

**ORDINANCE NO. 2015 - 23**

**AN ORDINANCE AMENDING CHAPTER 5 AND CHAPTER 9 OF THE CITY OF BASTROP CODE OF ORDINANCES AND RECODIFYING PORTIONS OF CHAPTER 5 INTO CHAPTER 9; CREATING AND ENUMERATING THE POWERS AND DUTIES OF THE POSITIONS OF DIRECTOR OF PUBLIC SAFETY, FIRE CHIEF AND ASSISTANT POLICE CHIEF; ADDING PROVISIONS CONCERNING THE ADMINISTRATION OF THE BASTROP VOLUNTEER FIRE DEPARTMENT; REPEALING PROVISIONS OF CHAPTER 5 REGARDING THE POSITION OF FIRE MARSHAL; CREATING THE POSITION OF FIRE INSPECTOR; AMENDING PROVISIONS RELATED TO THE POWERS AND DUTIES OF CITY OF BASTROP VOLUNTEER FIREFIGHTERS; PROVIDING A SAVINGS AND A REPEAL CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Bastrop, Texas is a Home Rule municipality incorporated and operating under the Laws of the State of Texas; and

**WHEREAS**, the City has determined that it is in the best interest of the health, safety and welfare of its citizens to establish the position of Director of Public Safety as a full-time employed position of the City; and

**WHEREAS**, the City has determined that it is in the best interest of the health, safety and welfare of its citizens to place the Police Department and Bastrop Volunteer Fire Department under the purview and authority of the Department of Public Safety; and

**WHEREAS**, the City has determined that it is in the best interest of the health, safety and welfare of its citizens to establish the office of Fire Chief as a full-time paid employment position of the City and grant to the position of Fire Chief full authority for the administration and function of the Bastrop Volunteer Fire Department and the volunteer firefighters, subject to the direction and control of the Director of Public Safety; and

**WHEREAS**, the City has determined that bringing the Bastrop Volunteer Fire Department under the authority of the City Fire Chief is vital to the health, safety and welfare of the citizens of the City; and

**WHEREAS**, the City has determined that it is in the best interests of the health, safety and welfare of its citizens to establish the office of Assistant Police Chief as a full-time paid employment position of the City and grant to the position of Assistant Police Chief full authority for the administration and function of the Police Department such as is delegated to the Assistant Police Chief by the Director of Public Safety; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP THAT:**

**Part 1.** Chapter 9 of the Code of Ordinances is hereby amended as follows:

**CHAPTER 9 PERSONNEL**

*(No changes to Articles 9.01 thru 9.04)*

**ARTICLE 9.05 PUBLIC SAFETY**

**Division 1. Generally**

**Sec. 9.05.001 Authority of mayor to summon special police force**

*(No changes)*

**Sec. 9.05.002–9.05.020 Reserved**

**Division 2. Director of Public Safety**

**Sec. 9.05.021 Creation of Director of Public Safety**

There is created a position of Director of Public Safety.

**Sec. 9.05.022 Qualifications**

The Director of Public Safety shall be a person qualified by training and experience to properly carry out the duties of this office.

**Sec. 9.05.023 Appointment**

The Director of Public Safety shall be appointed by the City Manager.

**Sec. 9.05.024 Bond**

The Director of Public Safety, before entering upon the duties of his office, shall enter into a bond in an amount to be determined from time to time by the City Manager. The annual bond premium shall be paid by the city.

**Sec. 9.05.025 Supervision**

The Director of Public Safety shall report directly to the City Manager and shall be independent of any other city office, provided that the Director of Public Safety shall perform all the duties and responsibilities as may be required as the head of the Police Department.

**Sec. 9.05.026 Term/At Will Employee**

The Director of Public Safety is an ‘at will’ employee of the City and is subject to the provisions of the City’s Personnel Policies, the City’s Ordinances, and the City’s Home Rule Charter.

**Sec. 9.05.027 Compensation**

The Director of Public Safety shall receive as compensation for his services a salary set in accordance with the City’s wage and compensation plan, approved by the City Manager in accordance with the adoption of same as set forth in the City’s annual operating budget, as adopted and approved by the City Council.

**Sec. 9.05.028 Supervision of Police Department and police force**

The Director of Public Safety shall exercise general supervision over the City’s Police Department and municipal police force, and shall report to the City Manager any failure to perform official duties or any abuse of authority.

