

**ORDINANCE NO. 2024-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING CODE OF ORDINANCE CHAPTER 2 (ENTITLED “ADMINISTRATION”), BY AMENDING ARTICLE I (ENTITLED “IN GENERAL”) AND ARTICLE II (ENTITLED “COUNCIL”) AND ARTICLE IV (ENTITLED “OFFICERS AND DEPARTMENTS”) TO COMPLY WITH THE CITY CHARTER, STATE LAW AND CURRENT CITY PRACTICES AND POLICIES; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the current version of the City’s code of ordinances was first codified on October 24, 1995; and at such time the City operated as a type A general law municipality; and

**WHEREAS**, City Council adopted the home rule charter ordinance on November 10, 2000; and

**WHEREAS**, the text of many sections of city code Chapter 2, Articles I, II and IV reflect the city to still operate as a type A general law municipality; and

**WHEREAS**, the purpose of this ordinance is to amend city code Chapter 2, Articles I, II and IV to comply with the city charter and current practices and policies; and

**WHEREAS**, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and

**WHEREAS**, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code.

**NOW THEREFORE; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS:**

**Section one. Code amendment.** City Code Chapter 2 (entitled “*Administration*”), Article I (entitled “*In General*”) is hereby amended by replacing the existing language it its entirety with text that follows:

**ARTICLE I. - IN GENERAL.**

**Section 2-1. City Charter.** The City of Burnet is a home rule municipality governed by its City Charter as same may be amended from time to time.

**Section 2-2. Form of Government.** The municipal government as provided by the Charter is a council-manager form of government consisting of a mayor and councilmembers, elected by, and responsible to, the people; and a city manager, appointed by, and responsible to, the city council for proper administration of the affairs of the city.

**Section 2-3. - City seal.**

- (a) *Seal.* The corporate seal of the city shall be circular, with an appropriate design thereon, with such inscription as may be necessary to indicate that same is the corporate seal of the city; same being depicted as follows:



- (b) *Custodian.* The city secretary shall be custodian of the corporate seal.

**Charter reference** – Preamble; Form of Government, Article I

**Section 2-4. – Real property.** The acceptance of title or use of real property on behalf of the City shall not become final until the conveyance and the form of the deed, easement agreement, or other instrument of conveyance is approved by council; and such approval is memorialized by either: (i) signature of acceptance by the mayor or city manager, or an authorized agent acting in their stead, affixed to the instrument of conveyance; or (ii) the filing of an affidavit confirming such acceptance by the mayor or city manager, or an authorized agent acting in their stead, in the public records of Burnet County.

Sections 2-5. – 2-10. – Reserved.

**Section two. Code amendment.** City Code Chapter 2 (entitled “Administration”), Article II (entitled “Council”) is hereby amended by replacing the existing language in its entirety with text that follows:

**ARTICLE II. COUNCIL**

Division 1. – General.

**Sec. 2-11. The governing body.** As prescribed in Articles III and IV of the City Charter the governing body of the city shall be the mayor and councilmembers.

**Sec. 2-12. Remuneration of fees.** To the extent authorized by the Charter, state, and federal law, City Council may, by resolution, provide for the waiver, reimbursement, refund, or other financial remuneration of any fee, or portions of any fee, imposed by this code. For the purposes of this section, the term "fee" shall mean any fee, penalty, fine, or other charge imposed by this Code.

**Sec. 2-13. Final appellate body.** Except to the extent otherwise explicitly set forth by state law, or unless such authority has by ordinance been assigned otherwise, any final determination by any city board, commission, or committee may be appealed to the City Council by the person or entity that requested the matter to

be acted upon by such board, commission, or committee, and the decision of the City Council with respect to such appeal shall be conclusive. In such case, the City Council may confirm or reverse the decision of such board, commission, or committee and issue a final decision, or it may require such board, commission, or committee to reconsider its action.

Sections 2-14. – 2-20. – Reserved.

Division 2. – Meetings.

**Sec. 2-21. Compliance.** All city council meetings shall comply with the requirements of state law and the city charter, including the Texas Open Meeting Act, Chapter 551 Texas Government Code, and Section 3.16 of the City Charter.

**Sec. 2-22. No private cause of action.** The application, or failure to apply the terms of this article, in the conduct of city council meetings shall not create or give rise to any right, cause of action, or claim on behalf of any third party, person or citizen other than as exists pursuant to the Texas Open Meetings Act, if any.

