

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REPEALING CODE OF ORDINANCES CHAPTER 54, SECTIONS 54-41 TO 54-55, RELATING TO A VOLUNTEER FIRE DEPARTMENT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels used to have a volunteer fire department that was regulated in accordance with the sections of the Code being repealed, that is found in

WHEREAS, the City of New Braunfels no longer has a volunteer fire department so that this ordinance found in Article II, Division 2, of Chapter 54 of the Code of Ordinances is obsolete and should be repealed; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1. Amendment.

That City of New Braunfels Code of Ordinances, Chapter 54, Article II, Division 2, Sections 54-41 through 54-55 are hereby repealed as indicated below:

DIVISION 2. ~~VOLUNTEER FIRE DEPARTMENT~~ RESERVED.

~~Sec. 54-41. Fire companies authorized; composition.~~

~~Fire companies for volunteer service may be organized in this city by the citizens thereof; provided, that there shall be not less than ten persons and not more than 30 persons in active status, including organizers thereof. They shall be composed of personnel who have volunteered to join the organization and whose application for membership has been accepted and who have complied with all the rules, regulations and orders provided for the conduct and control of the members thereof. The volunteer fire department shall be separate and distinct from the regular fire department of the city, but shall be headed by the fire chief.~~

~~(Code 1961, § 8-18)~~

~~Sec. 54-42. Supervision and command.~~

~~The members of the volunteer force shall be under the authority, supervision, control and command of the fire chief of the city, subject to all of the ordinances of the city and of this division. Members shall be appointed from a list of eligibles compiled as provided in this division.~~

~~(Code 1961, § 8-19)~~

~~Sec. 54-43. Diminishing the force.~~

~~The fire chief may by order decrease or increase the membership of the volunteer fire department as exigency may require, within the limit established in this division.~~

~~(Code 1961, § 8-20)~~

Sec. 54-44. List of eligibles; qualifications; oath.

A list of eligibles shall be compiled accompanied by a complete set of fingerprints or supplemented immediately by fingerprinting by the fire marshal's office, which fingerprints shall be checked by the identification bureau to ascertain any criminal record of such person. The applications shall state the residence of the applicant. Each applicant shall be an actual resident of the city and/or its extraterritorial jurisdiction and shall furnish satisfactory proof of good character and physical ability to perform the duties of the position for which he seeks appointment. The applicant shall furnish three references and attach letters of recommendation from such references to the application. The application shall be on the form prescribed therefor and must be approved by the fire chief. All persons approved as eligibles shall subscribe to an oath that he will observe and obey the Constitution of the United States, the constitution of this state, and laws of this nation, this state and this city, and he will carry out the duties of a member of the volunteer fire department of this city to the best of his ability.

(Code 1961, § 8-21)

State law reference(s)—Extent of extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021.

Sec. 54-45. Fire chief to prescribe uniforms and badges.

The fire chief shall prescribe the uniforms and badges for the members of the volunteer fire department and direct the manner in which the same shall be worn. Those persons appointed to the volunteer fire department shall be responsible for purchasing and maintaining, at no expense to the chief, their uniforms and necessary equipment to perform the duties as set forth in this article. Any person other than a member of such force who shall wear such uniform or badge shall be guilty of a misdemeanor.

(Code 1961, § 8-22)

State law reference(s)—Impersonating public servant, V.T.C.A., Penal Code § 37.11.

Sec. 54-46. Firefighter's identification.

An identification card designating a volunteer firefighter and such other insignia or evidence of identity as the fire chief may prescribe shall be issued to each member, who must carry the card and other identification at all times while on duty, and he must surrender them upon the termination of his membership. All identification cards shall expire automatically at midnight on the anniversary date.

(Code 1961, § 8-23)

Sec. 54-47. Remuneration for services.

Members of the volunteer fire department must serve without compensation. Nothing in this section or division shall be construed to authorize or permit a member of the volunteer fire department to become eligible for participation in any pension fund created without prior approval of the fire chief pursuant to established city standards.

(Code 1961, § 8-24)

Sec. 54-48. Duties.

