city.

(I) The Planning Board shall, from time to time, recommend to the Board of Commissioners passage of such ordinances as may be necessary to carry out its program.

(Ord. 246, passed 9-6-60)

§ 30.05 CITY OFFICIALS TO BE AVAILABLE.

All department heads and officials of the city shall be available to the Planning Board for advice and consultation, and they shall come within the scope of the limits, and any other land outside the city, which, in the opinion of the Planning Board, bears a relation to the planning of the city, and to make changes in, additions to, and extensions of such plans or maps when it deems the same advisable.

(Ord. 246, passed 9-6-60)

§ 30.06 CITY AUTHORIZED BY STATE LAW.

The city, acting through its duly authorized officials, shall have all the rights, powers, privileges, and authority authorized and granted by and through the state statutes.

(Ord. 246, passed 9-6-60)

CEMETERY BOARD

§ 30.10 PURPOSE.

There is hereby created an advisory board to be known as the "Cemetery Board." This Board shall be composed of seven members. The

Director of Parks and Recreation shall be an ex-officio member. The members shall be appointed by the Mayor with the approval of a majority vote of the Board of Commissioners. All members shall serve without compensation.

(Ord. 817, passed 11-21-11)

§ 30.11 TERM OF OFFICE.

The normal term of office for each appointed member of the Cemetery Board shall be two years with a five-consecutive-term limit. Three members of the first Board shall be appointed for a term of one year and four members shall be appointed for a term of two years. Annually thereafter, the appropriate number of members shall be appointed by the Mayor with the approval of a majority of the Board of Commissioners for a term of two years. Should a vacancy occur for any reason, the Mayor with the approval of the majority of the Board of Commissioners shall within 60 days, appoint a replacement to serve the remainder of the term.

(Ord. 817, passed 11-21-11)

§ 30.12 ORGANIZATION.

The Cemetery Board, hereinafter referred to as "Board," shall elect a chairman, vice-chairman, and secretary annually and shall provide for regular and special meetings it deems necessary. The Board shall keep minutes of the meetings and shall furnish the Board of Commissioners a copy of such minutes.

(Ord. 817, passed 11-21-11)

§ 30.13 POWERS AND DUTIES.

The Board shall be responsible for the formulation of cemetery policy, rules, regulations, and programs. Recommendation on such policy, rules, regulations, and programs shall be made by the Board to the Board of Commissioners. Upon approval by the Board of Commissioners, such policy, rules, regulations, and programs shall become official and the City Manager, or designated representative, shall be responsible for its implementation.

(Ord. 817, passed 11-21-11)

§ 30.14 LIMITATIONS.

The Board shall be advisory in nature. It shall not be authorized to incur on behalf of the city any expenses incident to the operation of the cemeteries, nor shall it solicit funds on behalf of the city, unless expressly authorized to do so by the Board of Commissioners.

(Ord. 817, passed 11-21-11)

CHAPTER 31: FINANCE AND TAXATION

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AD VALOREM TAX

§ 31.01 AD VALOREM TAX RATE.

(A) An ad valorem tax in the amount per \$100 of market value as is established annually by ordinance of the Board of Commissioners, as said market value is fixed by the County Appraisal District, shall be annually levied on all real property, personal property, and mixed property located and situated within the city limits, and any exceptions as established from time to time by the city or state. This tax shall be distributed to the general fund of the city.

(B) Any person failing to pay their taxes on or before January 31 of each year, shall be subject to the maximum penalties thereon allowed by law to be collected on delinquent taxes. All delinquent taxes shall bear interest at the highest per annum interest rate allowed by law to be collected on delinquent taxes and shall bear interest from the date of delinquency until paid.

(Ord. 434, passed - 86; Am. Ord. 443, passed 9-21-87; Am. Ord. 453, passed 9-19-88; Am. Ord. 465, passed 9-18-89; Am. Ord. 474, passed 9-17-90; Am. Ord. 484, passed 9-16-91; Am. Ord. 498, passed 9-21-92; Am. Ord. 518, passed 9-20-93; Am. Ord. 526, passed 9-19-94; Am. Ord. 536, passed 9-18-95; Am. Ord. 545, passed 9-16-96; Am. Ord. 553, passed 6-16-97; Am. Ord. 555, passed 9-15-97; Am. Ord. 566, passed 9-21-98; Am. Ord. 646, passed 9-16-02; Am. Ord. 663, passed 9-15-03; Am. Ord. 682, passed 9-20-04; Am. Ord. 756, passed 9-15-08; Am. Ord. 770, passed 9-21-09; Am. Ord. 790, passed 9-20-10; Am. Ord. 812, passed 9-19-11; Am. Ord. 826, passed 9-17-12; Am. Ord. 886, passed 9-18-15; Am. Ord. 905, passed 9-19-16; Am. Ord. 926, passed 9-18-17; Am. Ord. 941, passed 9-17-18)

§ 31.02 COLLECTING DELINQUENT TAXES.

(A) Taxes remaining delinquent on July 1, of the year in which they become delinquent shall incur an additional penalty of 15% of the amount of taxes, penalty, and interest due.

(B) A tax lien shall be attached to the property on which the tax is imposed to secure payment of the penalty.

(C) The Tax Collector shall deliver a notice of delinquency, and of the additional penalty, to the property owner at least 30 and not more than 60 days before July 1, of the year taxes become delinquent. (Ord. 408, passed 1-16-84)

TELECOMMUNICATIONS SERVICES TAX

§ 31.10 TAX AUTHORIZED; EFFECTIVE DATE.

(A) A tax is hereby authorized on all telecommunications services sold within the city. For purposes of this subchapter, the sale of telecommunications services is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

(B) The application of the exemption provided for in Article 1066 C, Section 4B (a), V.T.C.S. is hereby repealed by the city as authorized by Section 4B(b) thereof.

(C) The rate of tax imposed by this subchapter shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the legislature of the State of Texas.

(D) The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered or Certified Mail a copy of ordinance 438 along with a copy of the minutes of the City Council's vote and discussion on that ordinance.

(E) This section shall become effective as of October 1, 1987. (Ord. 438, passed 5-18-87)

§ 31.11 OTHER ORDINANCES NOT REPEALED.

This subchapter shall be and is hereby declared to be cumulative of all other ordinances of the city, and this subchapter shall not operate to repeal or affect any of such other ordinances. The tax provided for hereunder shall not serve as an offset to, be in lieu of or in any way reduce any amount payable to the city pursuant to any franchise, street use ordinance, charter provisions, statute, or, without limitation by the foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent hereof that all

such obligations, impositions, and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

(Ord. 438, passed 5-18-87)

TAX INCENTIVE PROGRAMS

§ 31.15 ENTERPRISE AND REINVESTMENT ZONE.

(A) The City hereby nominates a certain area as an enterprise zone in accordance with the Texas Enterprise Zone Act, Art. 5190.7, V.T.C.A., to be designated as Burkburnett Enterprise Zone, this area generally includes:

The territory beginning at the intersection of Interstate Highway 44 and the city limits, then following the eastern city limit boundaries to its intersection with Sycamore Drive, then along Sycamore Drive westward to its intersection with Sheppard Road and Interstate Highway 44, then south along Interstate Highway 44 to the southern city limit boundary, then along the southern city limit boundary to its intersection with FM 369, then north along FM 369 to Kramer Road, then east on Kramer Road to the eastern property line of J. Wayne Carter Property (5M10-002), then south along the eastern property line along the J. Wayne Carter Property to the southern city limit boundary, then east along the southern city limit boundary to Cropper Road, then north along Cropper Road to Burkburnett Industrial Foundation Property fine (5M08-002), then following the southern and western Burkburnett Industrial Foundation property lines to Preston Road, then west along Preston Road to its intersection with the south alley/drainage easement along Janlee Drive, then northeasterly and northerly along the south alley/drainage easement along Janlee Drive to the northern boundary of the Ameron Property (5M18-008), then west along the northern boundary line along the Ameron Property to its intersection with Ameron Road and the MKT Railroad, then south along the MKT Railroad to its intersection with Cropper Road, then south along the MKT Railroad to Daniels Road, then east on Daniels Road to Interstate Highway 44, then north on Interstate Highway 44 to Brenda Street, then west on Brenda Street to Berry Street, then north along Berry Street to Park Street, then west along Park Street to Avenue D, then north along Avenue D to College Street, then west on College Street to the MKT Railroad, then north-northwesterly along the MKT Railroad to Gresham Road, then west along Gresham Road to the western boundary of Superior Pallet Company property (5NO2-256-03), then north along the Superior Pallet Company western property line to the northern property line, then north along the northern property line of Superior Pallet Company to the MKT Railroad, then south along the MKT Railroad, to the northern city limit boundary, then easterly along the northern city limit boundary to the point of beginning.

(B) The City Council finds that the proposed enterprise zone meets the qualifications of an enterprise zone of the Texas Enterprise Zone Act.