**Sec. 2-23. Use of tobacco products.** Smoking, chewing, or any other use of tobacco products is prohibited in city council chambers. In addition to the criminal penalties prescribed elsewhere in this code, violators may be subject to removal at the direction of the mayor.

**Sec. 2-24. Time and location.**

- (a) *Regular meetings.* City council shall hold regular meetings on the second and fourth Tuesdays of each calendar month at 6:00 p.m., at the city council chambers, subject to the following:
  - (1) Change of meeting date. City council by ordinance, resolution, or order may change the date or time for a future regular meeting or meetings.
  - (2) Calendar conflict. If any such Tuesday, or other date set for a regular meeting is a city holiday, the meeting may be rescheduled on the next business day thereafter or other time as scheduled by the city council.
  - (3) Severe weather. If severe weather, or any emergency or special circumstance results in the rescheduling of the meeting, the regular meeting may be held on the next business day thereafter.
  - (4) Cancellation. City Council, or the mayor, may cancel any regularly scheduled meeting, provided that at least one regular meeting shall be held each calendar month.
- (b) *Special meetings.* The city secretary shall call a special meeting upon the request of the mayor, the city manager, or any two councilmembers.

- (c) *Emergency meetings.* In instances of emergency or urgent public necessity, the mayor, or councilmember duly acting in the absence of the mayor, or the city manager may call an emergency meeting in such manner as is authorized by the Texas Open Meetings Act.
- (d) *Location.* City council meetings shall be held at the city council chambers or such other place prescribed by ordinance, resolution, or order of city council.

**Sec. 2-26. Conducting meetings.** The mayor and the city council shall conduct its meetings in compliance with the Texas Public Meeting Act, applicable provisions of this code and by such policy as may be adopted by council.

**Sec. 2-27. Agenda for council meetings.** The agenda for each meeting of the city council shall contain such information and be posted in a time and place as is sufficient to comply with the Texas Open Meetings Act.

- (a) *Form.* The agenda for each regular meeting of the city council shall be ordered generally as follows: (1) call to order; (2) invocation; (3) Pledges (US & Texas); (4) special reports/recognition; (5) consent; (v) public hearings/action; (vi) action items in numerical order; (vii) executive session (if necessary); (viii) council request for reports; (ix) adjournment.
- (b) *Preparation and posting.* The city secretary shall prepare and post the agenda for each meeting of the city council. The agenda shall be in the general form and structure as provided above. The city secretary may order the agenda items in a manner to facilitate the conduct of the council meeting and the efficient utilization of city resources., Subject to appeal, as provided in Section 2-29 below, the mayor may re-order the agenda items or take items out of order at any meeting.
- (c) *Content.* The mayor, any member of the city council, or the city manager, may, without the approval or authorization of any other person, place an item on the agenda for any regular meeting of the city council; provided that the request must be timely made in relation to the time when the agenda for the meeting is set by the city secretary.
- (d) *Executive sessions.* The city council may go into executive session at any time, when in the judgment of the city council it is in the best interests of the city, on any properly posted agenda item dealing with subject matter for which the Texas Open Meetings Act authorizes executive sessions. Notwithstanding the foregoing sentence, when it is anticipated at the time the agenda is posted that the city council will go into executive session with respect to any item of business, the matter should be placed on the agenda as an item for executive session and, in addition to the subject matter, should specify the

section of Chapter 551, Tex. Gov't. Code, that authorizes such executive session. Each agenda item for an executive session shall provide notice that, or provide an additional agenda item providing notice that, the city council may act on the subject matter considered in the executive session.

**Sec. 2-28. Public Participation.** Members of the public may testify or provide comment at public hearings and before city council deliberation and action on an item on an agenda of an open meeting in accordance with the Texas Public Meeting Act and such policy adopted pursuant to Section 2-26 above.

**Sec. 2-29. Parliamentarian.** The mayor shall serve as parliamentarian and shall make all decisions regarding the procedure of a meeting. A parliamentarian decision may be appealed by objection made by any councilmember. If the objection is overruled, the councilmember may appeal the objection to the body. Unless the appeal receives a majority vote of the councilmembers present, the parliamentarian ruling shall stand.

Sections 2-30. – 2-40. – Reserved.