**Sec. 9.05.029 Powers and duties of the Director of Public Safety**

The Director of Public Safety shall:

- (1) Appoint an Assistant Chief of Police, with the advice and consent of the City Manager.
- (2) Attend, in person or by delegation to Assistant Chief of Police or others, all sessions of the municipal court and shall promptly and faithfully execute all writs and process issued out of the court.
- (3) Have like powers with the sheriff of the county to execute search warrants.

- (4) Actively quell riots, disorders and disturbances within the city, and shall take into custody all persons offending against the peace of the city.
- (5) Accept suitable bail for appearances before the municipal court.
- (6) Arrest without warrant all persons who violate the peace of the city, or who obstruct or interfere with him in the execution of his duties, or persons guilty of disorderly conduct.
- (7) Attend, in person or by delegation to an Assistant Chief of Police, all meetings of the city council.
- (8) Perform such other duties as may be from time to time required by the City Manager.

**Sec. 9.05.30 Delivery of monies collected to city secretary; reports of fines collected**

The Director of Public Safety shall pass over all fines or other monies collected to the city secretary at least once each month and file with the city secretary a monthly statement, subscribed by him, of all fines collected, from whom collected and the amount of each.

**Division 3. Assistant Chief of Police**

**Sec. 9.05.031 Office established**

The office Assistant Chief of Police is hereby created.

**Sec. 9.05.032 Qualifications**

The Assistant Chief of Police shall be a person qualified by training and experience to properly carry out the duties of this office.

**Sec. 9.05.033 Appointment**

The Assistant Chief of Police shall be appointed by the Director of Public Safety, with the consent of the City Manager.

**Sec. 9.05.034 Supervision**

The Assistant Chief of Police shall report directly to the Director of Public Safety.

**Sec. 9.05.035 Term/At Will Employee**



The Assistant Chief of Police is an 'at will' employee of the City and is subject to the provisions of the City's Personnel Policies, the City's Ordinances, and the City's Home Rule Charter.

**Sec. 9.05.036 Compensation**

The Assistant Chief of Police shall receive as compensation for his services a salary set in accordance with the City's wage and compensation plan, approved by the City Manager in accordance with the adoption of same as set forth in the City's annual operating budget, as adopted and approved by the City Council.

**Sec. 9.05.037 Supervision of police force**

The Assistant Chief of Police shall exercise general supervision over the police force, subject to the supervision and control of, and as from time to time delegated by, the Director of Public Safety.

**Sec. 9.05.038 Powers and duties**

The Assistant Chief of Police shall:

- (1) Attend in person, as directed and delegated by the Director of Public Safety, all sessions of the municipal court and shall promptly and faithfully execute all writs and process issued out of the court.
- (2) Have like powers with the sheriff of the county to execute search warrants.
- (3) Actively quell riots, disorders and disturbances within the city, and shall take into custody all persons offending against the peace of the city.
- (4) Accept suitable bail for appearances before the municipal court.
- (5) Arrest without warrant all persons who violate the peace of the city, or who obstruct or interfere with him in the execution of his duties, or persons guilty of disorderly conduct.
- (6) Attend in person as directed and delegated by the Director of Public Safety, all meetings of the city council.
- (7) Perform such other duties as may be from time to time required by the City Manager or Director of Public Safety.

**Secs. 9.05.039—9.05.070 Reserved**

#### **Division 4. Police Officers**

*(No changes to Secs. 9.05.071 to 9.05.100)*

#### **Division 5. Arrests**

*(No changes to Secs. 9.05.101 to 9.05.130)*

#### **Division 6. Reserve Police Unit**

*(No change to Sec. 9.05.131)*

##### **Sec. 9.05.132 Membership; control by Director of Public Safety**

The reserve police unit shall be a volunteer organization with a membership restricted to no more than ten (10) reputable citizens to be selected by the Director of Public Safety, or by the Assistant Chief of Police as delegated by the Director of Public Safety, and approved by the City Manager. The reserve unit will be under the control and direction of the Director of Public Safety, or as delegated by the Director of Public Safety, under the control and direction of the Assistant Chief of Police.