The duties of the volunteer fire department, subject at all times to the direction, supervision and control of the fire chief, shall be to assist the regular members of the fire department of this city in the enforcement of suppression, prevention, and emergency medical service during periods of time deemed necessary by the fire chief. The chief may by order establish rules and regulations to govern the volunteer fire department, to fix the

~~specific duties of its members, and to provide for the maintenance of discipline. The chief may change such orders from time to time, and he may command members of the volunteer fire department to obey the instructions of regular firefighters in carrying out their duties. The chief may prescribe other duties than those mentioned in this section to be performed by the volunteer fire department force, not inconsistent with the provisions of this division.~~

~~(Code 1961, § 8-25)~~

~~Sec. 54-49. Entry into private property.~~

~~No member of the volunteer fire department shall break into or otherwise forcefully enter upon any private property, dwelling or habitation of another person without the consent of the owner or occupant, except when immediately accompanied by a regular member of the fire department of this city who then and there requests his aid in the act of an emergency.~~

~~(Code 1961, § 8-26)~~

~~Sec. 54-50. Removal from membership and resignation.~~

~~The membership of any person in the volunteer fire department may be terminated by the fire chief at any time for any cause deemed sufficient by the fire chief. Any member may also resign from the volunteer department at any time, but it shall be the duty of such member to notify the chief of his resignation.~~

~~(Code 1961, § 8-27)~~

~~Sec. 54-51. Summary dismissal of members.~~

~~In addition to the penalties provided by law, any violation of law under color of the performance of a person's duties as a member of the volunteer fire department, and any breach of the rules and regulations established by the fire chief, shall subject any member to summary dismissal.~~

~~(Code 1961, § 8-28)~~

~~Sec. 54-52. False impersonation.~~

~~It shall be a misdemeanor offense for any person to wear, carry or display a volunteer fire department identification card or otherwise deceitfully represent himself to be connected with the volunteer fire department unless he is in fact a member thereof in good standing.~~

~~(Code 1961, § 8-29)~~

~~State law reference(s)—Impersonating public servant, V.T.C.A., Penal Code § 37.11.~~

~~Sec. 54-53. Organization of fire companies.~~

~~(a) Each company organized as authorized in section 54-41 has the right to elect its own members and officers under such rules, regulations and bylaws as it may prescribe and adopt. All other firefighting officers shall be appointed by the fire chief.~~

~~(b) Each company organized as authorized in section 54-41 shall have power and is authorized to adopt its own constitution and bylaws, not inconsistent with the provisions of the ordinances and the Charter of the city and approved by the fire chief.~~

~~(Code 1961, § 8-30)~~

~~Sec. 54-54. Fire chief commissions officers; city ordinances control.~~

~~All officers selected as provided in section 54-53 shall be commissioned by the fire chief of the city, and such companies, their officers and members shall observe and be governed by the ordinances of the city relating to the fire department.~~

~~(Code 1961, § 8-31)~~

~~Sec. 54-55. Ex officio members.~~

~~The mayor shall be an ex officio member of the volunteer fire department. The powers of the mayor shall be such as are prescribed by the Charter and the rules and regulations adopted by the volunteer fire department, as organized and established.~~

~~(Code 1961, § 8-32)~~

Secs. 54-41—54-65. Reserved.

SECTION 2: Repealer.

All provisions of the New Braunfels Code of Ordinances, or other ordinances, whether codified or uncodified, in conflict with the provisions of this ordinance are hereby repealed, and all other provisions of the Code of Ordinances or other ordinances, codified or uncodified, not in conflict with the provisions of the ordinance shall remain in full force and effect.

SECTION 3: Severability

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence or section of this ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence paragraph or section of this ordinance.

SECTION 4: Savings Clause.

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

SECTION 5: Effective Date.

This ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this _____ day of _____, 2024.

PASSED AND APPROVED: Second reading this _____ day of _____, 2024.

CITY OF NEW BRAUNFELS

NEAL LINNARTZ, Mayor

ATTEST:

GAYLE WILKINSON, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney