ORDINANCE NUMBER 1010

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 36: CITY COMMISSIONERS BY ADDING SECTION 36.85 CODE OF CONDUCT AND SECTION 36.86 CENSORSHIP AND ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, according to Texas Local Government Code Sec. 51.001, a governing body of a municipality may adopt an ordinance that is for the good government, peace, or order of the municipality;

WHEREAS, in Chapter 36 of the Code of Ordinances, the Board of Commissioners has adopted rules and procedures for the Board of Commissioner meetings; and

WHEREAS, the Board of Commissioners desires to adopt rules regarding the conduct of the Commissioners and finds that such rules are for the good government, peace, and order of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS THAT:

Part 1. Enacted

THAT the Code of Ordinances Chapter 36: City Commissioners is amended by adding § 36.85 Code of Conduct and § 36.86 Censorship and Enforcement, which shall read as follows:

Chapter 36: City Commissioners

CODE OF CONDUCT

§ 36.85 Code of Conduct

The orderly conduct of the Commissioners in meetings and in public is necessary for the good governance of the City and facilitates open dialogue between Commissioners. The Board of Commissioners adopt the following as its Code of Conduct:

(A) Arrive at meetings on time; silence all personal communication devices, and do not allow them to distract from the work at hand.

(B) Listen and understand before drawing conclusions.

(C) Focus on City vision and goals;

(D) No personal attacks or inferences.

(E) Look for areas of agreement before differences.

(F) State your reservation, but support the Board of Commissioners' decision once a decision is made.

(G) Agree to disagree; move on to the next issue.
(H) Come prepared to discuss issues;

(I) Ask questions of staff prior to the meeting so that Commissioners and staff can be prepared.

(J) Understand that the City Manager is the primary link or the valid chain of command authority that serves between the City Commissioners and the professional staff. The City Commissioners’ relationship with the staff shall be through the City Manager. The City Commissioners shall refrain from giving orders or direction to any subordinate of the City Manager, either publicly or privately. The City Commissioners establish policy and laws for the City, and the City Manager is the head of administration managing the established policy and law.

(K) Praise in public; provide constructive feedback in private.

(L) Participate in discussions and focus on the issue; avoid side conversations. Be mindful that sidebar conversations are disruptive.

(M) Show respect and courtesy and refrain from making disparaging comments about fellow City Commissioners, the public, and City staff in the conduct of a Board of Commissioners' meeting, outside of Commissioner meetings, in social settings, and on social media.

(N) Communicate in an open, direct manner; keep others informed. Do not present false claims or records.

(O) Discuss any problems you may have with another Commissioner directly and not to other Commissioners, the community, or staff.

(P) Be a positive and ethical ambassador for the City. Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the Board of Commissioners.

(Q) Understand that the Mayor must first recognize you before speaking at a Board of Commissioners' Meeting.

(R) Allow others to finish their comments before speaking (subject to the rules of parliamentary procedure and the Mayor's responsibility to preserve order and decorum).

(S) Recognize that City policy decisions are ultimately the responsibility of the Board of Commissioners collectively in public meetings. Work assignments and policy direction should come from the elected body as a whole and not from individual members. Do not dominate or misdirect the City Manager's time and staff's time through allotment of insular, frivolous, or voluminous assignments.

§ 36. 86 Censorship and Enforcement

The following provisions may be used to enforce the Code of Conduct in §36.85 and Commissioner adherence to other applicable City Charter and ordinance provisions pertaining to Commissioner conduct.

(A) Enforcement Actions. The following actions may be taken by the Mayor, at the Mayor's sole discretion and action, or upon a motion to enforce by any Commissioner, seconded and approved by an affirmative vote of four members,
directing the Mayor to enforce any provision of these Rules with respect to any Commissioner, staff member, applicant, or other people in attendance:

(1) **Warning.** A person deemed to be in violation of these Rules may be warned of the violation, advised of the governing provision(s), and directed to follow these Rules.