##### **Sec. 9.05.133 Operation generally**

The reserve police unit shall be operated under basic policies and rules as established by the Director of Public Safety and approved by the city manager. The Director of Public Safety, or as delegated by the Director of Public Safety, the Assistant Chief of Police, shall be responsible for insuring that the policies and rules of the unit are adhered to, and for the development of training programs and operating procedures.

##### **Sec. 9.05.134 Police powers**

Members of the reserve police unit shall act in the capacity of police officers only upon the direction and under the supervision of the Director of Public Safety, or as delegated by the Director of Public Safety, upon the direction and under the supervision of the Assistant Chief of Police. A member of the reserve police unit shall have no police authority or power except when specifically assigned to duty by the Director of Public Safety or the Assistant Chief of Police, as delegated by the Director of Public Safety.

*(No change to Secs. 9.05.135 thru 9.05.136)*

**Part 2.** Chapter 9 of the Code of Ordinances is amended to add Article 9.09 and Chapter 5 of the Code of Ordinances is amended by repealing Articles 5.04 through 5.06 and Article 5.09 and recodifying those provisions, as herein amended in Article 9.09, as follows:

**ARTICLE 9.09      BASTROP VOLUNTEER FIRE DEPARTMENT**

**Division 1. Generally**

**Secs. 9.09.001–9.09.010    Reserved**

**Division 2. Bastrop Volunteer Fire Department**

**Sec. 9.09.011    Created**

The City of Bastrop Volunteer Fire Department is hereby created. The Bastrop Volunteer Fire Department shall consist of the Fire Chief and such other officers, employees and volunteers as may be authorized by the City Manager. The Bastrop Volunteer Fire Department shall be responsible for the firefighting, fire prevention, fire service and emergency medical service activities of the city, as may be authorized by the City Manager.

**Sec. 9.09.012    Purpose**

The purpose of the Bastrop Volunteer Fire Department is to protect from fire the lives and property of all citizens within the city.

**Sec. 9.09.013    Volunteer members of the Bastrop Volunteer Fire Department**

The Bastrop Volunteer Fire Department depends on a largely volunteer force to fulfil its authorized purpose. Bastrop Volunteer Fire Department volunteer firefighters are under the supervision, control and direction of the Fire Chief. The Fire Chief, with consent from the Director of Public Safety and the City Manager, shall issue eligibility requirements for volunteer members, and shall have the authority to grant and revoke volunteer membership in the Bastrop Volunteer Fire Department, provided, however, that volunteer firefighters who are currently members of the organization known as “Bastrop Fire Department, Inc.” shall be considered automatically eligible as volunteer members of the Bastrop Volunteer Fire Department upon their decision to so join the Bastrop Volunteer Fire Department for the first thirty (30) days following the effective date of this ordinance. The volunteer members of the Bastrop Volunteer Fire Department shall be subject to rules, regulations and bylaws as authorized by the Director of Public Safety, the Fire Chief and the City Manager, and shall be subject to the provisions of this code of ordinances and the statutes of this state.

**Sec. 9.09.014 Election of officers**

The members of the Bastrop Volunteer Fire Department shall elect officers subject to the requirements of the bylaws authorized by the Director of Public Safety, the Fire Chief and the City Manager

**Sec. 9.09.015 Workers' compensation insurance**

The city shall maintain workers' compensation insurance for the protection of each firefighter in the Bastrop Volunteer Fire Department.

**Secs. 9.09.016—9.09.019 Reserved**

**Division 2. Fire Chief**

**Sec. 9.09.020 Office created**

The office of Fire Chief of the Bastrop Volunteer Fire Department is hereby created.

**Sec. 9.09.021 Qualifications**

The Fire Chief shall be a person qualified by training and experience to properly carry out the duties of this office.

**Sec. 9.09.022 Appointment**

The Fire Chief shall be appointed by the Director of Public Safety with the consent of the City Manager.

**Sec. 9.09.023 Supervision**

The Fire Chief of the Bastrop Volunteer Fire Department shall report directly to the Director of Public Safety.

**Sec. 9.09.024 Bond**



The Fire Chief, before entering upon the duties of his office, shall enter into a bond in an amount to be determined from time to time by the City Manager. The annual bond premium shall be paid by the city.

**Sec. 9.09.025 Term/At Will Employee**

The Fire Chief is an ‘at will’ employee of the City and is subject to the provisions of the City’s Personnel Policies, the City’s Ordinances, and the City’s Home Rule Charter.

