



ORDINANCE NO. 2023-05-31.8

**AN ORDINANCE OF CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS, REAFFIRMING
THE ESTABLISHMENT OF THE POLICE DEPARTMENT OF THE CITY OF HAWK COVE,
TEXAS, THE ESTABLISHMENT OF THE OFFICE OF THE CHIEF OF POLICE,
THE APPOINTMENT OF POLICE OFFICERS, RESERVE OFFICERS AND DEPARTMENT PERSONNEL;
PROVIDING FOR TERMS OF OFFICE AND QUALIFICATIONS; ESTABLISHING THE
STATUS OF POLICE DEPARTMENT EMPLOYEES; PROVIDING FOR CUMULATION AND SEVERABILITY;
AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, The City of Hawk Cove, Texas ("City") is a Type-A General Law Municipality located in Hunt County, Texas, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of The State of Texas; and

WHEREAS, as a Type A-General Law Municipality, and acting in accordance with Chapter 341, Texas Local Government Code ("LGC"), City determined it to be in the best interest of the public health, safety and welfare that a police department be established, maintained and regulated within City's corporate limits, and therefore exercised its authority to, and did by City's Ordinance 100-6, establish the Police Department of the City of Hawk Cove ("Police Department") and Chief of Police ("Police Chief"); and

WHEREAS, the final and ultimate responsibility for the government of City and administration of its business rests in The City of Hawk Cove, Texas, City Council ("Council" or "governing body"), which Council consists of the Mayor of The City of Hawk Cove, Texas, ("Mayor") and five (5) aldermen ("Council members"); and

WHEREAS, it is the Council's duty to enact and enforce ordinances, resolutions and regulations to protect and preserve the business, property, health, safety, morals and general welfare of City's citizens and City business and operations; to preserve peace and good order in the municipality (*see*, LGC, Sections 22.042, 54.001, 54.002 and 54.003) so as to foster, establish and maintain goodwill and productive working City relationships, both within and outside of The City of Hawk Cove ("City"); and

WHEREAS, it is a function of the Council to regulate itself (*see*, Local Government Code ("LGC"), Section 22.072(b)) and ensure compliance by all members of the Council with all City obligations, including the obligation to keep the City's business moving ahead smoothly and efficiently (*see*, p. 32, *Handbook for Mayors and Councilmembers*, Texas Municipal League, © 2022); as enacted by City's ordinances; and

WHEREAS, after due consideration, the Council hereby deems that City's present ordinances, resolutions and regulations, are inadequate for: protecting and preserving the business, property, health, safety and general welfare of City's citizens and City business and operations; preserving peace and good order in the municipality; fostering, establishing and maintaining goodwill and productive

working City relationships both within and outside of City; and in particular as are related, but not limited, to protecting and preserving City's obligations under City's debt contract with the U.S.D.A.; and

WHEREAS, the inadequacy of City's present ordinances, resolutions and regulations creates an emergency and/or an exigency, and/or unusual and unforeseen, conditions that could not have been expected or considered through the use of reasonably diligent thought and attention, that calls for immediate action and now requires Council to acknowledge, respond to and fulfill its duties to enact and enforce additional, amended or replacement ordinances, resolutions and regulations to better protect and preserve the business, property, health, safety, morals and general welfare of City's citizens and City business and operations; to preserve peace and good order in the municipality; to foster, establish and maintain goodwill and productive working City relationships both within and outside of City; and in particular as are related, but not limited, to protecting and preserving City's obligations under City's debt contract with the U.S.D.A.; and

WHEREAS, the Council intends specifically by this ordinance to protect, preserve, provide and maintain continuity and transparency in: City's critical infrastructure (Tex. Gov't Code, Section 421.001); City's citizens' public health, safety, morale, environment and general welfare; City's provision of emergency and police services; preventing any attempt to disband, remove, defund or interfere with City's police department providing City with these necessary protections; avoiding conflicts and confusion from breaches of City's administrative hierarchy; and, among other obligations, servicing City's debt contract with the U.S.D.A. as well as City's business and operations connected to that debt; and

WHEREAS, City acknowledges that this ordinance is the most effective and efficient method of effecting City's goals, duties, responsibilities and intentions as referred to above; and

WHEREAS, in acknowledgment of, response to and fulfillment of Council's duties as recognized herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS:

SECTION 1. The above recitals are hereby found to be true and correct and are incorporated herein for all purposes.

SECTION 2. As a result of the existence of the conditions requiring this ordinance, it shall be enacted by the unanimous vote of all five (5) voting members of the Council. Any change of or any endeavor to rescind, revoke, repeal, cancel, reverse or abrogate this ordinance shall require the unanimous vote of all five (5) voting members of the Council at a properly-noticed official Council meeting.

