

ORDINANCE NO. 20-19 (Update of 16-11)

AN ORDINANCE OF THE CITY OF DANBURY, TEXAS, REAFFIRMING THE CHANGE FROM MARSHALL TO CHIEF OF POLICE; ESTABLISHING A MUNICIPAL POLICE FORCE; PROVIDING FOR THE APPOINTMENT, TERM OF OFFICE, REMOVAL, QUALIFICATIONS, AUTHORITY, DUTIES, BOND, COMPENSATION, AND HOURS OF WORK OF THE CHIEF OF POLICE AND OTHER POLICE OFFICERS; PROVIDING FOR A RESERVE POLICE FORCE; PROVIDING FOR QUALIFICATIONS, APPOINTMENT, REMOVAL, AND ACTIVATION OF RESERVE POLICE OFFICERS; PROVIDING FOR AT WILL EMPLOYMENT; PROVIDING FOR SUBORDINATING OFFICERS; REPEALING AND REPLACING ORDINANCE NOS. 09-01, 13-08, and 16-11; AND PROVIDING A SAVINGS CLAUSE, SEVERANCE CLAUSE, AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DANBURY, TEXAS:

1. **Repeal and Replacement of Prior Ordinances.** This ordinance hereby repeals and replaces all of Ordinance Nos. 09-01, 13-08, and 16-11 of the City of Danbury ("the City"). Among other provisions, Ordinance No. 09-01 previously established the position of Police Second In Command and provided for the City Council to fill that position. Among other provisions, Ordinance 13-08 previously established the position of Police Sergeant and provided for the City Council to fill that position.
2. **Reaffirmation of Change from Marshall to Chief of Police.** The abolition of the office of Marshall, and the replacement of that office with the office of Chief of Police were done on July 31, 1981, by Ordinance No. 81-10, and that abolition and replacement are hereby reaffirmed.
3. **Appointment.** The Chief of Police shall be appointed by the City Council, but only the Mayor may nominate a person for appointment as Chief of Police. The City Council may appoint or decline to appoint the Mayor's nominee, but the City Council may not appoint a person not nominated by the Mayor.
4. **Term of Office.**
 - a. Unless the term of office of the Chief of Police is otherwise terminated earlier, the term of office shall automatically expire on July 1st of the next even numbered year after the year of appointment.
 - b. However, unless the term of office is otherwise terminated earlier, the Chief of Police shall hold over after the expiration of his term, until his successor is duly appointed and installed. During this holdover period, it shall not be necessary for the City to remove the Chief of Police; rather, the appointment and installation of a new Chief of Police shall be deemed to conclude the holding over period of the outgoing Chief of Police following the expiration of his term.

5. Removal.

- a. The City Council shall have power to remove the Chief of Police for incompetency, corruption, misconduct, or malfeasance in office, after due notice and an opportunity to be heard.
- b. If the City Council lacks confidence in a Chief of Police appointed by the City Council, the City Council may remove the Chief of Police at any time; provided, however, that the removal is effective only if two-thirds of the elected alderman vote in favor of a resolution declaring the lack of confidence.

6. Qualifications. The Chief of Police shall be a certified peace officer and shall be qualified by law to serve as Chief of Police. The Chief of Police must not hold an additional commission with any entity other than the City.

7. Functions.

The Chief will:

- a. Maintain peace and order within the community and protect the citizens of the City of Danbury.
- b. Provide patrol services when on duty as needed for coverage.
- c. The Chief shall work from 8 a.m. to 5 p.m. when on duty, in addition to being on call.
The Chief shall log in with the Sheriff's Office when working.
- d. Respond to citizen's calls for assistance.
- e. Investigate criminal offenses.
- f. Apprehend offenders.
- g. Provide traffic enforcement.
- h. Enforce municipal ordinances (Code Enforcement) and laws, state, and federal.
- i. Carry out the functions of Animal Control.
- j. Carry out the functions of Emergency Management.
- k. Carry out the duties associated with the STEER Program. (211 System)
- l. Work community events.
- m. Coordinate security for city facility rentals.
- n. Supervise Police Force.
- o. Make bank drops as needed.
- p. Supply reports to Council (Racial Profiling, Police Report, Maintenance Log for vehicles, Animal Control Report)
- q. Attend City Council Meetings per Council's Request.
- r. Perform all of the usual and customary duties of a police chief.
- s. Attend to any other duties prescribed by the Mayor.