**Sec. 9.09.026 Compensation**

The Fire Chief shall receive as compensation for his services a salary set in accordance with the City’s wage and compensation plan, approved by the City Manager in accordance with the adoption of same as set forth in the City’s annual operating budget, as adopted and approved by the City Council.

**Sec. 9.09.027 Supervision of Bastrop Volunteer Fire Department employees and volunteers**

The Fire Chief shall exercise general supervision over the Bastrop Volunteer Fire Department and shall report to the Director of Public Safety and the City Manager any failure to perform official duties or any abuse of authority.

**Sec. 9.09.028 Duties**

The Fire Chief shall:

- (1) Be responsible for all equipment owned by the city and used by the Bastrop Volunteer Fire Department.
- (2) Be responsible for the efficient operation of the Bastrop Volunteer Fire Department.
- (3) Approve all bills incurred in the operation of the Bastrop Volunteer Fire Department.
- (4) Serve as the fire official in matters pertaining to and as described in section 1 of the International Fire Code (IFC) 2009 edition, or Code adopted and updated by the City from time to time.

**Sec. 9.09.029 Delegation of duties**

The Fire Chief may delegate to an Assistant Fire Chief such of his duties as he shall determine, with the consent of the Director of Public Safety and the City Manager.

### **Division 3. Fire Inspector**

#### **Sec. 9.09.030 Office created**

The office of the fire inspector is hereby created.

#### **Sec. 9.09.031 Appointment**

The fire inspector shall be appointed by the Fire Chief, by and with the consent of the Director of Public Safety and City Manager.

#### **Sec. 9.09.032 Qualifications**

The person appointed to the office of fire inspector shall be qualified by training and experience to carry out the duties of his office in an efficient manner.

#### **Sec. 9.09.033 Records of fires**

The fire inspector shall keep in his office a record of all fires, together with all acts, statistics and circumstances, including the origin of the fires and the amount of the loss.

#### **Sec. 9.09.034 Investigation of fires**

The fire inspector shall investigate the cause, origin and circumstances of every fire occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within twenty-four (24) hours, not including Sunday, of the occurrence of such fire.

#### **Sec. 9.09.035 Right of entry**

The fire inspector shall have the authority at any time of the day or night, when necessary to the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred and other buildings and premises adjoining or near the same. This authority shall be exercised with reason and discretion. The fire inspector shall have the authority to obtain a search warrant should entry be denied.

#### **Sec. 9.09.036 Prosecution of arsonists**

If, in the opinion of the fire inspector, there is sufficient evidence to indicate that a fire or explosion was caused by design or was incendiary in nature, he shall turn over such evidence and related information to the Director of Public Safety, or, as delegated by the Director of Public Safety, to the Assistant Chief of Police for further investigation. The fire inspector shall assist the investigation as may be necessary and practical.

**Sec. 9.09.037 Inspections for fire hazards; order to correct hazardous conditions**

(a) The fire inspector, upon complaint of any person having an interest in any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the city, and it shall be his duty quarterly or more often to enter upon and make or cause to be entered upon and made a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto.

(b) Whenever he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to firemen or occupants, he shall order the same to be removed or remedied and such order shall be forthwith complied with by the owner or occupant of said building or premises.

(c) If the owner or occupant deems himself aggrieved by such order, he may within five (5) days appeal to the mayor, who shall investigate the cause of the complaint and, unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant.

**Secs. 9.09.038—9.09.040 Reserved**

**Division 4. Emergency, Fire and Rescue Services**

**Sec. 9.09.041 Reimbursement of costs**

(a) The city recognizes and supports the right/need of the Bastrop Volunteer Fire Department to recover certain costs incurred by it as a result of its provision of fire suppression, emergency and rescue services. Such fees for Bastrop Volunteer Fire Department services shall be related to items such as, but not limited to:



- (1) Wear and tear of apparatus, tools, and equipment;
- (2) Materials used during the provision of services; and
- (3) Specialized training provided to the firefighters of the Bastrop Volunteer Fire Department to update training and enhance Bastrop Volunteer Fire Department services. (“Fees and Charges”)

(b) Bastrop Volunteer Fire Department fees and charges shall be collected for services provided inside the city limits as well as those provided outside the city limits, as set forth in detail in Appendix A, section A5.08.001 of this code, and as amended by the city council, from time to time. The administrative personnel of the Bastrop Volunteer Fire Department shall utilize applicable incident report information, which will be used as documentation for collection of fees and charges by the city’s firefighters.

