ORDINANCE NUMBER 1022

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING TITLE IX: GENERAL REGULATIONS BY ADDING CHAPTER 106. CAMPING; PROVIDING FOR THE REGULATION OF CAMPING WITHIN THE BURKBURNETT CITY LIMITS PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has recently experienced individuals using public areas for living purposes;

WHEREAS, such use causes hazards to both the individuals using the public areas for living purposes, to the citizens of Burkburnett, and to the general public;

WHEREAS, the 87th Texas Legislature enacted HB 1925, which created an offense if a person intentionally or knowingly camps in a public place without the effective consent of the officer or agency having the legal duty or authority to manage the public place

WHEREAS, the Texas Legislature in HB 1925 also provided that the creation of the offense does not preempt any ordinance, order, rule, or other regulation of a political subdivision relating to prohibiting camping in a public place; and

WHEREAS, the Board of Commissioners finds that it is in the best interest of the City to enact an ordinance prohibiting camping within the City limits of the City of Burkburnett to supplement state law;

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

Part I: Enacted

THAT the Code of Ordinances of the City of Burkburnett is hereby amended by adding Chapter 106. CAMPING, which shall read as follows:

CHAPTER 106: CAMPING

106.01 Definitions
106.02 Offense
106.03 Exceptions and Affirmative Defense
106.04 Penalty
§ 106.01 DEFINITIONS

(A) The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1) "CAMP" or "CAMPING" means the use of a public area for living accommodation purposes, including any of the following:
   (a) Storing personal belongings;
   (b) Making a campfire;
   (c) Using a tent or shelter or other structure or vehicle for a living accommodation;
   (d) Carrying on cooking activities; or
   (e) Digging or earth-breaking activities.

2) "PUBLIC AREA" means an outdoor area accessible to the public, including a street, highway, park, parking lot, alleyway, pedestrian way, and the common areas of a school, hospital, office building, church, or business.

§ 106.02 OFFENSE

(A) Except as provided in section 106.03 of this Chapter, a person commits an offense if the person camps in a public area that is not designated as a camping area by signage posted by an authorized agent or department of the City.

(B) A person camps in a public area if the person engages in any of the activities listed in section 106.01(A)(1) of this Chapter if it reasonably appears, based on the totality of the circumstances, that the person conducting the activity is using a public area for living accommodation purposes, regardless of the person's intent or engagement in other activities.

§ 106.03 EXCEPTION AND AFFIRMATIVE DEFENSE

(A) This section does not apply to permitted camping or cooking in a park in compliance with park regulations.

(B) It is an affirmative defense to prosecution that a person owns the property or has secured the permission of the property owner to camp in a public area.

§ 106.04 PENALTY

Any person, firm, or corporation who violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined a sum of not less than $5 and not more than $500 for each offense. Each and every day the violation continues shall constitute a separate and distinct offense.
Part II: Repealer

All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective 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: Publication

The City Clerk is directed to publish the caption of this Ordinance in the official newspaper of the City as required by law.

Part VI: Effective Date

This Ordinance shall become effective after publication as provided by law.

PASSED AND APPROVED THIS 16th DAY OF MAY 2022.

________________________________________________________________________

Lori Kemp, Mayor

ATTEST:

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Margie Poole, City Clerk