

## CHAPTER 1

# GENERAL PROVISIONS

### ARTICLE 1.100 CODE OF ORDINANCES<sup>\*(1)</sup>

#### **Sec. 1.101 Adoption**

There is hereby adopted the Code of Ordinances of the City of Brownfield, Texas as compiled, edited and published by Franklin Legal Publishing, Inc.

#### **Sec. 1.102 Designation and Citation of Code**

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, City of Brownfield, Texas," and may be so cited.

#### **Sec. 1.103 Catchlines of Articles and Sections**

The catchlines of the several articles and sections of this code are intended as mere catchwords to indicate the contents of the article section and shall not be deemed or taken to be titles of such articles and sections, nor as any part of the articles and sections, nor, unless expressly so provided, shall they be so deemed when any of such articles and sections, including the catchlines, are amended or reenacted.

#### **Sec. 1.104 Definitions and Rules of Construction**

In the construction of this code, and of all ordinances and resolutions passed by the city council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

City and Town. Each means the City of Brownfield, Texas.

Council. Whenever the words "council" or "this council" or "the council" are used, they shall

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mean the city council of the City of Brownfield, Texas.

City Manager, City Secretary, Chief of Police or Other City Officers. The words "city manager," "city secretary," "chief of police" or other city officers or departments shall be construed to mean the city manager, city secretary, chief of police or such other municipal officers or departments, respectively, of the City of Brownfield, Texas.

County. The term "county" or "this county" shall mean the County of Terry, Texas.

May. Is permissive.

Month. The word "month" shall mean a calendar month.

Must and Shall. Are each mandatory.

Number. Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Official Time Standard. Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in the city.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, or the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, corporations, firms, partnerships and bodies politic and corporate as well as to individuals.

Property. Means and includes real and personal property.

Real Property. Means and includes lands, tenements and hereditaments.

Sidewalk. Means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

Signature or Subscription. Shall include a mark when a person cannot write.

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State. The words "the state" or "this state" shall be construed to mean the State of Texas.

Street. Shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way including the entire right-of-way.

Tense. Words used in the past or present tense include the future as well as the past and present.

V.T.C.S., V.T.P.C., V.T.C.C.P., V.T.C.A. Refer to the divisions of Vernon's Texas Statutes Annotated.

Written or In Writing. The term "written" or "in writing" shall be construed to include any representation of words, letters, or figures, whether by printing or otherwise.

Year. Shall mean a calendar year.

**Sec. 1.105 Severability of Parts of Code**

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable and, if any phrase, clause, sentence, paragraph or section of this code 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 and sections of this code, since the same would have been enacted by the city council without the incorporation in the code of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Sec. 1.106 Repeal of Ordinances**

The repeal of an ordinance or any portion thereof shall not repeal the repealing clause of an ordinance or revive any ordinance which has been previously repealed.

**Sec. 1.107 Amendments or Additions to Code**

All ordinances of a general and permanent nature, and amendments to such ordinances, hereinafter enacted or presented to the city council for enactment, shall be drafted, so far as possible, as specific amendments of, or additions to, the Code of Ordinances. Amendments to this code shall be made by reference to the chapter and section of the code which is to be amended, and additions shall bear an appropriate designation of chapter, article and section; provided, however, the failure so to do shall in no way affect the validity or enforceability of such ordinances.

**Sec. 1.108 Supplementation of Code**

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, all portions of the code which have been repealed shall be excluded from the code by omission thereof from reprinted pages.

(c) When preparing a supplement to this code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for articles, sections and other subdivisions of the code printed in the supplement and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," "this subsection," etc., as the case may be; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance articles or sections inserted into the code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

#### **Sec. 1.109     General Penalty for Violations of Code; Continuing Violations**

Whenever in this code or in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing

of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provisions of this code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00). However a fine or penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning or public health and sanitation including the dumping of refuse may not exceed two thousand dollars (\$2,000.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. In the event that any such violation is designated as a nuisance under the provisions of this code, such nuisance may be summarily abated by the city. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

(Ordinance adopting Code)

## **ARTICLE 1.200 COMPREHENSIVE EMERGENCY MANAGEMENT<sup>\*(2)</sup>**

### **Sec. 1.201 Emergency Management Director**

- (a) Office Created. There exists the office of emergency management director of the City of Brownfield, which shall be held by the mayor in accordance with state law.
- (b) Responsibilities Generally. The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this article. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.
- (c) Powers and Duties. The duties and responsibilities of the emergency management director shall include the following:
- (1) Conduct an ongoing survey of actual or potential hazards which threaten life and property within the city and an ongoing program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
  - (2) Supervision of the development and approval of an emergency management plan for the city and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.

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- (3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the city council. Any order or proclamation declaring, continuing or terminating a local state disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary.
- (4) Issuance of necessary proclamations, regulations or directives which are necessary for carrying out the purposes of this article. Such proclamations, regulations or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.
- (5) Direction and control of the operations of the city's emergency management organization as well as the training of emergency management personnel.
- (6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (8) Marshaling of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.
- (9) Supervision of the drafting and execution of mutual aid agreements in cooperation with the representatives of the state and of other local political subdivisions of the state and the drafting and execution, if deemed desirable, of an agreement with the county in which the city is located and with other municipalities within the county for the countywide coordination of emergency management efforts.
- (10) Supervision of and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.
- (12) Survey of the availability of existing personnel, equipment, supplies and services which could be used during a disaster, as provided for herein.