8. Authority and Duties.

- a. By stating certain powers or duties of the Chief of Police or other police officers of the City, this ordinance shall not imply that such powers or duties are limited to those stated. Rather, the powers and duties herein stated are in addition to any other powers and duties granted to a Chief of Police or police officer by law.
- b. The Chief of Police shall have like powers, rights, authority and jurisdiction as are vested in city marshals and may serve all process issuing out of the Danbury Municipal Court, anywhere in Brazoria County, Texas.
- c. 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 writs and process issued from said Court.
- d. The Chief of Police shall have like power, with the Sheriff of Brazoria County, to execute warrants, be active in quelling riots, disorder and disturbance of the peace within the Danbury City limits and shall take into custody all persons so offending against the peace of the City and shall have authority to take suitable and sufficient bail for the appearance before the Municipal Court of any person charged with an offense against the Ordinances or laws of the City of Danbury and the State of Texas.
- e. It shall be the Chief of Police's duty to arrest without warrant, all violators of the public peace, and all who obstruct or interfere with the execution of the duties of the office of Chief of Police or who shall be guilty of any disorderly conduct or disturbance whatsoever; to prevent a breach of the peace or preserve quiet and good order, to close any theater, ballroom, or other place or building of public resort.
- f. In the prevention and suppression or crime and arrest of offenders, the Chief of Police shall have, possess and execute like power, authority, and jurisdiction as the Brazoria County Sheriff.
- g. The Chief of Police shall perform such other duties and possess such other powers and authority as the Danbury City Council may by ordinance require or confer, not inconsistent with the Constitution and laws of the State of Texas.
- h. The Chief of Police may activate the police reserves, if any have been appointed, when in the opinion of the Mayor of Danbury, or other officer authorized to declare a state of civil emergency in Brazoria County or any other municipality, there exists in such county or other municipality a need for the services of additional law enforcement officers to protect the health, life, and property of Brazoria County or such other municipality, its inhabitants, and the visitors thereto, by reason of riot, unlawful, assembly characterized by the use of force or violence, or threat thereof by three or more persons acting together or without lawful authority, or during time of natural disaster or man-made calamity.
- i. The Chief of Police shall have the authority to enforce city ordinances.
- j. In addition to any other powers described in this ordinance, the Chief of Police shall have all powers of any other police officer hereunder.
- k. All grant applications or submission for grants, must be approved by City Council before submission.

8. **Bond.** The Chief of Police shall give such bond for the faithful performance of said duties as the law or the City Council may require.

9. **Compensation.** The Chief of Police shall receive such salary and/or fees of office as the City Council may determine from time to time.

10. **Hours of Work.** The position of Police Chief is a full time job, and the Police Chief's hours of work shall generally reflect that fact; provided, however, that the Police Chief is not required to work a specific number of hours or time of day, unless the Police Chief is covering a patrol shift.

11. **Police Force.**

- a. A municipal police force of the City of Danbury is hereby established.
- b. Subject to the approval of the City Council, the Chief of Police may commission certified Texas peace officers licensed by the State of Texas as police officers of the Danbury Police Department. Officers shall meet any additional hiring standards as set by the Chief of Police, based on customary standards and practices.
- c. All police officers of the City shall serve at the pleasure of the governing body. Nothing herein or in any other source shall create any employment for any specific term, and the police officers may be removed by the Chief of Police or by the City Council at any time.
- d. If a Police Officer is terminated, a notice of termination must be sent to the Mayor in writing within 24 hours of termination.
- e. Each police officer shall execute a bond as the City Council may require. The bond must be conditioned that the officer will faithfully perform the officer's duties.
- f. A police officer shall have:
 - 1. The powers, rights, duties, and jurisdiction granted to or imposed on a peace officer by the Texas Code of Criminal Procedure; and
 - 2. Other powers and duties as may be prescribed from time to time by the City Council.
- g. A police officer may serve in Brazoria County all process issued by a municipal court.
- h. No full time/part time officer may carry an additional commission with any entity other than the City.

