

ORDINANCE NO. 2015-10

AN ORDINANCE REPEALING SECTION 31-20 OF THE CITY CODE OF ORDINANCES BY ELIMINATING THE POSITION OF CITY MARSHAL CREATING THE POSITION OF POLICE CHIEF; DESCRIBING THE POWERS AND DUTIES OF THE CHIEF OF POLICE; AND ESTABLISHING DUTIES OF POLICE OFFICERS IN CHAPTER 32, SECTIONS 32-04 THROUGH 32-07 AND PROVIDING AN EFFECTIVE DATE HEREIN

WHEREAS, the City Council of the City of Balcones Heights, Texas established a Police Department with the adoption of Section 32.01 of the Code or Ordinances, and

WHEREAS, the City has maintained the position of City Marshal who is the *ex officio* Chief of Police which has caused confusion and the City wishes to eliminate the position of City Marshal and repeal Section 31-20 and create the position of Chief of Police; and

WHEREAS, the City Council with the creation of a Police Chief to serve and protect the citizens, residences and businesses of the City of Balcones Heights will eliminate any confusion and assist with the quality of life and will increase the safety and welfare of the City of Balcones Heights.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCONES HEIGHTS, TEXAS:

SECTION 1. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. The City wishes to eliminate the position of City Marshal and hereby repeals Section 31-20 of the City Code of ordinances.

SECTION 3. Chapter 32, entitled Police Department of the Code of Ordinances of the City is hereby amended by adding Sections 32.04 to 32.07, Enforcement, to the Code of Ordinances, authorizing the Code enforcement official to issue notices of violations and enforce the provisions of the Code of Ordinances of the City as follows:

CHAPTER 32– POLICE DEPARTMENT

General Provisions

Section 32.04 POWERS AND DUTIES OF THE CHIEF OF POLICE

- a. The Department of Police shall be overseen by the Chief of Police. The Chief of Police shall have immediate direction and control of the Police Department subject to the provision of the City Administrator and also subject to such rules, regulations and orders as the City Council or City Administrator may prescribe.
- b. The Chief of Police may close a theatre, ballroom, or other place of public recreation or entertainment to prevent a breach of the peace or to preserve quiet and good order.
- c. The Chief of Police shall quell riots, disorder, and disturbance of the peace in the municipality and take into custody a person who disturbs the peace of the municipality.

Section 32.05. SELECTION AND APPOINTMENT OF OFFICERS:

- a. The Chief of Police may appoint police officers if position is budgeted and the filling of such vacancy is approved by the City Administrator. All officers in the Police Department shall remain employed as police officers at the pleasure of the Chief of Police.
- b. Each member of the Department of Police shall before entering upon his duties, subscribe to an oath of office that he will faithfully, without fear or favor, perform the duties of his office.
- c. Salaries of each member of the Police Department shall be set by the City Council.

Section 32.06. POWERS AND DUTIES OF OFFICERS:

- a. Generally, the officers constituting the Department of Police, City of Balcones Heights, shall be and there hereby vested with all the powers and authority given to them as police officers under the laws of the State of Texas in taking cognizance of and enforcing criminal laws of the State of Texas and the ordinances and regulations of the city within the city limits of the City, and it shall be the duty of each such officer to use his best endeavors to prevent the commission within the city of offenses against the laws of the state and against the ordinances and regulations of this city.
- b. Balcones Heights police officers shall not receive any fee or other compensation for any services rendered in the performance of his duty other than the salary paid by the city, nor shall he receive a fee as a witness in any case rising under the criminal laws of the state or under the ordinances or case rising under the criminal laws of the state or under the ordinances or regulations of the city and prosecuting in the court of said city.

- c. Chief of Police and all police officers shall be available to the municipal court when it is in session and shall promptly and faithfully execute writs and process issued by the court. The Chief of Police and the City's officers may execute writs and serve process both inside and outside the city boundaries.

Section 32.07. UNIFORM, BADGES AND ARMS:

Chief of Police shall prescribe the uniforms and badges for the members of the Police Department and further direct the manner in which the members of said force shall be armed. Any person other than a member of said Police Department who shall wear such uniform or badges shall be subject to such fines which may be subscribed by the council by proper ordinance.

SECTION 4. PUBLIC PURPOSE The City Council finds that the ordinance is in the public interest and necessary for the good governance, health and safety of the City.

SECTION 5. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision; and that in lieu of each clause or provision of this Ordinance that is invalid, illegal, or unenforceable there be added by the Mayor as necessary with the approval of the City Attorney as to form, and as a part of the Ordinance, a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

SECTION 6. REPEALER. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. EFFECTIVE DATE. The ordinance shall be effective immediately following passage by the City Council.

ORDERED AND APPROVED this 18th day May, 2015.



Suzanne de Leon
Mayor

ATTEST:



Delia Flores, TRMC
City Secretary

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