

**CITY OF LAVON, TEXAS**  
**ORDINANCE NO. 2018-06-03**

Establish Lavon Volunteer Fire Department

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAVON, TEXAS, AMENDING TITLE 3, "ADMINISTRATION", SUBTITLE 4, "DEPARTMENTS OF THE CITY" OF THE CODE OF REGULATIONS TO ADD A NEW CHAPTER 9 TO BE ENTITLED "VOLUNTEER FIRE DEPARTMENT" TO ESTABLISH A FIRE DEPARTMENT OF THE CITY; PROVIDING A PENALTY; PROVIDING REPEALINGS, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lavon, Texas (the "City Council") seeks to provide for the public health, safety, and welfare of its citizens; and

**WHEREAS**, Section 51.001 of the Texas Local Government Code authorizes the City Council to adopt an ordinance, rule or police regulation that is for the good government, peace, or order of the City and necessary or proper for carrying out a power granted by law to a municipality or an office or department of a municipality; and

**WHEREAS**, Section 342.004 of the Texas Local Government Code authorizes the City Council to organize a fire department and prescribe the powers and duties of the fire department and its officers; and

**WHEREAS**, records indicate that prior to the 1992 creation of the Lavon Volunteer Fire Department ("LVFD"), the Nevada Volunteer Fire Department ("NVFD") served the City of Lavon, Texas ("City"); and in 1996 LVFD merged with NVFD and NVFD has provided fire protection services to the citizens of the Lavon since that time; and

**WHEREAS**, the residents of Lavon and the City have financially supported fire services and NVFD with expenditures totaling over \$300,000 since October 2012 in support of fire services, provided in-kind donations in the estimated amount of \$15,000, and provided the free and unrestricted use of a meeting/storage room at City Hall and the Lavon Fire Station; and further is in the process of constructing a \$206,000 Emergency Operations Center-Fire Department expansion; and

**WHEREAS**, the residents of Lavon and the City Council are especially grateful for the outstanding service that the NVFD has provided over the years; and

**WHEREAS**, the NVFD has notified the City Council that fire protection service cannot be continued without a substantial increase in financial participation from the City among other requirements; and

**WHEREAS**, the City Council finds that it is in the best interest of the City and citizens to reestablish and organize the LVFD to provide for fire protection, rescue-emergency medical services and for protecting and improving the quality of life, health and welfare of the community as set forth below.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF LAVON, COLLIN COUNTY, TEXAS:**

**SECTION 1: FINDINGS INCORPORATED.**

The findings set forth above are true and correct, constitute findings and determinations by the City Council acting in its legislative capacity and are incorporated herein.

**SECTION 2: AMENDMENT.**

Title 3, entitled “Administration”, Subtitle 4, entitled “Departments of the City” of the Code of Regulations of the City of Lavon, Texas, as amended, is hereby amended to add a new Chapter 9 to be entitled “Volunteer Fire Department” proposed in its entirety to read as follows:

**CHAPTER 9 VOLUNTEER FIRE DEPARTMENT**

**Sec. 1 Fire department**

There is hereby created and established a fire department in the city. The fire department shall consist of all funds, resources, equipment, buildings and other materials or property designated by the city to be the fire department of the city and shall be operated for the prevention and suppression of fire, rescue-emergency medical services and the protection of the public, life and property within the city or as designated and regulated by the city council. All assets of the fire department shall be owned by and as per regulations and budgeting of the city.

**Sec. 2 Volunteer fire department established**

There is hereby established a volunteer fire department in the city which shall be under the direct control and supervision of the fire chief. The members of the fire department are volunteer firefighters. The number of volunteer firefighters shall be as determined by appropriate resolution of the city council from time to time. Volunteer firefighters shall be certified or actively pursuing certification as such in accordance with law. All volunteer firefighters are responsible for reporting any disability that would hinder active duty, and in cases of prolonged disability said firemen would ask to be relieved from active duty. Volunteers may receive compensation, incentives, and/or reimbursement as may be established by the city council. The volunteer firefighters of the department may hold meetings and engage in fundraising activities. Such fundraising activities shall be subject to the prior approval of the fire chief and city council.