(C) The City Council will provide certain tax incentives applicable to business enterprises in the zones which are not applicable throughout the city as follows:

(1) The city may at its election, refund to any qualified business located in the enterprise zone the amount of tax paid under the Municipal Sales and Use Tax Act (Ch. 321, Tax Code, V.T.C.A.) by the business and remitted to the Comptroller of Public Accounts up to the maximum extent authorized by § 321.508, Tax Code, V.T.C.A., and for a period determined by the city but which shall not exceed 5 years.

(2) The city may abate ad valorem taxes up to a maximum of 100% of the real property and eligible personal property improvements as allowed under Property Redevelopment and Tax Abatement Act as amended (Chapter 312, Tax Code, V.T.C.A.) for a period to not to exceed 10 years. All tax abatement incentives shall be in accordance with the city's policies on tax abatement and determined on a case-by-case basis.

(3) The city will provide technical assistance in the preparation and submission of any grant and loan applications on behalf of qualified business desiring financial assistance (i.e., Texas Capital Fund Loan Program, Texas Capital Fund Real Estate Development Program, Governor's Special Assistance Fund for Small and Minority Business, FMHA Business and Industrial Loan Program, SBA 7(a) and 504 Loan Program, National Rural Loan Program, and the like).

(4) The city will assist the qualified business in applying for job training funds for any new and permanent jobs through the Jobs Partnership Training Act and the Work Force Development Incentive Programs.

(D) The proposed area nominated in this section is designated as an enterprise and reinvestment zone, subject to the approval of the Texas Department of Commerce.

(E) The City Council directs and designates that the Mayor as the City's authorized representative to act in all matters pertaining to the nomination and designation of the area described herein as an enterprise and reinvestment zone.

(F) The City Council further directs and designates the City Manager, as liaison for communication with the Texas Department of Commerce to oversee zone activities and communications with qualified businesses.

(Ord. 499, passed 10-29-92)

§ 31.16 TAX INCREMENT FINANCING DISTRICT, REINVESTMENT ZONE.

(A) The city hereby creates a Tax Increment Financing District, Reinvestment Zone over the area depicted in Exhibit A attached to Ord. 708, passed February 20, 2006.

(B) The operation of the zone shall commence on February 20, 2006 and shall terminate on December 31, 2035. The zone may be renewed for an additional five years, or may terminate sooner by subsequent ordinance.

(C) The city hereby creates a Board of Directors for the zone, which shall consist of five members, at least four of which shall be appointed by the Board of Commissioners, one by the Wichita County Commission. Three Board members shall have initial appointments terminating on December 31, 2007. Two Board members shall have initial appointments terminating on December 31, 2006. All subsequent appointments shall be made for two year staggered terms. In the event that no successor has been appointed by December 31 of any year, such member shall continue to serve until his or her successor is appointed.

(D) The Board of Commissioners shall appoint one member of the Board to serve as chairman for a term to expire on December 31, 2006. The Board of Commissioners will appoint a chairman to serve for a one-year term beginning January 1 of each year thereafter. The Board of Commissioners may elect a vice-chairman to preside in the absence of the chairman or when there is a vacancy in the office of chairman. The TIF Board may elect other officers, as it considers appropriate.

(E) There is hereby created a Tax Increment Fund for the zone into which all tax increments shall be deposited. The tax increments shall be equal to the amount of property taxes levied for a year on the captured appraised value, that is the amount by which the current appraised value of all taxable real property located in the zone exceeds its tax increment base. The base shall be as determined and certified in the Financial Plan as the 2005 values.

(F) The Plan for the Tax Increment Financing Reinvestment Zone (Exhibit B attached to Ord. 708, passed February 20, 2006) is hereby adopted.

(Ord. 708, passed 2-20-06; Am. Ord. 900, passed 7-18-16)

ROOM OCCUPANCY TAX

§ 31.20 DEFINITIONS.

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CITY CLERK." The City Clerk and collector for the city of Burkburnett.

"CONSIDERATION." The cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

"HOTEL." Any building or buildings in which the public may, for a consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but not including licensed hospitals, sanitariums or nursing homes.

"OCCUPANCY." The use or possession, or the right to the use or possession, of any room or rooms in a hotel if the room is one which is ordinarily used for sleeping and conventions and if the occupant is other than a permanent resident as hereinafter defined.

"OCCUPANT." Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.

"PERMANENT RESIDENT." Any occupant who has or shall have the right to occupancy of any room or rooms in a hotel for at least 30 consecutive days during the calendar year or preceding year.

"PERSON." Any individual, company, corporation or association owning, operating, managing or controlling any hotel.

"QUARTERLY PERIOD." The regular calendar quarters of the year, the first quarter being composed of the months October, November and December; the second quarter being the months of January, February and March; the third quarter being the months of April, May and June; and the fourth quarter being the months of July, August and September.
(Ord. 634, passed 4-15-02)

§ 31.21 TAX LEVIED; AMOUNT; EXEMPTIONS.

(A) There is hereby levied a tax of 7% of the price paid for a room in a hotel on every person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.

(B) Exemptions.

(1) No tax shall be imposed upon a permanent resident.

(2) No tax shall be imposed for federal or state employees traveling on official business.

(3) No tax shall be imposed for diplomatic personnel who present a tax exemptions card issued by the United States Department of State.

(4) No tax shall be imposed for federal or state military personnel traveling on official military business. This exemption does not cover military staff on leave or between stations.
(Ord. 634, passed 4-15-02)

§ 31.22 COLLECTION OF TAX.

(A) Every person owning, operating, managing or controlling any hotel shall collect the tax levied by this subchapter for the city and its extraterritorial jurisdiction.

(B) The hotel operator shall be entitled to 1% of the hotel occupancy tax revenues collected as reimbursement for the operator's administrative costs for collecting the tax. However, as herein below provided, this reimbursement may be forfeited at the discretion of the city if the hotel operator fails to timely pay over the tax or timely file a report as required by the city or file a false report with the city.
(Ord. 634, passed 4-15-02)

§ 31.23 QUARTERLY REPORTS TO CITY CLERK.

On or before the 30th day of April, July, October and January every person required in § 31.22 to collect the tax imposed herein shall file a report with the City Clerk showing the price paid for all room occupancies, and any other information the city may reasonably require. The person shall pay the tax due on such occupancies at the time of filing such report. The report shall be in a form prescribed by the city. The City Clerk is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this subchapter. The City Clerk shall have the authority to request and receive within a reasonable time documentation for information contained in the report to the city by the hotel.
(Ord. 634, passed 4-15-02)

§ 31.24 RULES AND REGULATIONS OF CITY; ACCESS TO BOOKS AND RECORDS.

The city shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon reasonable notice have access to books and records necessary to enable a person to determine the correctness of any report filed as required by this subchapter, and the amount of taxes due under the provisions of this subchapter.
(Ord. 634, passed 4-15-02)

§ 31.25 ADDITIONAL AUTHORIZATION TO BRING SUIT.

The City Attorney is hereby authorized to bring suit against any person required to collect the tax imposed hereby and required to pay the collection over to the city and who has failed to file a report, or filed a false report, or failed to pay the tax when due. The suit may seek to collect the tax not paid or to enjoin the person from operating a hotel in the city or its extraterritorial jurisdiction until the tax is paid or the report is filed or both, as applicable as provided in the injunction.
(Ord. 634, passed 4-15-02)

§ 31.26 USE OF REVENUE.

The revenue derived from any hotel occupancy tax imposed and levied by this subchapter may be used only to promote tourism and the convention and hotel industry. Such revenue shall not be used for the general revenue purposes or general governmental operations of the municipality, which are not directly related to promoting the hotel and convention industry or tourism in the municipality.
(Ord. 634, passed 4-15-02)

§ 31.27 KEEPING OF RECORDS.

(A) A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the City Council or other person, shall make the records available for inspection and review and present an annual program of work.

(B) The entity must maintain the revenue provided by the municipality from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account.

(C) Hotel occupancy tax revenue may not be spent for travel for any person to attend an event or conduct an activity, the primary p u r p o s e

of which is not directly related to the promotion of the person's job in an efficient and professional manner.
(Ord. 634, passed 4-15-02)

§ 31.28 PUBLICATION.

Publication shall be made one time in the official publication of the city, which shall contain the caption stating in substance the purpose of the subchapter.
(Ord. 634, passed 4-15-02)

§ 31.29 PENALTY.

(A) If any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the city the tax imposed herein when the report or payment is due, he or she shall forfeit 5% of the amount due as penalty, and after the first 30 days, he or she shall forfeit an additional 5% of the tax. However, such penalty shall never be less than \$1. Delinquent taxes shall draw interest at the rate of 10% per annum beginning 60 days from the due date.

(B) Any person violating any of the provisions of this subchapter, including hotel operators who fail to collect the tax, fail to file a return, file a false return, or who are delinquent in their tax payment, shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not to exceed \$200, and each 24 hours of such violation shall constitute a separate offense.

(C) The city is hereby authorized to take the following actions against any person required to collect the tax imposed hereby and pay the collection over to the city and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

(1) Require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;

(2) Bring suit against the hotel for noncompliance; and/or

(3) Bring suit against the hotel seeking any other remedies provided under Texas law.
(Ord. 634, passed 4-15-02)

CHAPTER 32: EMPLOYEE POLICIES

Section

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§ 32.01 PARTICIPATION IN STATE RETIREMENT SYSTEM.