- (13) Other requirements as specified in Texas Disaster Act 1975 (V.T.C.S. Article 6889-7).

(1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-1)

**Sec. 1.202     Emergency Management Coordinator**

An emergency management coordinator may be appointed by and serve at the pleasure of the director. (1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-2)

**Sec. 1.203     Emergency Management Organization**

The operational emergency management organization of the city shall consist of the officers and employees of the city so designated by the director in the emergency management plan as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan. (1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-3)

**Sec. 1.204     Emergency Management Plan**

A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization; establish and designate divisions and functions; assign responsibilities, tasks, duties and powers; and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the State Division of Emergency Management. Insofar as possible, the form of organization shall conform to the recommendations of the State Division of Emergency Management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state of readiness at all times. The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster. (1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-4)

**Sec. 1.205     Interjurisdictional Program**

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in the county in the formation of an emergency management council for the County of Terry and shall have the authority to cooperate in the preparation of a joint emergency management plan and in the appointment of a joint emergency management coordinator, as well as all necessary to participate in a county-wide program of emergency management insofar as such program may affect the city. (1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-5)

**Sec. 1.206     Override; Limitations**

(a) At all times when the orders, rules and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(b) This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.

(1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-6)

**Sec. 1.207     Liability**

This article is an exercise by the city of its governmental function for the protection of the public peace, health and safety, and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of such activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice enemy attack or natural or man-made disaster, shall, together with his successors in interest, if any, not be civilly liable for the death of or injury to any person on or about such real estate or premises under such license, privilege or other permission or for loss of, of damage to, the property of such person. (1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-7)

**Sec. 1.208     Commitment of Funds**

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the city council unless during a declared disaster, the mayor may expend and/or commit public funds of the city when deemed prudent and necessary for the protection of health, life or property. (1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-8)

**Sec. 1.209     Offenses; Penalties**

(a) It shall be unlawful for any person willfully to obstruct hinder or delay any member of the



emergency management organization in the enforcement of any rule or regulation issued pursuant to this article, or to do any act forbidden by any rule of regulation issued pursuant to the authority contained in this article.

(b) It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the emergency management organization of the city unless authority to do so has been granted to such person by the proper officials.

(c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal or the termination of a warning shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

(d) Convictions for violations of the provisions of this article shall be punishable by fine in accordance with Section 1.109 of this code.

(1965 Code of Ordinances, Chapter 4 1/4, Section 4 1/4-9)

## **ARTICLE 1.300 ZONING BOARD OF ADJUSTMENT**

### **Sec. 1.301 Creation of Zoning Board of Adjustment**

There is hereby created a board of adjustment to exercise those functions assigned to a board of adjustment by Chapter 211 of the Texas Local Government Code and such additional functions as the city council may from time to time assign to the zoning board of adjustment by ordinance.

### **Sec. 1.302 Composition of Board of Adjustment**

The board of adjustment shall consist of five (5) members, each to be appointed by the city council for a term of two (2) years and removable for cause by the city council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. Each member reappointed or each new appointee shall serve for a full term of two (2) years unless removed as herein provided. Provided, however, that the city council may appoint four (4) alternate members of the board of adjustment who shall serve in the absence of one or more of the regular members when requested to do so by the mayor or city administrator, as the case may be, so that all cases to be heard by the board of adjustment will always be heard by a minimum number of four (4) members. The alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two years, and any vacancy shall be filled in the same manner and they shall be subject to removal the same as the regular members.

**Sec. 1.303      Procedures of the Board of Adjustment**

The board shall adopt rules to govern its proceedings; provided, however, that such rules may not be inconsistent with this article or statutes of the State of Texas. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oath and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(Ordinance 1891 adopted 12/18/03)

**ARTICLE 1.400 PURCHASING**

**Sec. 1.401      Chapter 252 of the Texas Local Government Code to Control**

Pursuant to Section 252.002 of the Texas Local Government Code, the city council hereby elects to have Chapter 252 of the Texas Local Government Code supersede the purchasing provisions of the city charter. (Ordinance 1962 adopted 9/13/07)

**ARTICLE 1.500 VEHICLE SIGNAGE**

**Sec. 1.501      Vehicles Exempt from Signage Requirements**

Pursuant to Section 721.005 of the Texas Transportation Code, the city council hereby elects to exempt from the requirements of 721.004 of the Transportation Code selected vehicles owned or operated by the city police department. The city manager or his designee is authorized to determine which vehicles will not have inscriptions and the city manager or city secretary will make the appropriate application to the Texas Department of Transportation. (Ordinance 1970 adopted 5/1/08)

**Endnotes**

**1 (Popup - Popup)**

\* **State Law reference**-Authority of municipality to codify ordinances, V.T.C.A., Local Government Code, Chapter 53.

**2 (Popup - Popup)**

\* **State Law reference**-Local and interjurisdictional emergency management, V.T.C.A., Government Code, Chapter 418.