

CHAPTER 9

PERSONNEL

ARTICLE 9.100 ADDITIONAL DUTIES AND COMPENSATION FOR OFFICERS AND EMPLOYEES

The city council shall have the power from time to time to require other and further duties as are not specified herein of any city officer or employee, and to define and prescribe the powers and duties not specially mentioned and fix their compensation. (1965 Code of Ordinances, Chapter 2, Article I, Section 2-1)

ARTICLE 9.200 CITY SECRETARY^{*(1)}

Sec. 9.201 Collect Paving Assessments

The city secretary shall have the right to collect all paving assessments of the city owing to the city and keep all proper and necessary records thereof. (1965 Code of Ordinances, Chapter 2, Article II, Section 2-12)

Sec. 9.202 Utility Bills

The city secretary shall prepare, mail and collect all utility bills of the city of every kind and nature and keep all proper and necessary records thereof. (1965 Code of Ordinances, Chapter 2, Article II, Section 2-13)

Sec. 9.203 Keep Inventory of Supplies

The city secretary shall keep a record and inventory of all supplies purchased and used by the city utilities and other departments of the city. (1965 Code of Ordinances, Chapter 2, Article II, Section 2-14)

ARTICLE 9.300 POLICE^{†(2)}

Sec. 9.301 Powers and Duties of Chief; Generally

The chief of police shall be active in the quelling of riots, disorders and disturbances of the peace within the city and shall take into custody all persons so offending against the peace of the city. In the execution of his powers and duties, and in the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute the powers, authority and jurisdiction of a sheriff. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-25)

Sec. 9.302 Prevention of Breach of Peace; Chief's Powers

The chief of police shall have the power and authority to close any ballroom or other place or building of public resort in order to prevent a breach of the peace or to preserve quiet and good order within the city. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-26)

Sec. 9.303 Arrest With or Without Warrant ^{*(3)}

The chief of police, his deputy or any other police officer of the city may arrest, with or without warrant, any person found in suspicious places and under circumstances which reasonably show that such person has been guilty of some felony or breach of the peace, or threatens, or is about to commit some offense against this code, the ordinances or laws of the city. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-27)

Sec. 9.304 Chief's Authority to Take Bail

The chief of police shall have the authority to take suitable and sufficient bail for the appearance before the corporation court of any person charged with an offense against this code, the ordinances or laws of the city. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-28)

Sec. 9.305 Officer of Municipal Court

The chief of police shall in person or by deputy, attend upon the municipal court while in session, and shall promptly and faithfully execute all warrants, writs and process issued from said court. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-29)

Sec. 9.306 Appointment of Deputies

The chief of police may appoint one or more deputies, which appointment shall only be valid upon the approval of the city manager. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-30)

ARTICLE 9.400 POLICE RESERVE^{†(4)}

Sec. 9.401 Auxiliary Police Force to be Known as "Police Reserve, Brownfield Police Department" Established

An auxiliary police force to be known as "Police Reserve, Brownfield Police Department," is hereby established. It shall be composed of personnel who have volunteered to join the organization and whose application for membership has been accepted and who have complied with the rules, regulations and orders provided for the conduct and control of the members thereof. It shall be composed of not to exceed forty-four (44) members. The Police Reserve, Brownfield Police Department, shall be separate and distinct from the regular force of the police department of this city, but shall be under the direct control and supervision of the chief of police of the City of Brownfield, Texas. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.1)

Sec. 9.402 Chief of Police to Have Control

The members of the police reserve shall be under the authority, control and command of the chief of police of the City of Brownfield subject to all of the provisions of the ordinances of the city and of this article. Members shall be appointed from a list of eligibles compiled as hereinafter provided. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.2)

Sec. 9.403 Application and Eligibility for Membership

(a) A list of eligibles shall be established in compliance with rules and regulations set forth as follows:

- (1) Meet the minimum standards for licensing for reserve peace officers as set out by the Texas Commission of Law Enforcement Officers Standards and Education (TCLEOSE).
- (2) Be of good moral character as determined by a thorough background investigation.
- (3) Go before a board of interviewers made up of representatives of the Brownfield Police Department and be referred with a favorable recommendation to the chief of police, by the board members.
- (4) Be interviewed personally by the chief of police prior to being accepted as a reserve peace officer for the City of Brownfield.

(b) Every reserve peace officer for the City of Brownfield shall:

- (1) Satisfy all of the conditions listed in subsection (a) above.
- (2) Must have proof of licensing prior to being allowed to carry a weapon.
- (3) Provide the department with his/her social security number as mandatory under Article 4413 (29aa), Section 2B(a) of Vernon's Annotated Revised Civil Statutes, and as a form of identification of TCLEOSE records.