(A) On behalf of the city, the Board of Commissioners hereby exercises its option and elects to have the city and all of the employees of all departments, now existing, or hereafter established, participate in the Texas Municipal Retirement System as provided in Chapter 75, Acts of the 50th Legislature, as amended, (Art. 6243h, V.T.C.S.); and all of the benefits and obligations of such system are hereby accepted as to such employees.

(B) The City Manager is hereby directed to notify the Board of Trustees of the Texas Municipal Retirement System that the city has elected to participate and have the employees of all city departments participate in that system.

(C) Each person who becomes an employee of any department on or after the effective date of participation of such department shall become a member of the Texas Municipal Retirement System as a condition of his employment. The city may in the future refuse to add new departments or new employees to such system, but shall never discontinue as to any participants.

(D) In accordance with the provisions of the statute, the deposits to be made to the Texas Municipal Retirement System on account of current service of the employees of the several participating departments are hereby fixed at the rate of 3% of the earnings of each employee of those departments, and in determining the deposits to be made on account of such service the maximum earnings of this city is full salary.

(E) The City Clerk is hereby directed to remit to the Board of Trustees of the Texas Municipal Retirement System, at its office in Austin, Texas, the city's contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by the Board of Trustees under the provisions of Chapter 75, Acts of the 50th Legislature of the State of Texas, as amended. The City Clerk is authorized and directed to ascertain and

certify officially

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on behalf of the city, the prior service rendered to the municipality by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the City of Burkburnett, Texas, under the provisions of Chapter 75, Acts Regular Session, 50th Legislature, as amended, or in compliance with the rules and regulations of the Board of Trustees of the Texas Municipal Retirement System.

(Ord. 307, passed 3-1-71)

(F) Pursuant to Section 855.407(g) of the TMRS Act, the city hereby elects to make future normal and prior service contributions to its account in the municipal accumulation fund of the system at such combined rate of the total compensation paid by the city to employees who are members of the system, as the system's actuary shall annually determine as the rate necessary to fund, within the amortization period determined as applicable to the city under the TMRS Act, the costs of all benefits which are or may become chargeable to or are to be paid out of the city's account in said accumulation fund, regardless of other provisions of the TMRS Act limiting the combined rate of city contributions.

(Ord. 559, passed 11-17-97)

(G) Pursuant to the provisions of Section 854.202(g) of the TMRS Act, any employee of the city who is a member of the System is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the System performed for one or more municipalities that have adopted a like provision under Section 854.202(g) of the TMRS Act.

(Ord. 570, passed 4-19-99)

(H) The Board of Commissioners elects not to provide five-year vesting under Section 854.205 of the TMRS Act, and the city is hereby authorized and directed to file notice of this election with the Board of Trustees of the System before December 31, 2001.

(Ord. 628, passed 11-19-01)

§ 32.02 UPDATED SERVICE CREDITS FOR RETIREMENT PURPOSES.

(A) On the terms and conditions set out in Sections 853.401 through 853.404 of Subtitle G of Title 8, V.T.C.A., Government Code, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who has current service credit or prior service credit in the system in force and effect on January 1 of the calendar year preceding the allowance, by reason of service in the employment of the city, and on such date has at least 36 months of credited service with the system, is allowed Updated Service Credit (as that term is defined in subsection (d) of Section 853.402 of the TMRS Act).

(B) On the terms and conditions set out in Section 853.601 of the TMRS Act, any member of the System who is eligible for Updated Service Credits on the basis of service with the city, who has unforfeited credit for prior service and/or current service with another participating municipality or municipalities by reason of previous service, and was a contributing member on January 1 of the calendar year preceding the allowance shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in Section 853.601, both as to the initial grant thereunder and all future grants under this section.

(C) The Updated Service Credit hereby allowed and provided for shall be 100% of the "Base Updated Service Credit" of the member (calculated as provided in subsection (c) of Section 853.402 of the TMRS Act).

(D) Each Updated Service Credit allowed hereunder shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(E) The initial allowance of Updated Service Credit hereunder shall be effective on January 1, 2003, subject to approval by the Board of Trustees of the System. An allowance shall be made hereunder on January 1 of each subsequent year until this section ceases to be in effect under subsection (e) of Section 853.404 of the TMRS Act, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in subsection (d) of Section 853.404 of the TMRS Act.

(F) In accordance with the provisions of subsection (d) of Section 853.401 of the TMRS Act, the deposits required to be made to the System by employees of the several participating departments on account of current service shall be calculated from and after the effective date of this section on the full amount of such person's compensation as an employee of the city.

(Ord. 422, passed 9-16-85; Am. Ord. 441, passed 7-20-87; Am. Ord. 450, passed 9-19-88; Am. Ord. 463, passed 8-21-89; Am. Ord. 475, passed 9-17-90; Am. Ord. 486, passed 10-21-91; Am. Ord. 648, passed 10-21-02)

§ 32.03 INCREASE IN RETIREMENT ANNUITIES.

(A) On the terms and conditions set out in §§ 854.203 and 853.404 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the TMRS Act), the city hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the System to retired employees and to beneficiaries of deceased employees of this city under current service annuities and prior service annuities arising from service by such employees to this city. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(B) The amount of annuity increase under this section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by 70% of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this section.

(C) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(D) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.

(E) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is an obligation of the city and of its account in the municipality accumulation fund of the System.

(Ord. 422, passed 9-16-85; Am. Ord. 441, passed 7-20-87; Am. Ord. 450, passed 9-19-88; Am. Ord. 463, passed 8-21-89; Am. Ord. 486, passed 10-21-91; Am. Ord. 537, passed 9-18-95; Am. Ord. 736, passed 8-20-07)

§ 32.031 DATE OF ALLOWANCES AND INCREASES.

The initial allowance of Updated Service Credit and increase in retirement annuities hereunder shall be effective on January 1, 1992, subject to approval by the Board of Trustees of the System. An allowance of Updated Service Credits and an increase in retirement annuities shall be made hereunder on January 1 of each subsequent year until this ordinance ceases to be effect under subsection (e) of Section 853.404 of the TMRS Act, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in subsection (d) of Section 853.404 of the TMRS Act.

(Ord. 486, passed 10-21-91)

§ 32.04 RATE OF DEPOSIT INTO STATE RETIREMENT SYSTEM.

(A) All employees of the city who are members of the Texas Municipal Retirement System shall make deposits to the system at the rate of 7% of their individual earnings. However, this rate shall not be applied to earnings in excess of the maximum earnings subject to retirement deductions as fixed by ordinance.

(B) Effective January 1, 1992, for each month of current service thereafter rendered by each of its employees who are members of the Texas Municipal Retirement System, the city will contribute to the current service annuity reserve of each such member at the time of his

or her retirement, a sum that is 200% of such member's accumulated deposits for such month of employment; and the sum shall be contributed from the city's account in the municipality accumulation fund.

(Ord. 383, passed 9-21-81; Am. Ord. 487, passed 10-21-91)

§ 32.05 SUPPLEMENTAL DISABILITY BENEFITS FUND.

The city by its Board of Commissioners hereby elects to have the employees of all participating departments of the city (as above defined) participate in and be covered by the Supplemental Disability Benefits Fund of the Texas Municipal Retirement System, as provided by Sections 62.003, 64.401 through 64.404, 65.313, and 65.408 of Title 110B, V.T.C.S.; and all of the benefits and obligations of participation in that Fund are hereby accepted by the city as to such employees.

(A) The City Manager is hereby directed to notify the Board of Trustees of the Texas Municipal Retirement System that the city has elected to participate and have the employees of the above-mentioned departments participate in the Supplemental Disability Benefits Fund of the system.

(B) Each person who becomes an employee of any participating department on or after the effective date of participation of such department in that Fund shall as a condition of his employment be covered into the Supplemental Disability Benefits Fund of the system. The city may in the future refuse to add new departments or new employees to the Fund, but shall never discontinue as to any members who are covered into the Fund.

(C) The City Secretary is directed to remit monthly to the Board of Trustees of the Texas Municipal Retirement System at its office in Austin, Texas, as the city's contributions to the Supplemental Disability Benefits Fund of the Texas Municipal Retirement System, such percentage of earnings of the above-mentioned employees of the city as may be fixed by the Board of Trustees of the Texas Municipal Retirement System, provided that the rate of contribution to the Fund shall not exceed 0.5% of the earnings of the employees of the city who are covered under the Fund; and such official shall make for the city such reports as the Board of Trustees of the Texas Municipal Retirement System may prescribe.

(Ord. 422, passed 9-16-85)

§ 32.06 SUPPLEMENTAL DEATH BENEFITS FUND.

The city hereby elects to participate in the Supplemental Death Benefits Fund of the Texas Municipal Retirement System for the purpose of providing in-service death benefits for each of the city's employees who are members of the System, and for the purpose of providing post-retirement death benefits for annuitants whose last covered employment was as an employee of the city, in the amounts and on the terms provided for in Sections 62.004, 64.601 through 64.605, 65.314, 65.409, and 65.502 of Title 110B, V.T.C.S.