**Sec. 3 Membership and appointment**

The members of the fire department shall consist of a chief of the fire department, who shall be appointed by the city administrator and confirmed by a majority of the city council; an assistant fire

chief and a captain, each recommended by the fire chief and appointed by the city administrator; and such other officers, firefighters, employees and volunteers as the city council may from time to time determine.

The members of the fire department may elect their officers by a two-third majority vote of all members, including but not limited to, a lieutenant, two (2) members-at-large, secretary and treasurer.

The positions of firefighters, officers and the chief of the fire department shall be volunteer positions and will not be considered employees of the city.

**Sec. 4 Powers and duties of fire chief**

The fire chief shall have the following powers and duties:

(1) The fire chief shall have control, subject to the orders and direction of the city administrator or their designee of the fire department and all fire apparatus belonging to the city.

(2) In case of fire, the fire chief or the designated officer in command shall take command at the fire scene and direct the management thereof for the suppression of the fire in the best manner possible.

(3) It shall be the function and duty of the fire department and every member thereof to extinguish accidental or destructive fires and to prevent the occurrence or spread of such fires.

(4) The fire chief shall keep or cause to be kept a record of all activities of the fire department. The fire chief shall diligently observe the condition of fire apparatus and workings of the department at all times, and shall report in writing at any time to the city council and make such recommendations as he or she may desire for the efficiency of the equipment and department.

(5) It shall be the duty of the fire chief and all officers of the fire department to see that all laws, codes, and ordinances with regard to fire protection and fire safety are enforced within the city.

(6) It shall be the duty of the fire chief and all members of the fire department to keep and protect all equipment of the fire department entrusted to their care, and to return any such equipment to the fire department or to account for the equipment at the direction of the chief.

(7) The fire chief shall promulgate rules and regulations for the operation and conduct of the fire department. Such rules and regulations shall be subject to the approval of the mayor.

(8) The fire chief shall have the power to suspend any subordinate officers, members, employees or volunteers of the department for a violation of any rules and regulations and shall, upon executing any such suspension, forthwith in writing, advise the city council of same and the reasons therefor.

**Sec. 5 Assistant chief to assume duties in absence of chief**

In the absence of the fire chief, the assistant chief shall assume the duties of the office of chief of the department.

**Sec. 6 Bylaws, rules and regulations governing volunteer fire department**

The volunteer fire department shall adopt such bylaws, rules and regulations which shall be consistent with the laws of the state and ordinances of the city, which shall be subject to approval of the city council.

**Sec. 7            Firefighting equipment**

The city may obtain firefighting equipment and other operations equipment for its fire department which shall be kept at the city fire station(s). The fire department shall properly maintain the city's firefighting equipment. All firefighting equipment and other property purchased with cash donations to the fire department or donated in kind to the fire department shall become the property of the city. The fire chief shall keep an inventory of all firefighting equipment and other property used by the fire department.

**Sec. 8            Fire department financial records**

The financial records of the fire department, including records of contributions made to the fire department in cash or in kind, shall be audited annually by the city's auditor as directed by the city council. The audit shall be submitted to the city council and be made available to the public. The fire department may be assisted in financial administration by city administration.

**Sec. 9            Interference with firefighters at emergencies; trespassing on fire stations; using fire department property**

(a) No person in attendance at an emergency shall neglect or refuse to obey the orders of the fire chief, the officer in command, or any other firefighter at such emergency with regard to the suppression of such fire. Spectators shall keep away from the fire and out of the firefighters' way, at least three hundred feet (300') from an emergency scene.

(b) It shall be unlawful and an offense for any person to enter the fire department station, Emergency Operations Center or any place where the equipment and apparatus of the fire department is stored at any time except on official business pertaining to the fire department or other city business, or unless accompanied by a firefighter or with the express permission of the fire chief or their designee.