(Ordinance 1820 adopted 8/6/98)

Sec. 9.404 Duties

The duties of the police reserve force, subject at all times to the direction, supervision and control of the chief of police, shall be to assist the regular members of the police department of this city in the enforcement of the law and in the maintenance of peace and order. To this end, members of the police reserve force shall serve at the discretion of the chief of police and may be called into service at any time the chief of police considers it necessary or desirable to have additional officers to preserve the peace and enforce the law; provided however, that said reserve police officer shall act only in a supplementary capacity to the regular police force and shall in no case assume the full-time duties of regular police officers without first complying with all requirements for such regular police officers. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.4)

Sec. 9.405 Identification

An identification card and other insignia or evidence of identity as the chief may prescribe shall be issued to each member, who must carry the card and other identification at all times while on duty, and he must surrender them upon the termination of his membership. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.5)

Sec. 9.406 Removal From Membership - Resignation

Membership of any person may be terminated by the chief of police at any time for any cause deemed sufficient by the chief of police. Any member may resign from the police reserve force at any time, but it shall be the duty of the member to notify the chief of his resignation. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.6)

Sec. 9.407 Same-Diminishing or Expanding Force

The chief of police may by order diminish or expand the membership of the police reserve force

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as exigency may require within the limit hereinbefore established. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.7)

Sec. 9.408 Power and Authority as Police

(a) Carrying of Firearms. No member of the police reserve force shall, while on duty or otherwise, bear any firearm except on the express order of the chief of police.

(b) Breaking and Entering. No member of the police reserve force shall break into or otherwise forcefully enter upon any private property or enter the dwelling or habitation of another person without the consent of the owner or occupant except when immediately accompanied by a regular member of the police department of this city who then and there requests his aid in the enforcement of the law.

(c) Power of Arrest. A member of the police reserve force shall have the following powers of arrest and none others:

- (1) When the offense is committed in his presence or within his view, if the offense is classified as a felony, or as an "offense against the public peace."
- (2) Upon the presentation of a credible person that a felony has been committed and the offender is about to escape, and there is not sufficient time to procure a warrant for such offender.
- (3) When authorized by a warrant of arrest and such warrant is in the actual possession of the officer making the arrest.
- (4) To lend physical aid to any regular member of the police department in making any lawful arrest, when authorized by the chief of police or requested by any regular member of the police department of this city.

(1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.8)

Sec. 9.409 Remuneration for Services

Members of the police reserve force shall receive regular patrolmen's pay when ordered to active duty by the chief of police or during periods of emergency. There will be no remuneration for their tour of training, nor for service voluntarily performed except as authorized by the chief of police. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.9)

Sec. 9.410 Summary Dismissal and Publication

In addition to the penalties provided by laws any violation of law under color of the performance of his duties as a member of the police reserve force, and any breach of the rules and regulations established by the chief of police shall subject any member to summary expulsion and the fact thereof maybe published at the order of the chief. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.10)

Sec. 9.411 False Impersonation

It shall be a misdemeanor punishable by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code for any person to wear, carry or display a police reserve identification card or otherwise deceitfully represent himself to be connected with the police reserve force unless he is in fact a member thereof in good standing. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.11)

Sec. 9.412 Chief of Police Prescribes Uniforms and Badges

The chief of police shall prescribe the uniforms and badges for the members of the police reserve force and direct the manner in which the same shall be worn. Any person other than a member of such force who shall wear such uniform or badge as may be prescribed shall be guilty of a misdemeanor and upon conviction shall be subject to fine in accordance with the general penalty provision set forth in Section 1.109 of this code. (1965 Code of Ordinances, Chapter 2, Article III, Section 2-40.12)

ARTICLE 9.500 STATE RETIREMENT PROGRAM*(5)

Sec. 9.501 Election to Participate

On behalf of the city, the city council hereby exercises its option and elects to have the city and all of the employees of all departments participate in the Texas Municipal Retirement System as provided in Chapter 75, Acts of the 50th Legislature, as amended, being Article 6243h of Vernon's Annotated Civil Statutes, and all of the benefits and obligations of such system are hereby accepted. (1965 Code of Ordinances, Chapter 2, Article IV, Section 2-49)

Sec. 9.502 Employees Included

Each person who becomes an employee of any participating department on or after the effective date of participation of such department shall be included within and subject to the provisions of the Texas Municipal Retirement System beginning upon the date such person becomes an

"employee," as defined in subsection 14, Section II, of Article 4243h, Vernon's Annotated Civil Statutes. (1965 Code of Ordinances, Chapter 2, Article IV, Section 2-50)

Sec. 9.503 Addition or Discontinuance of Participants

The city may in the future refuse to add new departments or new employees to the Texas Municipal Retirement System, but shall never discontinue as to any participants. (1965 Code of Ordinances, Chapter 2, Article IV, Section 2-51)

Sec. 9.504 Remittance and Reports to Board of Trustees

The city secretary or other proper official 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 proper contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by such board under the provisions of Chapter 75, Acts of the 50th Legislature of the State of Texas, as amended, and the city secretary is hereby authorized and directed to ascertain and certify officially 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 other reports and certificates which may be required by the city under the provisions of Chapter 24, Acts Regular Session 51st Legislature or the rules and regulations of the Board of Trustees of the Texas Municipal Retirement System. (1965 Code of Ordinances, Chapter 2, Article IV, Section 2-52)