(Ord. 422, passed 9-16-85)

§ 32.07 SERVICE RETIREMENT ANNUITY PROGRAM; OCCUPATIONAL DISABILITY PROGRAM.

Pursuant to the provisions of Sections 64.202(f), 64.204, 64.405, 64.406, and 64.410 of Subtitle G of Title 110B, V.T.C.S., as amended by the 70th Legislature of the State of Texas, Regular Session, which Subtitle shall herein be referred to as the "TMRS Act," the city adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System (which retirement system shall herein be referred to as the "System"):

(A) Any employee of this city who is a member of the system is eligible to retire and receive a service retirement annuity, if the member has at least 25 years of credited service in that system performed for one or more municipalities that have participation dates after September 1, 1987, or have adopted a like provision under Section 64.202(f) of the TMRS Act.

(B) If a "vested member," as that term is defined in Section 64.204(b) of the TMRS Act, shall die before becoming eligible for service retirement and leaves surviving a lawful spouse whom the member has designated as beneficiary entitled to payment of the member's accumulated contributions in event of the member's death before retirement, the surviving spouse may by written notice filed with the system elect to leave the accumulated deposits on deposit with the system subject to the terms and conditions of said Section 64.2049(b). If the accumulated deposits have not been withdrawn before such time as the member, if living, would have become entitled to service retirement, the surviving spouse may elect to receive, in lieu of the accumulated deposits, an annuity payable monthly thereafter during the lifetime of the surviving spouse in such amount as would have been payable had the member lived and retired at that date under a joint and survivor annuity (Option 1) payable during the lifetime of the member and continuing thereafter during the lifetime of the surviving spouse.

(C) At any time before payment of the first monthly benefit of an annuity, a surviving spouse to whom division (B) applies may, upon written application filed with the system, receive payment of the accumulated contributions standing to the account of the member in lieu of any benefits otherwise payable under this section. In the event such a surviving spouse shall die before payment of the first monthly benefit of an annuity allowed under this section, the accumulated contributions credited to the account of the member shall be paid to the estate of such spouse.

(D) The rights, credits, and benefits hereinabove authorized shall be in addition to the plan provisions heretofore adopted and in force at the effective date of this section pursuant to the TMRS Act.

(E) Any employee of this city who is a member of the system is eligible to retire and receive a "standard occupational disability annuity" under Section 64.408 of the TMRS Act or an "optional occupational disability retirement annuity" under Section 64.410 of the

TMRS Act upon making application therefor upon such form and in such manner as may be prescribed by the Board of Trustees of the system, provided that the system's medical board has certified to said Board of Trustees: (1) that the member is physically or mentally disabled for further performance of the duties of the member's employment; (2) that the disability is likely to be permanent; and (3) that the member should be retired. Any annuity granted under this division (E) shall be subject to the provisions of Section 64.409 of the TMRS Act.

(F) The provisions relating to the occupational disability program as set forth in division (E) above are in lieu of the disability program heretofore provided for under Sections 64.301 to 64.308 of the TMRS Act.

(Ord. 440, passed 7-20-87)

§ 32.08 PRIOR SERVICE CREDIT FOR SERVICE PERFORMED DURING PROBATION.

(A) Effective September 1, 1989, any employee of this city who is a member of the Texas Municipal Retirement System and who performed service as a probationary employee for this city prior to September 1, 1989 for which the employee did not receive credited service in the System because the person, as a probationary employee, was not enrolled as a member of the System during the period of probationary employment, is hereby allowed to obtain prior service credit for the period of such probationary service (not in excess of six months), pursuant to the provisions of Section 63.303 of Subtitle G, Title 110B, V.T.C.S., as enacted by House Bill 1885, Acts of the Regular Session of the 71st Legislature.

(B) To obtain prior service credit allowable under division (A) above, any employee entitled thereto shall file a detailed written statement of the service claimed with the City Secretary within one year from the effective date of this section.

(C) As soon as practicable after the employee has filed a claim, the prior service credit under Section 63.303, Subtitle G of the Local Government Code, the City Secretary shall, if said officer determines that such service was performed as claimed, verify the prior service allowable (not exceeding six months) and the average monthly compensation paid the member during the period of probationary employment, and shall certify to the Board of Trustees of the System the creditable prior service approved, and the average monthly compensation paid to the person by the city during the period of probationary employment.

(Ord. 461, passed 8-21-89)

§ 32.09 SPECIAL CREDIT FOR ACTIVE MILITARY SERVICE.

(A) Effective September 1, 1989, and pursuant to Section 63.502, Subchapter F of Chapter 63, Title 110B, V.T.C.S., the city hereby elects to allow eligible members in its employment to establish credit in the Texas Municipal Retirement System for active military service performed as a member of the armed forces or armed forces reserves of

the United States or as an auxiliary of the armed forces or armed forces reserves. Eligible members as used herein shall be those employees meeting the criteria set forth in Sections 63.502(b) and 63.503 of said Subchapter F, and the amount and use of creditable military service shall be as further set forth in Section 63.505.

(B) In order to establish credit for military service hereunder, a member must deposit with the Texas Municipal Retirement System (in that member's individual account in the Employees Saving Fund), an amount equal to the number of months for which credit is sought, multiplied by \$15. The city agrees that its account in the Municipality Accumulation Fund is to be charged at the time of the member's retirement with an amount equal to the accumulated amount paid by the member for military service credit, multiplied by the city's current service matching ratio in effect at the date the member applies for such military service credit.

(Ord. 462, passed 8-21-89)

§ 32.10 EMPLOYEES WHO HAVE TERMINATED PREVIOUS MEMBERSHIP IN STATE RETIREMENT SYSTEM.

(A) Effective October 1, 1989, and pursuant to Section 63.003 of Subtitle G of Title 110B, V.T.C.S., the city hereby elects to allow any member of Texas Municipal Retirement System who is an employee of this city on the first day of October, 1989, who has terminated a previous membership in said System, by withdrawal of deposits while absent from service, but who has at least 24 months of credited service as an employee of this city since resuming membership, to deposit with the System in a lump sum the amount withdrawn, plus a withdrawal charge of 5% of such amount for each year from date of such withdrawal to date of redeposit. Thereupon, such member shall be allowed credit for all service to which the member had been entitled at date of termination of the earlier membership, with like effect as if all such service had been rendered as a employee of this city, whether so rendered or not.

(B) The city agrees to underwrite and hereby assumes the obligations arising out of the granting of all such credits, and agrees that all such obligations and reserves required to provide such credits shall be charged to this city's account in the Municipality Accumulation Fund. The 5% per annum withdrawal charge paid by the member shall be deposited to the credit of the city's account in said Municipality Accumulation Fund; and deposits of the amount previously withdrawn by the member shall be credited to his or her individual account in the Employees Saving Fund of the System.

(Ord. 464, passed 8-21-89)

§ 32.11 HEALTH BENEFITS.

(A) The city hereby elects to provide health benefits coverage to its retirees through Texas Municipal League Group Benefits Risk Pool under the Pool's Interlocal Agreement, under the following conditions: 1998 S-11

(1) The retiree with 25 years of service with the City of Burkburnett will be required to reimburse the city an amount equal to 100% of the active employee health insurance premium. In addition, if the retiree elects health insurance and/or dental insurance for any member of his/her family, 100% of the active dependent premium must also be reimbursed. Reimbursement is required no later than the last business day of each month.

(2) A retiree with less than 25 years service with the City of Burkburnett will be required to reimburse the city the full early retiree health insurance premium for the appropriate coverage(s) selected.

(3) All other conditions as prescribed in the City of Burkburnett Personnel Policy Handbook concerning early retiree health insurance protection will apply.

(B) The City hereby adopts the following definition of "retiree" for purposes of this section: an employee meeting the qualifications set out in the Texas Municipal Retirement System (TMRS) Act, and otherwise eligible for benefits.

(C) The City hereby adopts the following benefit plans to be provided to its retirees through the Texas Municipal League Group Benefits Risk Pool:

- (1) The same medical plan(s) offered to active employees.
- (2) Dental Plan III.

(D) The Interlocal Agreement in effect between the City of Burkburnett and the Texas Municipal League Group Benefits Risk Pool provides that the Board of Trustees may adopt rules and regulations. The rules and regulations of the Texas Municipal League Group Benefits Risk Pool allow the participating member entity to provide retiree medical coverage at the same contribution as charged to active employees or to select a contribution level which is 150% of the active employee contribution. The City of Burkburnett elects to have the retiree medical contribution be 150% for as long as the TML-GBRP offers this rate structure for retiree medical coverage. Other coverage's will be as established annually by the Texas Municipal League Group Benefits Risk Pool Board of Trustees.

(E) This section will only apply to individuals retiring after its effective date or to employees which retired under a previous ordinance. For individuals retiring after the effective date of this section to qualify they must enroll for this coverage within thirty (30) days of their retirement.
(Ord. 567, passed 10-19-98; Am. Ord. 725, passed 10-16-06)

§ 32.12 RESTRICTED PRIOR SERVICE CREDIT.