(c) The Bastrop Volunteer Fire Department, or its authorized agent, shall submit an invoice to the applicable insurance company covering the losses and damages and other costs and fees that are related to the Bastrop Volunteer Fire Department’s emergency services rendered. If it can be reliably determined that there is no insurance coverage for a specific event/loss which causes the Bastrop Volunteer Fire Department to incur loss, damage, and wear and tear to apparatus, tools, equipment, and materials, then the Bastrop Volunteer Fire Department may seek reimbursement from the person(s) or entities that received emergency services from the Bastrop Volunteer Fire Department.

(d) Residents of the city who have no insurance coverage for the incident(s) connected to receiving emergency services rendered by the Bastrop Volunteer Fire Department are hereby exempted from the Bastrop Volunteer Fire Department fees and charges contained herein, unless it is determined that the Bastrop Volunteer Fire Department emergency services rendered were necessary as a direct result of negligent and/or malicious act(s) and/or omissions, on the part of the recipients of the Bastrop Volunteer Fire Department services. Property used for commercial, retail, industrial and/or other nonresidential purposes shall not be eligible for any exemption from payment of the Bastrop Volunteer Fire Department fees and charges, as stated herein, if the Fire Chief determines that the facility involved in the emergency services provided by the Bastrop Volunteer Fire Department did not have properly installed and/or functioning fire alarms and/or fire suppression equipment and systems.

(e) The Bastrop Volunteer Fire Department shall not seek reimbursement for Bastrop Volunteer Fire Department services provided to residential structures fires within the city’s corporate limits, unless it is determined that the firefighting services rendered by Bastrop Volunteer Fire Department were a direct result of negligent, malicious act(s) and/or omission, on the part of the property owners/residents. This residential exclusion does not apply to multifamily residential units that provide housing to more than two families, i.e., having more than two separate residential units.

(f) First responder/medical assist calls to residences, (i.e., not involving a motor vehicle), that are located within the city’s corporate limits are hereby exempted from the Bastrop Volunteer Fire



Department fees and charges, unless it is determined that the emergency services rendered were a direct result of negligent, malicious act(s) and/or omissions, on the part of persons receiving the treatment.

(g) In December of each year that this article is in effect, the Fire Chief shall prepare a summary report of the Bastrop Volunteer Fire Department's collections and assessments as per this article, and shall submit it to the city manager. The City Manager shall forward the report to the City Council for its review, consideration and comment during a city council meeting.

(h) The Bastrop Volunteer Fire Department's allocation of fees collected, shall be proportional as between the city and the Bastrop Volunteer Fire Department, and the division of same shall be based upon the ownership of the equipment used by the Bastrop Volunteer Fire Department on the call that generates the fee.

(i) The Bastrop Volunteer Fire Department shall remit to the city's Finance Department the city's portion of fees collected pursuant to this article, by the 15<sup>th</sup> of each applicable month, along with documentation used by the Bastrop Volunteer Fire Department in determining the city's portion of fees collected.

**Part 3. Savings Clause.**

It is hereby declared to be the intention of the City Council of the City of Bastrop, that the sections, paragraphs, sentences, clauses and phrases in this Chapter of this Code are severable; and if any phrase, clause, paragraph or section of this Chapter shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this chapter since the same would have been enacted by the City Council without the incorporation in this Chapter of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

**Part 4: Repealing Clause.**

All ordinances and parts of ordinances that are in conflict with the terms of this Ordinance are hereby repealed.


**Part 5: Effective Date.**

This Ordinance shall become effective from and after the date of its final approval and in accordance with the City Charter and the City of Bastrop.


PASSED AND APPROVED on the First Reading on this the 22<sup>nd</sup> day of September, 2015.

PASSED AND ADOPTED on the Second Reading on this the 10th day of November, 2015.

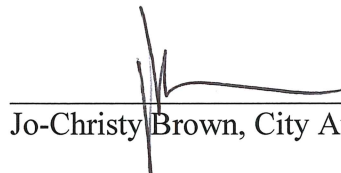
**APPROVED:**

  
\_\_\_\_\_  
Ken Kesselus, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin  
City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Jo-Christy Brown, City Attorney