Sec. 9.505 Maximum Earnings for Purpose of System

Annual earnings in excess of six thousand dollars (\$6,000.00) which may be paid by the city to any of its employees who are members of the Texas Municipal Retirement System shall not be considered in calculating the amount to be withheld and the deposits and contributions to be made to the Texas Municipal Retirement System by reason of current service rendered by such employee to this city; and the maximum amount which shall be deducted each month for current service deposits to said system (where such compensation is paid on a monthly basis) shall exclude payments in excess of one-twelfth (1/12) of the aforesaid sum of six thousand dollars (\$6,000.00). (1965 Code of Ordinances, Chapter 2, Article IV, Section 2-53)

Sec. 9.506 Mandatory Retirement

(a) Every employee of the city, except the city manager, the assistant city manager, and heads of the several city departments shall be retired from employment with the city on the first day of the calendar year immediately following the year in which such employee reaches sixty-five (65)

years of age.

(b) The time of employment may be extended from year to year for not more than five (5) years upon the request of the head of the department in which the employee serves and upon determination by the city physician after examination made in advance of any annual extension that the employee is physically fit to perform the duties to which he will be assigned. An employee whose retention is requested by the head of the department for which he serves, but who is determined to be not physically fit to perform the duties to which he was intended to perform, shall whenever possible be retained in city employment for one hundred twenty (120) days following such determination. Time of employment may not be extended beyond the calendar year immediately following the year in which the employee reaches the age of seventy (70) years.

(c) The provisions of this section are for the purpose of regulating the period of service of city employees. Except insofar as such regulation affects the eligibility for benefits under the Texas Municipal Retirement System of such employees by reason of length of service, this section is not intended to affect or regulate the rights of employees to retirement benefits under such system.

(1965 Code of Ordinances, Chapter 2, Article IV, Section 2-54)

Sec. 9.507 Additional Rights Granted

(a) 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.

(b) This section shall become effective on the first day of October, 2001.

(Ordinance 1856 adopted 5/10/01)

Sec. 9.508 Five-Year Vesting Not Provided by City

(a) The city council of the City of Brownfield, Texas, 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.

(b) The provisions of this section shall become effective on the 31st day of December, 2001.

(Ordinance 1862 adopted 9/6/01)

Sec. 9.509 Current and Prior Service Contributions

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. (Ordinance 1913 adopted 8/1/04)

Sec. 9.510 Authorization of Restricted Prior Service Credit, 2006

(a) On the terms and conditions set out in Sections 853.305 of Subtitle G of Title 8, Texas 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 this city shall receive restricted prior service credit for service previously performed as an employee of any of the entities described in said 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 the action required under said Section 853.305 while still an employee of this city.

(Ordinance 1933, sec. 1, adopted 12/15/05)

(d) Effective. This section shall become effective on the first day of January 2006. (Ordinance 1933, sec. 2, adopted 12/15/05)

Sec. 9.511 Reinstatement of Terminated Membership

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(a) Pursuant to Section 853.003 of Subtitle G of Title 8, V.T.C.A., Government Code as amended, the city hereby elects to allow any member of the Texas Municipal Retirement System who is an employee of this city on the 1st day of December 2005, 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 the city since resuming membership to deposit with the system in a lump sum the amount withdrawn, plus a withdrawal charge of five percent (5%) of amount for each year from date of such withdrawal to date of redeposit, and thereupon such member shall be allowed credit for all service to which the member had been entitled at date of termination of earlier membership, with like effect as if all such service had been rendered as an employee of this city, whether so rendered or not. 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 five percent (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 the deposits of the amount previously withdrawn by the member shall be credited to his or her individual account in the employees' savings fund of the system. (Ordinance 1932, sec. 1, adopted 12/1/05)

(b) This section shall become effective on the 1st day of December, 2005, which is a date on or after the date set forth in subsection (a) above. (Ordinance 1932, sec. 2, adopted 12/1/05)

Endnotes

1 (Popup - Popup)

* **State Law reference**-Powers and duties of city secretary, V.T.C.A., Local Government Code, Sec. 22.073.

2 (Popup - Popup)

† **State Law reference**-Authority of city to establish police force, V.T.C.A., Local Government Code, Sec. 341.003; Commission on Law Enforcement Standards and Education, V.T.C.A., Government Code, Sec. 415.001 et seq.

3 (Popup - Popup)

* **State Law reference**-Authority to make arrest without warrant, V.T.C.A., Code of Criminal Procedure.

4 (Popup - Popup)

† **State Law reference**-Authority to provide for police reserve force, V.T.C.A., Local Government Code, Sec. 141.007.

5 (Popup - Popup)

* **State Law reference**-Texas Municipal Retirement System, generally, V.T.C.A., Government Code, Chapter 851.