(A) On the terms and conditions set out in Sections 853.305 of Subtitle G of Title 8, V.T.C.A., Government Code, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who is now or who hereafter becomes an employee of the city shall receive restricted prior service credit for service previously performed as an employee of any of the entities described in Section 853.305 provided that (1) the person does not otherwise have credited service in the System for that service, and (2) the service meets the requirements of said Section 853.305.

(B) The service credit hereby granted may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of Updated Service Credits.

(C) A member seeking to establish restricted prior service credit under this section must take action required under Section 853.305 while still an employee of the city.
(Ord. 651, passed 12-16-02)

CHAPTER 33: MUNICIPAL COURT OF RECORD

Section

- 33.01 Municipal Court of Record created
- 33.02 Name of Municipal Court of Record
- 33.03 Transition to Municipal Court of Record
- 33.04 Times for transaction of business
- 33.05 Jurisdiction
- 33.06 Judge; qualifications
- 33.07 Removal of judges
- 33.08 Court rules
- 33.09 Court staff
- 33.10 Recording of proceedings
- 33.11 Appeals

Cross-reference:

Municipal court, see Charter Article VII

§ 33.01 MUNICIPAL COURT OF RECORD CREATED.

A municipal court of record is hereby created for the City of Burkburnett, Texas in accordance with Texas Government Code, Chapter 3, the Uniform Municipal Courts of Record Act (herein "the Act") effective March 1, 2008 (the "effective date").
(Ord. 746, passed 2-18-08)

§ 33.02 NAME OF MUNICIPAL COURT OF RECORD.

The municipal court herein created shall be known and designated as the Municipal Court of Record of the City of Burkburnett, Texas.
(Ord. 746, passed 2-18-08)

§ 33.03 TRANSITION TO MUNICIPAL COURT OF RECORD.

The Municipal Court of Record of the City of Burkburnett, Texas shall be in lieu of the current Municipal Court of the City of Burkburnett, Texas and all cases pending in the Municipal Court of the City of Burkburnett, Texas on the effective date shall be transferred to, and thereafter disposed of in, the Municipal Court of Record of the City of Burkburnett, Texas.
(Ord. 746, passed 2-18-08)

§ 33.04 TIMES FOR TRANSACTION OF BUSINESS.

The Municipal Court of Record of the City of Burkburnett, Texas shall have no terms and may sit at any time for the transaction of business of the court.
(Ord. 746, passed 2-18-08)

§ 33.05 JURISDICTION.

The Municipal Court of Record of the City of Burkburnett, Texas shall have subject matter jurisdiction as provided by general law for municipal courts and, in addition, the following subject matter jurisdiction:

(A) Over criminal cases arising under ordinances authorized by Texas Local Government Code, § 215.072 (dairies; slaughterhouses), § 217.042 (nuisances), and § 341.903 (municipal owned property outside municipality).

(B) Concurrent jurisdiction with the justice court in the precinct in which the city is located in criminal cases that arise within the territorial limits of the municipality and are punishable only by fine.

(C) Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Texas Local Government Code, Subchapter A, Chapter 214 (relating to dangerous structures), or Texas Transportation Code, Subchapter E, Chapter 683 (relating to junked vehicles; public nuisance and abatement).

(D) Concurrent jurisdiction with a district court or a county court at law under Texas Local Government Code, Subchapter B, Chapter 54 (relating to municipal health and safety Ordinances), within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction, for the purpose of enforcing health and safety and nuisance abatement ordinances.

(E) Authority to issue:

(1) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation;

(2) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises; and

(3) Writs of mandamus, attachment, and other writs necessary to the enforcement of the jurisdiction of the court and writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.

(Ord. 746, passed 2-18-08)

§ 33.06 JUDGE; QUALIFICATIONS.

(A) The Municipal Court of Record of the City of Burkburnett, Texas shall be presided over by one or more municipal judges.

(B) The Board of Commissioners shall appoint a presiding judge of the Municipal Court of Record of the City of Burkburnett, Texas and may appoint, from time to time, such other judges or temporary judges as it deems necessary in accordance with the Act.

(C) The Board of Commissioners shall establish a salary for each municipal judge appointed in accordance with the Act. The amount of a judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(D) Each municipal judge must:

- (1) Be a resident of this state;
- (2) Be a citizen of the United States;
- (3) Be a licensed attorney in good standing; and

(4) Have two or more years of experience in the practice of law in this state.

(E) A person may not serve as municipal judge if the person is, otherwise, employed by the city. A municipal judge who accepts employment with the city vacates the judicial office.

(F) Each municipal judge shall serve for a term of two years commencing October 1 and ending on September 30 of the second year following the commencement date. The first term of office following adoption of this chapter shall commence on the effective date and shall end on September 30, 2009. The individual now serving as judge of the Municipal Court of the City of Burkburnett, Texas is hereby appointed as presiding judge of the Municipal Court of Record of the City of Burkburnett, Texas to serve the first term specified above.
(Ord. 746, passed 2-18-08)

§ 33.07 REMOVAL OF JUDGES.

A municipal judge may be removed from office at any time upon the grounds set forth for removing members of the Board of Commissioners or the reasons set forth in Texas Constitution, Article V, Section 1-a.
(Ord. 746, passed 2-18-08)

§ 33.08 COURT RULES.

The presiding judge of the Municipal Court of Record of the City of Burkburnett, Texas may make and publish all rules of practice and procedure necessary to expedite the trial of cases before the courts that are not inconsistent with law.
(Ord. 746, passed 2-18-08)

§ 33.09 COURT STAFF.

(A) The City Manager of the city shall appoint the following persons who will serve at the pleasure of the City Manager:

(1) A clerk of the Municipal Court of Record of the City of Burkburnett, Texas; and

(2) Such deputy clerks, warrant officers, or other personnel as needed for the proper operation of the Municipal Court of Record of the City of Burkburnett, Texas.

(B) Such officers shall have the duties and responsibility provided by the Act and applicable law and shall serve under the direction of the presiding judge as required by the Act. The individuals now serving as the Clerk and Deputy Clerk of the Municipal Court of the City of Burkburnett, Texas, respectively, are hereby appointed as the Clerk and Deputy Clerk, respectively of the Municipal Court of Record of the City of Burkburnett, Texas as of the effective date.

(Ord. 746, passed 2-18-08)

§ 33.10 RECORDING OF PROCEEDINGS.

The proceedings of the Municipal Court of Record of the City of Burkburnett, Texas shall be recorded by a good quality electronic recording device meeting the requirements of the Act and applicable law. A court reporter will not be required except for transcription of proceedings for purposes of appeal or as provided in the Act. The City Manager shall, from time to time, appoint an official court reporter who will have the qualifications provided by law for official court reporters. The official court reporter appointed by the City Manager shall serve at the pleasure of the City Manager who shall have authority to remove such official court reporter at any time. The appointment of an individual as the official court reporter shall not entitle such person to a salary nor shall such person have any right or expectation of continued appointment as the official court reporter.

(Ord. 746, passed 2-18-08)

§ 33.11 APPEALS.

(A) A defendant has the right of appeal from a judgment or conviction in the municipal court of record. The state has the right to appeal as provided by Texas Code of Criminal Procedure § 44.01, as amended.

(B) The defendant may not take an appeal until he or she files an appeal bond with the municipal court of record. The bond must be approved by the court and filed not later than the tenth day after the date on which the motion for new trial is overruled. The bond must be in the amount of \$100 or double the amount of the fines and costs adjudged against the defendant, whichever is greater.

(C) A defendant must pay the fee of \$25 for preparation of the clerk's record not later than ten days after the date on which the motion for new trial is overruled. The court shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.

(D) The appellant shall pay for any reporter's record containing a transcription of the proceeding. Before the recorded proceedings are transcribed, the defendant shall, unless found by the court to be unable to pay for the reporter's record, post a cash deposit with the municipal court for the estimated cost of the record. The cash deposit shall be based on an estimate provided by the court reporter or the

length of the proceedings as indicated by the amount of tape. If the cash deposit exceeds the actual cost of the reporter's record, the court reporter shall refund the difference to the defendant. If the cash deposit is insufficient to cover the actual cost of the transcription, the appellant must pay the additional amount due before the transcription may be submitted. If a case is reversed on appeal, the court shall promptly refund to the appellant any amounts paid for the reporter's record.

(Ord. 746, passed 2-18-08; Am. Ord. 908, passed 9-19-16)

CHAPTER 34: CITY POLICIES

Section

- 34.01 City not responsible for claims of damages unless written notification is given
- 34.02 Events held within city limits
- 34.03 National Incident Management System

§ 34.01 CITY NOT RESPONSIBLE FOR CLAIMS OF DAMAGES UNLESS WRITTEN NOTIFICATION IS GIVEN.

The city shall not be held responsible on account of any claim for damages to any person or property, unless the person making the complaint or claiming such damages, shall within 30 days after the time at which it is claimed the injury and such damages were inflicted upon such person or property file with the City Secretary a notice in writing under oath stating the nature and character of the damages or injuries; the circumstances under which it happened, the conditions causing the same, with a detailed statement of each item of damages and the amount thereof.

