

**ORDINANCE NUMBER 968**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 94: FIRE PREVENTION; FIREWORKS; ADDING FIRE DEPARTMENT REGULATION UNDER §94.10 THROUGH §94.16; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, under Article III, Sec. 34 of the Charter of the City of Burkburnett, the City has the authority to provide for a Fire Department;

WHEREAS, the City Council had adopted several ordinances that reference the Burkburnett Fire Department;

WHEREAS, the first such reference was in Ordinance 170 adopted by the Board of Commissioners on January 6, 1930, which established procedures of how to approach "any vehicle or apparatus of the Fire Department of this city answering an alarm of fire" and provided an exception for "members of the Voluntary Fire Department;

WHEREAS, as recently as November 16, 2015, the Board of Commissioners adopted an ordinance requiring operators of mobile food pushcarts to comply with regulations of the Fire Department;

WHEREAS, the Burkburnett Volunteer Fire Department (the "BVFD") submits a budget that is approved by the Board of Commissioners and funded largely by taxpayer derived funds from the City of Burkburnett;

WHEREAS, the Board of Commissioners has recently been made aware of concerns regarding the operational and financial oversight of the Burkburnett Volunteer Fire Department; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of the safety, security, and wellbeing of the citizens of Burkburnett to clarify the oversight of the Burkburnett Volunteer Fire Department; NOW, THEREFORE,

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AS FOLLOWS:**

**Part I: Enacted**

THAT the Code of Ordinances of the City of Burkburnett is hereby amended by amending Chapter 94: Fire Prevention; Fireworks by adding Section 94.10 through Section 94.16, which shall read as follows:

## **FIRE DEPARTMENT**

### **§ 94.10 FIRE DEPARTMENT; APPOINTMENT, QUALIFICATIONS OF CHIEF.**

The City shall maintain a fire department consisting of personnel from full-time EMS department and the volunteer firefighter force as defined in the City's annual fiscal year budget. The fire department shall be under the control and direction of the chief of the fire department, who shall be appointed by the city manager with the advice and consent of the Board of Commissioners. The chief shall meet the requirements of the State of Texas Government Code, Section 419.032. The chief may be compensated or uncompensated as determined by the Board of Commissioners.

### **§ 94.11 DUTIES OF CHIEF.**

It shall be his/her duty to see that the laws, ordinances, orders, rules, and regulations concerning the department and the operation thereof are carried into full force and effect. It shall be the duty of the chief to enforce such rules and regulations made from time to time to secure discipline in the department. In accordance with the City of Burkburnett Personnel Policy Handbook, the chief shall have power to discipline any subordinate officers, members or employees for a violation of such rules and regulations and upon executing any such suspension or dismissal, forthwith in writing, advise the city manager of their reasons therefor. The chief shall be responsible for the condition of fire equipment and operation of the department and shall report in writing as requested by the city manager regarding the equipment and operation of the department. The chief shall cooperate with the city manager in the preparation of an annual budget for the operation of the department. In absence of the chief for any reason whatsoever, the assistant chief of the fire department shall perform all the duties of the chief of the fire department and shall have vested in him all of the power and authority of the chief of the fire department.

### **§ 94.12 VOLUNTEER FIRE FIREFIGHTERS.**

(A) Volunteer firefighters shall serve without compensation but will be provided opportunities for drills and training classes to promote volunteer membership and enhance participation of volunteer members in department activities in fire prevention, fire suppression, and fire scene operations.

(B) The volunteer firefighters shall be a force composed to support the fire department in all operations encountered. The fire chief shall establish the size, composition, and organization of the volunteer force within the adopted annual budget provided for by the Board of Commissioners.

(C) The City's fire department shall provide uniforms, gear, equipment, and special items of identification for the City's volunteer membership as deemed necessary by the fire chief.

(D) Members of the volunteer fire department will be subject to the City of Burkburnett Personnel Policy Handbook and will be provided a copy when they become volunteer firefighters. Existing volunteers have been provided a copy.

### **§ 94.13 FIRE MARSHAL.**

The position of the fire marshal is hereby created. The fire marshal shall be the fire code official, and the fire marshal's office shall be known as the department of fire prevention for the purposes of the International Fire Code, as adopted by the City. Unless the fire marshal is also the fire chief, the fire marshal shall be appointed by and hold office at the will of the fire chief and shall perform such duties and responsibilities as assigned by the fire chief. The fire marshal and their designees, who shall be the fire inspectors and fire investigators assigned under him, shall have all the rights, privileges, and obligations of a peace officer as prescribed by law.

### **§ 94.14 FIRE MARSHAL APPOINTMENT; QUALIFICATIONS; REMOVAL.**

The fire marshal shall be a person qualified under the laws of the state to serve as a fire marshal. The fire marshal shall be appointed and subject to removal by the fire chief. If the fire marshal is also the fire chief, the fire marshal shall be appointed and subject to removal by the city manager with the advice and consent of the Board of Commissioners.

### **§ 94.15 DUTIES; AUTHORITY.**

(A) The fire marshal shall exercise such authority as given them by the International Fire Code as adopted by the City.

(B) The fire marshal shall investigate, or cause to be investigated, the cause, origin, and circumstances of every fire occurring within the City by which property has been destroyed or damaged. The fire marshal shall keep a record of all fires, together with all facts, statistics, circumstances, and evidence in a secure manner, either physically or electronically.

(C) The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation and if he shall be of the opinion that there is evidence sufficient to charge any person with arson, fraud, or other criminal conduct in connection with such fire, he shall cause such person to be lawfully arrested and charged with such offense or either of them and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

(D) The fire marshal shall have the power to summon witnesses before him to testify under sworn oath in relation to any matter which is by the provisions of this article a subject of inquiry and investigation and may require the production of any evidence deemed pertinent thereto. The fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

(E) Any witness who refuses to be sworn or who refuses to appear or testify, or who disobeys any lawful order of said fire marshal, or who fails or refuses to produce any evidence pertaining to any matter under investigation or inquiry, or who interferes with any fire marshal investigation or inquiry, shall be deemed guilty of a misdemeanor punishable pursuant to the City

Code of Ordinances Section 10.99, as amended; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted; provided, however, that any person so convicted shall have the right to appeal.

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

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

#### **§ 94.16 RECORDS OF FIRES TO BE KEPT.**

The fire marshal shall keep in their office a record of all fires, together with all facts, statistics and circumstances, including the origin of the fire and the amount of the loss, which may be determined by the investigation required by this article.

#### **Part II: Repealer**

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective, which are inconsistent or are in conflict with the terms and provisions contained in this Ordinance, are hereby repealed only to the extent of any such conflict.

#### **Part III: Severability**

It is hereby declared to be the intention of the Board of Commissioners that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

#### **Part IV: Compliance with Texas Open Meetings Act**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**Part V: Effective Date**

This Ordinance shall take effect immediately upon its passage.

**PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF MARCH 2020.**

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Carl Law, Mayor  
City of Burkburnett, Texas

**ATTEST:**

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Margie Poole, City Clerk