(c) Any person or persons taking or using or causing to be taken or used, any part of the property of the fire department without permission of the chief of the department, except in an actual emergency or report of an emergency shall be guilty of a misdemeanor.

(d) No person shall drive a vehicle over an exposed fire hose except upon specific orders from the fire chief or other officer in charge.

(e) No person shall park any vehicle or otherwise cause any obstruction to be placed near the entrance to any fire station or other place where fire apparatus is stored or within ten (10) feet of any fire hydrant.

(f) No unauthorized person with any vehicle shall follow within six hundred feet (600') of any apparatus responding to an emergency, nor park any vehicle within three hundred feet (300') of an emergency scene.

(g) No person shall maliciously turn in or cause to be turned in a false alarm.

(h) All moving apparatus of the fire department shall have the paramount right-of-way through all streets, thoroughfares, roads and alleys of the city when en route to an emergency.

(i) The fire department and police department shall have the right in time of emergency to place ropes or guards across streets, thoroughfares, roads and alleys on which shall be situated an emergency and at such other points as it may deem expedient and necessary, and fire department and police department personnel assigned for policing purposes shall prevent any and all persons, except officers and fire department personnel and owners and occupants of such buildings, endangered by the existing emergency, from entering the lines designated by the ropes or guards.

(j) It shall be unlawful for any person, other than fire department personnel, to interfere with, or in any manner hinder, any fire department personnel in the discharge of their duties as such.

(k) It shall be unlawful for any person, other than fire department personnel, to handle, or in any way interfere with, any of the apparatus belonging to or used by the fire department, either at an emergency or while traveling to or returning from an emergency, at training, or while standing in fire department quarters or at any time, unless such person is requested to do so by an officer of the fire department.

**Sec. 10            Rendering aid outside the city**

Members of the fire department are authorized to go outside the corporate limits of the city for the purpose of rendering aid to other fire departments, or of extinguishing fires or rendering aid in the case of accidents, subject to mutual aid agreements with the State of Texas (TFS/TFMAS), Collin County, or with adjacent cities and counties. The fire department shall not render any such service outside the corporate limits, except upon orders of the fire chief or other officer in charge of the fire department and unless the city has undertaken by contract or agreement to render service to property outside the corporate limits.

**Sec. 11            Liability**

Neither the City, the City Council, the Fire Chief, nor the individual firefighters shall in any way be held responsible for damages occasioned to persons or property during attempts to respond to emergency situations, extinguish fires or for the destruction thereof or for damage done to any person, animal or vehicle coming into collision with the fire apparatus or the vehicles driven by fire department personnel when proceeding to the place of an emergency.

**SECTION 3: PENALTIES.**

It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not to exceed Five Hundred No/100 Dollars (\$500.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues. For purposes of this paragraph of this section, allegation and evidence of a culpable mental state is not required for the proof of an offense under this Ordinance.

Notwithstanding the foregoing, it shall be unlawful for any person, firm, corporation, or other business entity who intentionally, knowingly, or recklessly violates any provision of this Ordinance regarding fire safety or public health shall be fined, upon conviction, in an amount not to exceed Two Thousand and No/100 Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 4: SEVERABILITY.**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Lavon hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

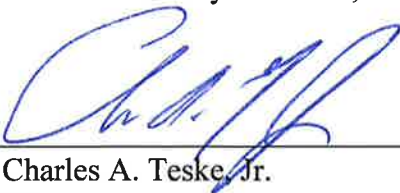
**SECTION 5: SAVINGS/REPEALING CLAUSE.**

The Lavon Code of Regulations shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed or amended ordinance, nor shall the repeal or amendment prevent a prosecution from being commenced for any violation if occurring prior to the repeal or amendment of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 6: EFFECTIVE DATE.**

This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

**DULY PASSED AND APPROVED** by the City Council of the City of Lavon, Texas on the 12<sup>th</sup> day of June, 2018.

  
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Charles A. Teske, Jr.  
Mayor

ATTEST:  
  
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Kim Dobbs  
City Administrator | City Secretary