(Ord. 344, passed 6-27-77)

§ 34.02 EVENTS HELD WITHIN CITY LIMITS.

(A) Location. No events shall be held on property owned by the City of Burkburnett without prior approval of the City Manager. Events held on private property, but open to the public (parking lots, etc.) must have the property owner's permission in writing, and provide to the chief of police prior to scheduling the event. It shall be unlawful for any organizer or producer of indoor/outdoor events to hold such events within 300 feet of any private residence, church or school.

(B) Application, permit. An application may be obtained from the City Clerk at City Hall. The organizer/producer shall make application for a permit to the City Clerk, who shall, if same is in proper form refer such application to the City Manager.

(C) Rules of conduct.

- (1) There shall be absolutely no alcohol on the premises.
- (2) Abusive and/or profane language will not be tolerated.
- (3) All drug and penal laws will be strictly enforced.

(4) Noise from live bands and/or other sound systems will be at a level which does not disturb the peace and tranquility of the neighborhood.

(D) Hours. Events during week days will be held between 9:00 a.m. and 2:00 p.m. This is necessary to reduce traffic congestion and

interruption of school activities. Weekend hours will be approved by the City Manager.

(E) Security. Organizers/producers for such events shall be responsible for the hiring of off duty police officers needed incidental to the handling of large crowds and for protection of property, equipment or people and shall be responsible for compensation at the rate of \$20.00 per hour per officer.

(1) Ratio of Officers:

(a) Two officers under 100 people;

(b) One officer per each 100 people thereafter.

(2) Organizers/producers will submit an estimate number of people expected at the event to the chief of police to determine number of officers.

(F) Sanitation. Organizers/producers shall be responsible for providing trash receptacles and for clean up of all trash at the conclusion of the event. In areas where the availability of restroom facilities are non-existent or limited, port-a-potties will be provided by the organizers/producers, at a ratio of one port-a-potty per each ten people expected in attendance.

(G) Medical. Organizers/producers shall be responsible for providing stand-by medical personnel at the scene of the event to provide emergency medical services as needed.

(H) Parking. Organizers/producers shall be responsible for having parking attendants available to control parking to insure a smooth flow of traffic and to prevent traffic hazards.

(I) Penalty. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction hereof, shall be fined not less than \$100 and not more than \$500.

Ord. 563, passed 8-17-98)

§ 34.03 NATIONAL INCIDENT MANAGEMENT SYSTEM.

The city hereby adopts the National Incident Management System (NIMS), dated March 1, 2004, which contains a practice model for the accomplishment of the significant responsibilities associated with prevention, preparedness, response, recovery and mitigation of all major and national hazards situations.

(Ord. 702, passed 9-12-05)

CHAPTER 35: RECORDS MANAGEMENT

Section

- 35.01 Definitions
- 35.02 City records declared public property
- 35.03 Policy
- 35.04 Designation of Records Management Officer
- 35.05 Records management plan to be developed; approval of plan; authority of plan
- 35.06 Duties of Records Management Officer
- 35.07 Duties and responsibilities of department heads
- 35.08 Designation of records liaison officers
- 35.09 Duties and responsibilities of records liaison officers
- 35.10 Records control schedules to be developed; approval; filing with state
- 35.11 Implementation of records control schedules; destruction of records under schedule
- 35.12 Destruction of unscheduled records

§ 35.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CITY CLERK." The officer who by ordinance, order or policy is in charge of an office of the city that creates or receives records.

"CITY RECORDS." All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media or other information-recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law or in the transaction of public business, are hereby declared to be the records of the city and shall be created, maintained, and disposed of in accordance with the provisions of this chapter or procedures authorized by it and in no other manner.

"ESSENTIAL RECORD." Any record of the city necessary to the resumption or continuation of operations of the city in an emergency or disaster, to the recreation of the legal and financial status of the city or to the protection and fulfillment of obligations to the people of the state.

"PERMANENT RECORD." Any record of the city for which the retention period on a records control schedule is given as permanent.

"RECORDS CONTROL SCHEDULE." A document prepared by or under the authority of the Records Management Officer listing the records maintained by the city, their retention periods, and other records disposition information that the records management program may require.

"RECORDS MANAGEMENT." The application of management techniques to the creation, use, maintenance, retention, preservation and disposal of records for the purpose of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information-retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

"RECORDS MANAGEMENT OFFICER." The person designated in § 35.04.

"RECORDS MANAGEMENT PLAN." The plan developed under § 35.05.

"RETENTION PERIOD." The minimum time that must pass after the creation, recording or receipt of a record or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

(Ord. 478, passed 2-18-91)

§ 35.02 CITY RECORDS DECLARED PUBLIC PROPERTY.

All city records as defined in § 35.01 are hereby declared to be the property of the city. No city official or employee has by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

(Ord. 478, passed 2-18-91)

§ 35.03 POLICY.

It is hereby declared to be the policy of the city to provide for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.

(Ord. 478, passed 2-18-91)

§ 35.04 DESIGNATION OF RECORDS MANAGEMENT OFFICER.

The City Clerk, and the successive holders of said office, shall serve as Records Management Officer for the city. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library within ten days of the initial designation or of taking up the office, as applicable.

(Ord. 478, passed 2-18-91)

§ 35.05 RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN.

(A) The Records Management Officer and the City Manager shall develop a records management plan for the city for submission to the Board of Commissioners. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the city that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law effectively.

(B) Once approved by the Board of Commissioners the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees or similar entities of the city and records shall be created, maintained, stored, microfilmed or disposed of in accordance with the plan.

(C) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this chapter and the records management plan adopted under it and may not be used by the department head as a basis for refusal to participate in the records management program of the city. (Ord. 478, passed 2-18-91)

§ 35.06 DUTIES OF RECORDS MANAGEMENT OFFICER.

In addition to other duties assigned in this chapter, the Records Management Officer shall:

(A) Administer the records management program and provide assistance to department heads in its implementation;

(B) Plan, formulate and prescribe records disposition policies, systems standards and procedures;

(C) In cooperation with department heads identify essential records and establish a disaster plan for each city office and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;

(D) Develop procedures to ensure the permanent preservation of the historically valuable records of the city;

(E) Establish standards for filing and storage equipment and for recordkeeping supplies;

(F) Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for the city;

(G) Provide records management advice and assistance to all city departments by preparation of a manual or manuals of procedure and policy and by on-site consultation;

(H) Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the city's records control schedules are in compliance with state regulations;

(I) Disseminate to the City Manager and department heads information concerning state laws and administrative rules relating to local government records;

(J) Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;

(K) Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this chapter;

(L) Ensure that the maintenance, preservation, microfilming, destruction or other disposition of city records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;

(M) Maintain records on the volume of records destroyed under approved records control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;

(N) Report annually to the City Manager on the implementation of records management plan in each department of the city, including summaries of the statistical and fiscal data compiled under division (M) above; and

(O) Bring to the attention of the City Manager noncompliance by department heads or other city personnel with the policies and procedures of the records management program or the Local Government Records Act.

(Ord. 478, passed 2-18-91)

§ 35.07 DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS.

In addition to other duties assigned in this chapter, department heads shall:

(A) Cooperate with the Records Management Officer in carrying out the policies and procedures established in the city for the efficient and economical management of records and in carrying out the requirements of this chapter;

(B) Adequately document the transaction of government business and the services, programs and duties for which the department head and his or her staff are responsible; and

(C) Maintain the records in his or her care and carry out their preservation, microfilming, destruction or other disposition only in accordance with the policies and procedures of the records management program of the city and the requirements of this chapter.
(Ord. 478, passed 2-18-91)

§ 35.08 DESIGNATION OF RECORDS LIAISON OFFICERS.

The city library is hereby designated as the official liaison officer to assist the City Clerk. Each department head may designate a member of his or her staff to serve as Records Liaison Officer for the implementation of the records management program in the department. If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head shall designate the number of Records Liaison Officers specified by the Records Management Officer. Persons designated as Records Liaison Officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the city maintained by the department. In the event of the resignation, retirement, dismissal or removal by action of the department head of a person designated as a Records Liaison Officer, the department head shall promptly designate another person to fill the vacancy. A department head may serve as Records Liaison Officer for his or her department.
(Ord. 478, passed 2-18-91)

§ 35.09 DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS.

In addition to other duties assigned in this chapter, Records Liaison Officers shall:

(A) Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;

(B) In cooperation with the Records Management Officer coordinate and implement the policies and procedures of the records management program in their departments; and

(C) Disseminate information to department staff concerning the records management program.
(Ord. 478, passed 2-18-91)

§ 35.10 RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE.

(A) The Records Management Officer, in cooperation with department heads and Records Liaison Officers, shall prepare records

control schedules on a department-by-department basis listing all records created or received by the department and the retention period for each record. Records control schedules shall also contain such other information regarding the disposition of city records as the records management plan may require.

(B) Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records-retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the city.

(C) Before its adoption a records control schedule or amended schedule for a department must be approved by the department head and the City Clerk.

(D) Before its adoption a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.
(Ord. 478, passed 2-18-91)

§ 35.11 IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE.