SECTION 3. City hereby reaffirms the establishment of the Police Department of the City of Hawk Cove, Texas; and the office of the Chief of Police ("Police Chief"). The Council shall contract for the employment of, and thereafter appoint, the Police Chief.

SECTION 4. The Police Chief shall be invested with all administrative duties, obligations and responsibilities for the Department, and shall be the sole administrative authority of and over the Department without the requirement, or reporting, of any of the Police Chief's actions to the Mayor or Council, including by way of example, but not limited to:

- a. hiring, firing and resignations of all Department personnel, whether commissioned, non-commissioned or civilian, and establishing each person's salary or other pay arrangements;
- b. performing as the Custodian of Records of all records required to be maintained for Department personnel, together with the discretion to appoint a designee as Custodian of Records as required by the State of Texas;
- c. performing and/or delegating all operations, including financial, necessary to the functions of the Department; but shall retain primary authority and responsibility for all Department functions;
- d. performing and/or delegating all actions necessary for preserving and protecting the safety, security and confidentiality of the Department, its officers and records, including from any public forum, the Mayor and/or Council.

SECTION 5. The appointed police officers, reserve officers and civilians in any position in the Department shall be appointed in, and serve at, the sole discretion of the Police Chief. Police officers, reserve officers and civilians so appointed shall be considered "at-will" employees as that term is defined by state law and shall be subject to removal only at the discretion of the Police Chief. The Police Chief shall not be required to have the approval of the Mayor or Council to hire, fire, or accept resignations from Department personnel. The Police Chief, or the Police Chief's designee in the Police Chief's sole discretion, shall maintain all required records as Custodian of Records, in accordance with the laws of the State of Texas. The Police Chief shall not be required or caused to give any information in any public forum or to any person, and shall avoid such security breaches or safety issues that will or may affect the security, safety and welfare of any Department personnel or the Department.

SECTION 6. The Police Chief, police officers and reserve officers shall have been trained and certified as licensed peace officers in accordance with the rules and regulations of the Texas Commission on Law Enforcement (TCOLE). In addition, the Police Chief and all police officers and reserve officers appointed to the Department shall have all of the powers, rights, duties and jurisdiction granted to or imposed on a Texas peace officer by the Texas Code of Criminal Procedure. The Police Chief and appointed police officers and reserve officers shall: enforce the City's laws; avert danger; and protect life and property in accordance with the applicable laws of the State of Texas.

SECTION 7. The Police Chief and appointed police officers and reserve officers may execute a bond conditioned that the Police Chief and any appointed police and/or reserve officer will faithfully perform the duties of office. City shall pay for any required bond, which shall be a business expense of City and not taxable to any individual so bonded.

SECTION 8. If any Council member who attempts or causes any attempt to prevent, obstruct or interfere with, City's emergency and police services resulting under this ordinance, or in any way violates this ordinance, each separate act of the same shall be punishable by criminal prosecution and/or civil action pursuant to the laws of the State of Texas, which may include, among others: property liens; fines; fees; or imprisonment.

SECTION 9. Any Council or governing body member who attempts or causes any attempt to prevent, obstruct or interfere with, City's emergency and police services resulting under this ordinance, or in any way violates this ordinance, shall be subject to criminal prosecution and/or all available and applicable civil remedies pursuant to the laws of the State of Texas and City ordinances, resolutions, regulations and rules. Upon conviction each such person shall be punished pursuant to the law of the State of

Texas, including a City violation fine not to exceed Five Hundred Dollars (\$500.00). Each separate violation hereof shall be deemed a separate offense, and shall be punished accordingly. In addition to prosecution for any such offense, City also may seek all other available relief, including removal and injunction, in the District Court of Hunt County, Texas.

SECTION 10. This ordinance shall be and is hereby declared to be cumulative with, and not be limited to, all other ordinances, resolutions, policies, sections, subsections, articles, paragraphs, sentences, clauses, phrases or words and procedures relating or pertaining to the Department and/or Police Chief. This ordinance shall not operate to repeal or affect, whether in whole or in part, any other such ordinances, policies and procedures, except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinances, policies and procedures are hereby repealed, but only to the extent of any such conflict.

SECTION 11. If any provision, section, subsection, article, paragraph, sentence, clause, phrase or word of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, or for any reason unenforceable, whether in whole or in part, the validity of the remaining portions of this ordinance or the application to such other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of City in adopting this ordinance that no portion thereof or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any other portion or provision.

SECTION 12. This ordinance shall be effective immediately upon its passage.

CONCLUSION

Passed and approved this ____ day of _____, 2023.

Darren Evans, Mayor

ATTEST: _____
City Secretary

APPROVED AS TO FORM: _____
City Attorney