12. **Reserve Police Force.**

- a. Pursuant to the authority of Texas Local Government Code section 341.012, as amended from time to time, and any other applicable law, a reserve police force of the City is hereby established.
- b. Each reserve police officer shall be a certified peace officer. However, this requirement does not apply to members of a special police force summoned by

the Mayor during an emergency, under Section 341.011 of the Texas Local Government Code.

- c. Subject to the approval of the City Council, the Chief of Police may appoint reserve police officers.
- d. Reserve police officers may be discharged, demoted, or subjected to any disciplinary action at any time at the will of the Police Chief or the City Council.
- e. The Chief of Police may call the reserve police force into service at any time the Chief of Police considers it necessary to have additional officers to preserve the peace and enforce the law.
- f. If a Reserve Officer is terminated, a notice of termination must be sent to the Mayor in writing within 24 hours of termination.
- g. No Reserve may carry an additional commission with any entity other than the City.

13. At-Will.

- a. Regardless of any other provision of any source, the Chief of Police and all police officers and reserve police officers of the City of Danbury shall be employed at the will of the City of Danbury. Neither the Chief of Police, any police officer, nor any reserve police officer of the City of Danbury shall have any contractual right, property right, or other right to his/her employment. The Chief of Police, any police officer of the City of Danbury may be discharged, demoted, or subjected to any disciplinary action at any time at the will of the City of Danbury.
- b. In addition, this ordinance is subject to all provisions of Ordinance No. 00-03 and any amendments or replacements thereof.
- c. This section shall govern and control over any other provision.

14. Subordinate Police Positions.

- a. The approval of the City Council is required in order to hire any police officer or to change a police officer's compensation.
- b. However, the Police Chief may in his discretion and without the City Council's approval (but not contrary to the City Council's instructions or prohibitions, if any, from time to time): (1) create subordinate police positions, such as Sergeant or Assistant Police Chief, for example; (2) determine the duties of such subordinate positions; and (3) appoint and remove officers of the Danbury Police Department, who have already been hired with the City Council's approval, to and from such subordinate positions. If the positions are to be accompanied by an increase in pay, they must be within the fiscal budget year of the City and are subject to final approval by the City Council.
- c. Regardless of any other provision of any source, all police officers appointed by the Police Chief to subordinate positions, such as Sergeant or Assistant Police Chief, for example, shall serve in those positions at the will of the Police Chief; provided, however, that any exercise of the City Council's at-will authority under Section 13 or any other source shall govern and control over any exercise of the Police Chief's at-will authority under this section or any other source.

15. **Vehicle Maintenance Section.**

- a. **The Chief is responsible for the review, service, and maintenance of Police Department fleet.**
- b. **Zero Tobacco Policy for Police Department fleet including but not limited to smoking, dipping, vaping, or any other substance similar thereunto. No person subject to this ordinance shall use any of those substances in a City vehicle.**

16. **Savings Clause.** Except as expressly provided herein, all ordinances and portions of ordinances of the City shall remain in full force and effect.

17. **Severance Clause.** If any part of this ordinance, of whatever size, is ever declared invalid or unenforceable for any reason, the remainder of this order shall remain in full force and effect.

18. **Effective Date.** This ordinance shall be effective immediately upon its passage and approval.

PASSED AND APPROVED BY THE CITY COUNCIL OF DANBURY, TEXAS THIS
20th day of August, 2020.

CITY OF DANBURY, TEXAS

By: Melinda Strong
Melinda Strong, Mayor

ATTEST:

Cynthia Sharp
Cynthia Sharp, Deputy City Secretary