(A) A records control schedule for a department that has been approved and adopted under § 35.06 shall be implemented by department heads and Records Liaison Officers according to the policies and procedures of the records management plan.

(B) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of record is pertinent to a pending lawsuit, or the department head requests in writing to the Records Management Officer that the record be retained for an additional period.

(C) Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer and the City Manager.
(Ord. 478, passed 2-18-91)

§ 35.12 DESTRUCTION OF UNSCHEDULED RECORDS.

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.
(Ord. 478, passed 2-18-91)

CHAPTER 36: CITY COMMISSIONERS

Section

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GENERAL PROVISIONS

§ 36.01 AUTHORITY.

Article IV, Sec. 16 of the Charter of the City of Burkburnett grants to the City Commissioners the right to determine its own rules

of procedure; these rules are enumerated under and by authority of such provisions.

(Ord. 552, passed 6-16-97)

GENERAL RULES OF PROCEDURE

§ 36.20 RULES OF COUNCIL.

The City Commissioners shall determine its own rules and order of business. (Article IV, Sec. 16 of the Charter.)

(Ord. 552, passed 6-16-97)

§ 36.21 CONDUCT OF MEETINGS.

Meetings of the City Commissioners shall be conducted according to rules and procedures adopted by the Commissioners, as well as the terms and provisions of Robert's Rules of Order Revised, when not inconsistent.

(Ord. 552, passed 6-16-97)

§ 36.22 MEETINGS SHALL BE PUBLIC.

All meetings of the City Commissioners shall be public, and notices thereof shall be posted as provided for under the Government Code Sec. 551 (the Open Meetings Act). Except in the case of an emergency meeting, all members shall be given notice 72 hours before the time set for any meeting.

(Ord. 552, passed 6-16-97)

§ 36.23 REGULAR MEETINGS.

Regular meetings of the City Commissioners shall be on the 3rd Monday of each month at 7:00 p.m.

(Ord. 552, passed 6-16-97)

§ 36.24 SPECIAL MEETINGS.

Special meetings may be called upon request of the Mayor, City Manager or a majority of the Commissioners.

(Ord. 552, passed 6-16-97)

§ 36.25 EMERGENCY MEETINGS.

In case of an emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if members receive and notice is posted two hours before the meeting is convened.

(Ord. 552, passed 6-16-97)

§ 36.26 RECESSED MEETINGS.

No meeting shall be recessed for a longer period of time than until the next regular meeting except when required information has not been received.

(Ord. 552, passed 6-16-97)

§ 36.27 QUORUM.

A quorum consists of four members, of whom the Mayor shall be counted as one. The affirmative vote of four members shall be required for the transaction of business.

(Ord. 552, passed 6-16-97)

§ 36.28 ABSENCE OF MAYOR.

The Mayor Pro-Tem shall act in the absence of the Mayor at a scheduled meeting.

(Ord. 552, passed 6-16-97)

§ 36.29 ABSENCE OF BOTH MAYOR AND MAYOR PRO-TEM.

In the absence of both the Mayor and the Mayor Pro-Tem at a scheduled meeting, the meeting shall be opened, for the purpose of allowing the Commissioners to elect a Chairman.

(Ord. 552, passed 6-16-97)

§ 36.30 ABSENCE.

If a member of the Commissioners shall be absent for a continuing period of two months, at the discretion of the Commissioners, he may forfeit his office.

(Ord. 552, passed 6-16-97)

§ 36.31 CITY MANAGER OR ACTING CITY MANAGER.

The City Manager or Acting City Manager, unless excused, shall attend all Council meetings and, upon request, designate workshop sessions and shall make recommendations and take part in discussion.

(Ord. 552, passed 6-16-97)

§ 36.32 CITY CLERK OR ACTING CITY CLERK.

The City Clerk or Acting City Clerk shall attend all meetings, unless excused, and keep all official minutes and tapes of Council proceedings.

(Ord. 552, passed 6-16-97)

§ 36.33 ATTENDANCE OF CITY EMPLOYEES.

The Commissioners may request, through the City Manager, that any officer or employee of the city attend Council meetings to present information relating to business before the Commissioners.

(Ord. 552, passed 6-16-97)

§ 36.34 REVIEW AND DISCIPLINE.

Complaints, charges and discipline concerning Council members or city personnel shall be discussed in Executive Session unless the person charged or the person against whom a complaint has been lodged

shall request a public hearing. The Commissioners shall also receive any reports and/or recommendations as shall be submitted by the City Manager.

(Ord. 552, passed 6-16-97)

§ 36.35 MINUTES OF MEETING.

An account of all proceedings of the Commissioners shall be recorded and shall be open to public inspection.

(Ord. 552, passed 6-16-97)

§ 36.36 SUSPENSION AND AMENDMENT OF RULES.

Any provisions of these rules not governed by federal or state law or the City Charter may be temporarily suspended by a majority vote of all members present of the Commissioners and may be amended by a vote of a majority of the members present of the Commissioners, if such amendment was introduced at the previous regular meeting of the Commissioners and shall have received preliminary approval of the majority of Commissioners at such meeting.

(Ord. 552, passed 6-16-97)

ORDER OF BUSINESS

§ 36.45 AGENDA.

(A) The Mayor, City Manager, Assistant City Manager or his designee shall prepare an agenda and shall cause the same to be posted 72 hours prior to a meeting and to be delivered to members of the Council. No items shall be included in the agenda unless a request to include the same has been made to the City Manager or City Clerk on or before 12:00 noon on the Thursday next preceding the Monday meeting. In the event of an emergency meeting of the Commissioners, this provision shall be suspended when not inconsistent with the provisions of federal or state law or the Charter of the City of Burkburnett.

(B) In order to facilitate the agenda process, any Commissioner may place an item on the agenda. The Commissioner requesting the agenda item will be responsible for the preparation of an appropriate Agenda Item Cover Sheet and any background information necessary for the presentation at the meeting. Any staff assistance, if required, should be requested through the City Manager's office. Agenda items must be provided to the City Clerk's office at City Hall by 12:00 noon on the Thursday preceding the Monday meeting.

(Ord. 552, passed 6-16-97)

§ 36.46 CONSENT AGENDA.

(A) There is hereby established as a part of every agenda for regular and/or special meetings of the City Commissioners of the City of Burkburnett, a portion of said agenda which shall be labeled "Consent Agenda." Said Consent Agenda may consist of any and all business regularly coming before the City Commissioners of the City of

Burkburnett, excluding ordinances adopting or amending, on either first, second or third reading, existing franchise or new franchise ordinances, and ordinances adopting, amending or otherwise relating to the budget of the City of Burkburnett. All items set out in the Consent Agenda shall be deemed passed, and the City Clerk is authorized to affix to all ordinances therein set out, consecutive numbers beginning with the first number available for new ordinances, upon the passage of a motion, by a majority vote of the members of the City Commissioners, that the consent agenda be adopted. No further action shall be deemed necessary, and all such items appearing thereon, upon the passage of such motion, shall be deemed adopted as if voted upon separately and as if the caption and/or body of any ordinance therein set out shall have been read in full.

(B) Any Commissioner may request at any time that an item be removed from the Consent Agenda and considered as a separate agenda item.

(Ord. 552, passed 6-16-97)

§ 36.47 CONSIDERATION OF AGENDA ITEMS.

In the event a motion is made requesting additional information or for delay to obtain additional information, and is passed by a majority vote of the members of the Commissioners, the Commissioners may defer action on such agenda item to the next regular meeting of the City Commissioners or such later meeting as shall be necessary to receive needed information.

(Ord. 552, passed 6-16-97)

§ 36.48 MINUTES OF PREVIOUS MEETING.

The City Clerk shall be directed to have prepared and submitted to the Commissioners no later than Thursday preceding a regular Monday meeting, the minutes of the last meeting of Commissioners.

(Ord. 552, passed 6-16-97)

AGENDA PROCEDURE AND ORDER

§ 36.55 AGENDA PROCEDURE.

This section is designed to establish an orderly procedure for handling agenda items.

(A) Mayor Shall Read. The Mayor shall introduce each item on the agenda by providing a brief explanation thereof. In addition, in the event witnesses shall come before the Commissioners, the Mayor shall introduce the person making the presentation or declare the discussion to be open.

(B) Council Discussion. Items on the agenda shall be formally introduced by motions duly made and seconded by any of the several members of the City Commissioners. In the event an item provides for consideration and action on a proposed ordinance, the caption of the

ordinance shall be read and included as part of the motion. Following a motion duly made and seconded, discussion of the agenda item shall be open to the members of the City Commissioners.

(C) Mayor or Clerk to State Question. Before any vote is taken on any question or ordinance before the Commissioners, the Mayor or City Clerk shall restate the motion having been submitted and then call for the question. In the event the matter before the Commissioners is a proposed ordinance and if the caption of the ordinance was read at the time of introduction, then only a brief summary of the ordinance need be stated.

(D) Mayor or Clerk to Announce the Vote. The Mayor or the City Clerk shall at the conclusion of the vote on each question properly submitted, announce the result.

(E) Mayor to State Result. The Mayor shall clearly state the result of any action taken by the Commissioners at the conclusion of the vote.

(F) Vote on Any Motion. All votes on any motion shall be recorded and if not unanimous, should clearly state the name of each Commissioner voting in the minority or abstaining.

(G) Abstention. A vote of abstention shall not be considered as approving or disapproving the motion. The person abstaining, upon request of a majority of the members of the City Commissioners, may state his reasons for abstaining for the record; however, said Commissioner member may decline.

(H) Conflicts of Interest Disclosed by Affidavit.
(Ord. 552, passed 6-16-97)

§ 36.56 AGENDA ORDER.

The following order is the desired order for conducting the business of the Commissioners. However, at the discretion of the Mayor, when it appears that it is in the best interest of the Commissioners and the citizens of the city, any item appearing on the agenda may be considered in any order determined by the Mayor. In addition, the City Manager may authorize adjustments to this agenda order as shall be necessary to carry forward the intent of the Commissioners.

(A) Call to Order.

(B) Approval or Correction of Minutes. The minutes of the previous meeting of the City Commissioners shall be submitted to the Commissioners and shall either stand as submitted or be corrected and stand as corrected.

(C) Personal Audience Comments. Individuals wishing to address the City Commissioners will be limited to five minutes with a possible two minute extension following the approval by a majority vote of the

members of the City Commissioners. All persons desiring to address the Commissioners must submit a sign-up card to the City Clerk prior to the posted time of the meeting. Any request received after this time may be considered for the following Commissioners meeting.

(D) Audience Comments on Agenda Items. The public may speak to items listed on the posted agenda. All persons desiring to address a specific agenda item must submit a sign-up sheet to the City Clerk prior to the reading of that item. The presiding officer will then allow comments from individuals before each agenda item for which they have requested to be heard. Comments will be limited to three minutes with a maximum two minute extension following the approval by a majority of the members of the City Commissioners.

(E) Council Correspondence. This will be a separate item appearing on the agenda to enable the Commissioners to respond to any correspondence they so desire.

(F) Council Comments. Each Commissioner shall be entitled to make any statement on any matter which is deemed to be of interest and importance to the City, members of staff and/or other members of the Council. There shall be no time limit imposed upon the time allotted for such comments; however, Council Comments may be closed at any time by a majority vote of the members of the City Commissioners.

(G) Executive Session. In the event it is necessary for Commissioners to retire to Executive Session for the purpose of discussing matters which are permissible, as enumerated in the Open Meetings Act, Government Code Section 551, the Commissioners may retire into closed session; however, before said session begins, the Mayor shall announce that the Executive Session is commencing. The order in which an Executive Session may appear on the agenda is subject to the discretion of the Commissioners. Disclosure of topics to be discussed shall be made in accordance with the requirements of the Open Meetings Act.

(H) Adjournment. Upon motion duly made and seconded, the meeting of the City Commissioners may be adjourned by a majority of those members of the City Commissioners present and voting.
(Ord. 552, passed 6-16-97)

COMMENTS FROM AUDIENCE

§ 36.65 RULES GOVERNING COMMENTS FROM AUDIENCE.

The following rules shall control audience comments, it being the desire of the Commissioners to hear from the citizens of Burkburnett and to stimulate discussion of subjects which are properly a concern of the Commissioners.

(A) Mayor to State Rules for Audience Comments. Immediately preceding the opening of audience comments, the Mayor shall summarize briefly the rules governing comments from the audience.

(B) Mayor Shall Recognize Interested Citizens. Each person desiring to comment must first be recognized by the Mayor and shall first give his or her name and address. The Mayor shall recognize each person in turn, hearing from all who desire to comment.

(C) Time Limit. A time limit of five minutes under Personal/Audience Comments and three minutes under Audience Comments on Agenda Items shall govern each comment unless the limit is waived by a majority vote of the City Commissioners.

(D) Termination of Audience Comments. Audience comments may be concluded by the Mayor, or if appealed, by a vote of four members of the City Commissioners. In the event of pressing business before the Commissioners or matters requiring immediate Commissioners attention or action, the Commissioners may, prior to the opening of audience comments, by a majority vote of the members of the City Commissioners, set a maximum time limit for each comment. At any time, the Commissioners may, by a majority vote of the members of the City Commissioners, terminate audience comments for a particular Commissioners meeting. In all cases, the Mayor shall announce the conclusion of audience comments.

(E) Subjects Introduced by Comments to be Deferred. Any subject not on the agenda but introduced in open discussion may be deferred for appropriate investigation or future Council consideration upon a majority vote of the members of the City Commissioners.

(F) Preservation of Order. The Mayor shall preserve order and decorum and, if necessary, shall cause to be silenced or removed from the Council Chamber, any person speaking out of order or disrupting the order of the meeting.

(Ord. 552, passed 6-16-97)

RULES OF PARLIAMENTARY PROCEDURE

§ 36.75 RULES GUIDING CONDUCT OF BUSINESS BEFORE COMMISSIONERS.

This section is a brief discussion of the parliamentary rules which shall guide the conduct of business before the Commissioners. These rules, and the provisions of Robert's Rules of Order Revised, shall control the deliberations of the Commissioners, provided they are not inconsistent with federal or state law or the Charter of the City of Burkburnett. This section is simply a guide of those rules which may be the most useful in the orderly consideration of city business before the Commissioners.

(A) Preservation of Order. The Mayor shall preserve order and decorum, prevent the impugning of member's motives and confine members to debate of the questions under discussion.

(B) Motion to Adjourn. A motion to adjourn may be made at any time upon being recognized by the Mayor so long as no one has been previously recognized and is speaking; such a motion requires a second and it requires a majority vote to pass.

(C) Point of Order.

(1) A member of the Commissioners may raise a point of order at any time whether or not another member of the City Commissioners is speaking. A point of order is a statement to the Mayor that a particular motion before the City Commissioners or other matter is out of order or to make an inquiry of the Mayor as to parliamentary procedure or for information. As soon as a point of order has been disposed of, the person interrupted may continue speaking.

(2) In the event that a member asserting a point of order is overruled by the Mayor, he or she may appeal to the members of City Commissioners for a final decision. The Mayor shall then briefly state the reasons for his decision and the decision of the Mayor may be overruled by a majority vote of the members of the City Commissioners.

(D) Suspension of the Rules. A member of the City Commissioners may move to suspend the rules that interfere with a particular matter that is of apparent importance to the Commissioners and should be considered by the Commissioners immediately or out of order. In order for this to be accomplished, it is necessary that a majority vote be obtained. However, a motion to suspend the rules cannot interrupt an individual speaking.

(E) Motion to Withdraw a Motion. A person making the motion may move to withdraw his or her motion, and it is withdrawn unless an objection is raised. If a member of the City Commissioners objects to the withdrawal of the motion, then the Mayor, upon motion from a member of the City Commissioners, may put the matter to an immediate vote and if the majority of the members of the City Commissioners vote to allow removal of the motion, it is withdrawn.

(F) Motion to Object to the Consideration of a Motion. A member of the City Commissioners may object to the consideration of a motion, and such objection may be made at any time, even when a member of the City Commissioners is speaking. In order to stop the consideration of a motion, a majority vote of the members of the City Commissioners present is required, which in no event shall be less than four members of the City Commissioners.

(G) Tabling. In order to table a motion, a motion must be made and can only be made at such time when another member of the City Commissioners is not speaking; the matter must then be put to a vote by the Mayor and upon a vote of a majority of the members of the City Commissioners, it may be tabled.

(H) Motion to Close Debate. A motion to close debate on a particular matter before the Commissioners can only be made at such time as the person making the motion is recognized by the Mayor and no one else is speaking. In order to close debate, a majority is necessary.

(I) Motion to Postpone Consideration. A motion may be made to postpone consideration of a pending motion. This must be made at a time when the Mayor has recognized the mover and no one else is speaking. A vote of the majority of the members of the City Commissioners will carry this motion.

(J) Amending a Motion. A motion may be amended by a member of the City Commissioners stating that he wishes to amend. This motion is debatable and can be passed by a majority vote of the members of the City Commissioners.

(K) Questions to Contain One Subject. All questions submitted for vote shall contain only one subject. If two or more subjects are involved, any member of the City Commissioners may require division.

(L) Order of Precedence of Motions. Robert's Rules of Order Revised shall prevail as to the order of precedence of motions and types of motions.

(M) Right to Floor. Any member of the City Commissioners desiring to speak shall be recognized by the Mayor and shall confine his remarks to the subject under consideration. No member shall speak more than once to a question until every member wishing to speak shall have spoken.

(N) Point of Order. The Mayor shall determine all points of order, subject to the right of any member to appeal to the Commissioners or request a parliamentary opinion of the City Attorney.

(O) Reconsideration by motion of an action of the commissioners can be made no later than the next succeeding regular meeting. Such motion can only be made by a member who voted with the majority. It can be seconded by any member. No question shall be twice reconsidered, except by a majority vote of the members of the City Commissioners, except that action relating to any contract may be reconsidered at any time, before final execution thereof.
(Ord. 552, passed 6-16-97)