

**ORDINANCE NO. 3-21-18**

**AN ORDINANCE AMENDING CHAPTER 5 FIRE PREVENTION AND PROTECTION, ARTICLE 5.02 FIRE DEPARTMENT, RELATING TO THE CITY OF YORKTOWN FIRE DEPARTMENT; PROVIDING FOR EMERGENCY RESPONSE AND RESCUE SERVICE FEES; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Yorktown, Texas is a Type A General Law municipality incorporated and operating under the Laws of the State of Texas; and

**WHEREAS**, Section 51.001, Texas Local Government Code, authorizes the City Council of the City of Yorktown to adopt ordinances for the good government, peace, and order of the municipality; and

**WHEREAS**, Section 342.004(a) of the Texas Local Government Code provides that the governing body of a Type A general-law municipality may organize a fire department and shall prescribe the powers and duties of the fire department and its officers; and

**WHEREAS**, Section 342.004(d) of the Texas Local Government Code further provides that the governing body of a Type A general-law municipality may obtain fire engines and other fire-protection equipment, control the use of the equipment, and provide fire stations to preserve the equipment; and

**WHEREAS**, Section 342.004(d) of the Texas Local Government Code further provides that the fire department shall maintain the fire engines and other fire-protection equipment; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF YORKTOWN, TEXAS, THAT:**

**Section 1.** Chapter 5 Fire Prevention and Protection, Article 5.02 Fire Department, of the Code of Ordinances, City of Yorktown, Texas is hereby amended to read as follows:

**ARTICLE 5.02 FIRE DEPARTMENT**

**Sec. 5.02.001 Creation; composition**

(a) The city volunteer fire department of the city, hereby created and organized, shall consist of: 1) a fire chief appointed by the City Council; and 2) volunteer firefighters that shall be appointed through the process provided for in the volunteer firefighters' organization's bylaws (city volunteer fire department), said appointment of volunteer firefighters also being subject to the approval of the fire chief. The fire chief or other authorized personnel of the city volunteer fire department shall be responsible for the appointing of any assistants, department officers, and any other subordinates as deemed necessary and at staffing levels approved by the fire chief.

(b) Volunteer firefighters shall at all times be subject to the direction and supervision of the fire chief and other authorized command staff of the city volunteer fire department. A person who has been selected to serve as a volunteer shall not be deemed an employee of the city.

**Sec. 5.02.002 Firefighters' relief and retirement fund**

(a) There is hereby adopted the Firefighters' Relief and Retirement Fund Law, S.B. No. 411, 65th Legislature, a copy of which is attached to an ordinance adopted November 27, 1978, and marked "Exhibit A."

(b) There is further adopted the ten (10) year "Buy Back" and "Accrued Time" plan as specified in the letter from the fireman's pension commission attached to the ordinance adopted November 27, 1978 and marked "Exhibit B."

(c) There shall be a maximum of thirty-five (35) firemen as members of the city volunteer fire department. The city shall contribute an amount established by city council per man per month towards the firefighters' relief and retirement fund, S.B. No. 411. This is in addition to the annual sum paid toward the "Buy Back" and "Accrued Time" plan as described in subsection (b) of this section.

**Section 2.** Chapter 5 Fire Prevention and Protection, of the Code of Ordinances, City of Yorktown, Texas is hereby amended to add Article 5.05 Emergency Response and Rescue Service Fees, to read as follows:

**ARTICLE 5.05 EMERGENCY RESPONSE AND RESCUE SERVICE FEES**

**Sec. 5.05.001 Purpose**

The Yorktown Volunteer Fire Department recognizes and supports the practice of the City of Yorktown to bill persons and entities, including insurance companies providing coverage to said persons and entities, for the reasonable costs that are related and incidental to any loss, damage, and wear to the city volunteer fire department apparatus, tools, equipment, and materials utilized to provide the emergency services to said persons and entities.

**Sec. 5.05.002 Collection of fees**

Fees shall be collected for services provided within the city volunteer fire department designated response area that includes both inside and outside the city limits. Fees will not exceed the amount expended by the city volunteer fire department. The fire chief shall collect applicable incident report information that will be submitted to the city administrator who shall then present the information to the city council for its consideration. The city council shall make the determination as to when the fees set forth in this article 5.05 shall be assessed and which entity, individual or individuals shall be responsible for payment of the said fees

**Sec. 5.05.003 Billing for Expenses**

The city administrator, or his designee, shall submit an invoice to the appropriate insurance company, person, or entity covering or responsible for the particular expenses as related to the emergency services provided.

**Sec. 5.05.004 Fees**

Fees for services assessed and collected as specified in this section shall be as provided in Exhibit "A" to this Ordinance, which are hereby approved and adopted to be included as an amendment to the Revised Fee and Rate Schedule Ordinance of the City of Yorktown, Texas.

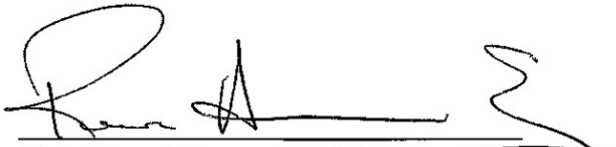
**Section 3: Severability**

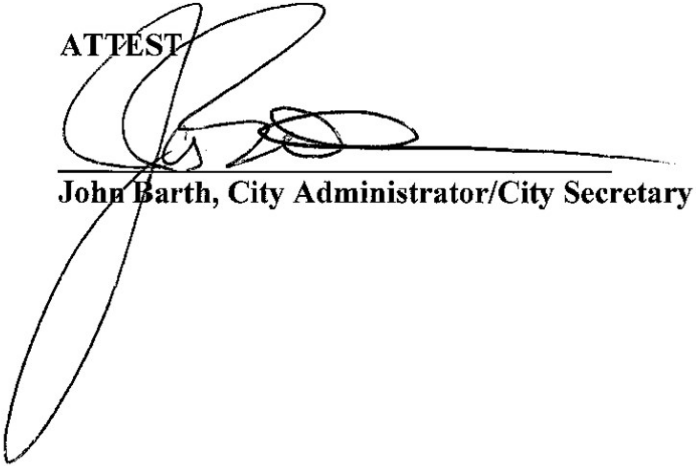
If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

**Section 4: Effective Date**

This Ordinance shall be effective immediately upon its passage.

**PASSED and APPROVED ON** April 23rd, 2018.

  
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**Hon. Rene Hernandez, Mayor**

**ATTEST**  
  
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**John Barth, City Administrator/City Secretary**