(2) **Reprimand.** After the first warning, the Mayor may reprove or rebuke a person who continues to violate these Rules.

(3) **Removal.** After warning and reprimand, the Mayor may order a person who persists in violation of these Rules to vacate the proceedings without further disruption. Immediately subsequent to their removal, an affirmative vote of four members may overturn the Mayor's removal of any person. A Commissioner may only be removed from a Board of Commissioners' meeting by an affirmative vote of four members. Any person who refuses to vacate or further disrupts the proceedings shall be removed by the Chief of Police or their designated officer in attendance. No person may be removed from a meeting merely due to their viewpoint or opinion.

(B) **Extension of Time.** If a violation of these Rules disrupts or interferes with any commentary or presentation, the Mayor may, in their discretion or upon motion of any Commissioner, seconded and approved by an affirmative vote of four members, extend the speaker's time to compensate for such disruption or interference.

(C) **Temporary Recess.** If appropriate in providing for the good order and decorum of the proceedings, the Mayor may, in their discretion or upon motion of any Commissioner, seconded and approved by an affirmative vote of four members, call a temporary recess of the proceedings.

(D) **Notice.** Criminal Violation Under State Law. Any violation of these Rules that disrupts, obstructs, and/or interferes with a lawful public meeting may subject the violator to prosecution under state law. See Tex. Penal Code, Sec. 42.05, as amended.

(E) **Discipline of Commissioner.** The Board of Commissioners may discipline a Commissioner who violates this Code of Conduct, the Charter, any other City ordinance, City policy, or acts in a manner that causes embarrassment or disgrace to the City of Burkburnett. No City Commissioner shall be disciplined under this provision except in accordance with the procedures and authority set forth herein.

(1) A Commissioner may request an agenda item to consider discipline of another Commissioner for conduct in violation of these Rules.

(2) Upon consideration of the item and motion of any Commissioner, seconded and approved by an affirmative vote of four members, requesting an item to consider discipline of a Commissioner for conduct in violation of these Rules, an item will be added to a subsequent Board of Commissioners meeting agenda for discussion in closed Executive Session in accordance with §36.34. The member subject to the agenda item shall be present at the Executive Session to answer any questions asked by a Commissioner or make other statements as he or she may desire to make in his or her defense. If the member subject to the agenda item refuses to attend the Executive Session, the remaining Commissioners may proceed in his or her absence.
(3) In open session, Board of Commissioners may, by motion of any Commissioner, seconded and approved by an affirmative vote of four members, discipline the offending Commissioner in any single or combination of options as follows:

(a) No action. The Board of Commissioners decides to take no disciplinary action.

(b) Denial of agenda items. The Board of Commissioners decides to deny the offending Commissioner's ability to request agenda items for a certain period not to exceed six (6) months.

(c) Denial of right to participate in the subsequent annual review of the City Manager.

(d) Denial to or restriction of access to City buildings and facilities unless such access is necessary for such Commissioner to conduct official City business as a Commissioner.

(e) Resolution of Public Censure. The Board of Commissioners decides to publicly censure the offending Commissioner by motion identifying the specific rules(s) or regulation(s) violated and the time, place, and conduct of the Commissioner who is alleged to have violated the rule(s) or regulation(s) via a resolution entered into the public record. A notice of proposed censure must be signed by the Mayor or the Mayor Pro Tem in the case of alleged misconduct by the Mayor.

**PART II: REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective, which are inconsistent or are in conflict with the terms and provisions contained in this Ordinance, are hereby repealed only to the extent of any such conflict.

**PART III: SEVERABILITY**

It is hereby declared to be the intention of the Board of Commissioners that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

**PART IV: COMPLIANCE WITH TEXAS OPEN MEETINGS ACT**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act Chapter 551 of the Texas Government Code.

**PART V: EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its adoption.
PASSED AND APPROVED ON THIS 30TH DAY OF SEPTEMBER 2021.

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Carl Law, Mayor

ATTEST:

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Margie Poole, City Clerk