**Charter reference** – City Council, Article IV and Elections Article V

**Section three. Code amendment.** City Code Chapter 2 (entitled “*Administration*”), Article IV (entitled “*Officers and Departments*”) is hereby amended by replacing the existing language in its entirety with text that follows:

**Sec. 2-61. City Manager.** The office of City Manager is established by Section 4.01 City Charter. In addition to the duties prescribed in the City Charter, the City Manager shall be authorized to perform duties as follows:

- (a) *Purchasing agent.* The City Manager shall act as purchasing agent for the city related to the purchase of merchandise, material, and supplies, as well as the engagement of service providers, as needed by the city; and may establish, if needed, a suitable storehouse where such supplies shall be kept and from which same shall be issued as needed. The City Manager may designate a city employee to serve as purchasing agent under the City Manager’s supervision. As purchasing agent, the City Manager shall:
  - (1) comply with relevant state procurement laws; and
  - (2) have the authority to make purchases and engage service providers as provided in the Purchasing Policy adopted by separate Council action as same may be amended from time to time; and
  - (3) adopt such rules and regulations governing requisitions and transaction of business between himself as such purchasing agent and the heads of the departments, officers, and employees of the city as the council may approve; and

- (4) in case of accident or other circumstances creating an emergency, award contracts and make purchases for the purpose of:
  - (A) repairing damages caused by accident, weather or other calamity, or
  - (B) for the purpose of avoiding such public emergency.

Emergency purchases shall comply with state law provisions related to emergency procurement; and shall have prior council approval unless the situation is so dire obtaining council approval is impractical. In such case, the City Manager shall immediately afterwards file with the mayor a certificate showing such emergency and the necessity of such action, together with an itemized account of all expenditures.

- (b) *Recommendations.* Recommend to the council, in writing, from time-to-time for adoption of such measures as the City Manager may deem necessary and expedient.

**Charter reference** – City Manager, § 4.01

**Sec. 2-62. Departments.** The Burnet Police Department is hereby established. Council may establish such other departments as it determines to be beneficial to the effective and efficient operation of the City and as may be determined during the annual budget adoption process.

**Charter reference** – Departments, § 4.02

**Sec. 2-63. Officers.** Pursuant to Sections 4.04 and 4.05 of the City Charter, the offices of City Attorney and City Secretary are established.

**Charter reference** – City Attorney, § 4.04; City Secretary, § 4.05

**Sec. 2-64. - Bonds of city officers.**

- (a) The bonds of all city officers who are required to give bond shall be made payable to the mayor and his successors in office, in such amounts as may in each case be provided. All such bonds shall be conditioned that the officer giving same will faithfully perform all the duties of his office which are or may be imposed on him according to state law and the ordinances of the city and that he will comply with all the lawful orders of the city manager and the city council and account for, and pay to the persons entitled to receive the same, all moneys coming into his hands by virtue of his office.
- (b) The city manager, city attorney, city secretary, municipal judge and any employees whose duties include the handling of money shall before entering upon the duties of their office, give a bond in such amount prescribed by Council, but in no case less than \$2,500.00, issued by surety companies acceptable to the City Council and authorized to do business in Texas.

Sections 2-65. – 2-100. – Reserved.

**Charter reference** – Surety Bonds, § 10.03

Note to publisher, Division 4 (entitled “*Reserve Police Force*”) is removed from this Code. This note shall not be published.

**Section four. Findings.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

**Section five. Penalty.** A violation of this Ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “*General Penalty*”).

**Section six. Cumulative.** This Ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event Section 5, (entitled “*Repealer*”) shall be controlling.

**Section seven. Repealer.** All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

**Section eight. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

**Section nine. Publication.** The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

**Section ten. Effective Date.** This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

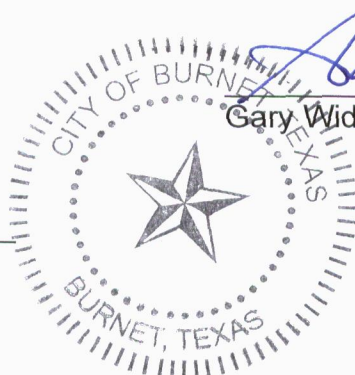
**Passed** on first reading on the 23<sup>rd</sup> day of April 2024.

**Passed, Approved and Adopted** on the 14<sup>th</sup> day of May 2024.

**CITY OF BURNET**

**ATTEST:**

  
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Maria Gonzales, City Secretary



  
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Gary Wideman, Mayor