

CITY OF WATAUGA, TEXAS
ORDINANCE NO. 2020-013

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WATAUGA, TEXAS ADOPTING SECTIONS 2-2 AND 2-3 OF CHAPTER 2, ARTICLE I OF THE CODE OF ORDINANCES OF THE CITY OF WATAUGA, TEXAS; PROHIBITING SECRETLY RECORDING CERTAIN ORAL AND ELECTRONIC COMMUNICATIONS OF CITY EMPLOYEES AND CITY OFFICIALS; PROVIDING FOR SEVERABILITY; ESTABLISHING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Watauga, Texas ("City") recognizes the need to ensure notice of the creation of a record related to the conduct of official city business; and,

WHEREAS, the City Council finds City Personnel Policies prohibit city employees from recording communications with co-workers or supervisors without advanced notice and approval by the City Manager; and

WHEREAS, the City Council finds that nothing currently prohibits a person from secretly recording the oral or electronic communications of official business between city employees and officials and members of the public; and

WHEREAS, the City Council finds that advanced notice of the intent to record oral or electronic communications by and between city employees and city officials and the public would serve a public purpose by identifying and locating information which may assist in the delivery of professional public services; identify information which may need to be retained in accordance with state document retention requirements, and will protect against the illegal invasion of personal privacy rights established by state law as recognized in Texas Civil Practices and Remedies code 123.004 and Texas Penal Code Section 16.02; and,

WHEREAS, The City Council finds that an advance notice requirement will aid in the prevention of the unlawful interception, use, or disclosure of oral or electronic communications in connection with city business, as those acts are described by Section. 16.02, Texas Penal Code; and

WHEREAS, The City Council finds establishing a local advanced notice requirement before a person records an oral or electronic communication regarding official city business will increase transparency and candor among all city official and city employee conduct and members of the public;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Watauga, Texas as follows:

I.

The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct and adopted herein for all purposes.

II.

The City of Watauga Code of Ordinances is hereby amended to add Sections 2-2 and 2-3 to Chapter 2, Article I to provide as follows:

Sec. 2-2.- Secretly Recording Oral and Electronic Communications of City Officials or Employees Prohibited; Exceptions

- a) It is unlawful for a person to record an oral or electronic communication regarding official business of the City of Watauga by or between city employees, city officials, or by or between any combination of city employees, city officials and third-persons without first providing sufficient advanced notice to those being recorded that a recording of the oral or electronic communication will occur. City officials, for the purpose of this prohibition, include any elected or appointed official of the city or volunteer board and committee member appointed by the Mayor.
- b) This prohibition does not apply to a recording:
 - 1) of the public portion of any public meeting conducted pursuant to the Texas Open Meetings Act;
 - 2) of official law enforcement activities by any person;
 - 3) authorized by or conducted pursuant to any city policy, Texas or federal law or court order; or,
 - 4) captured by legally operated security devices installed or deployed on or within any structure.
- c) Advanced notice is conclusively established if the recording begins with an announcement of the notice of the recording and includes acknowledgement by the party or parties being recorded.

Sec. 2-3.-Penalty

Any person who violates any of the provisions of Section 2-2 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision in Section 1-7. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

III.

This Ordinance shall be and is hereby cumulative of all other ordinances of the City of Watauga, Texas and this Ordinance shall not operate to repeal or affect any of such other ordinances 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 or Ordinances are hereby repealed.

IV.

If any section, sub-section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

V.

Any person who violates, or any person who causes or allows another person to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in section 1-7. Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.

VI.

This Ordinance shall become effective and shall be in full force and effect from and after the date of passage and adoption by the City Council of the City of Watauga, Texas, and upon approval thereof by the Mayor of the City of Watauga, Texas, and publication hereof as prescribed by law.

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PASSED AND ADOPTED by the City Council of the City of Watauga, Texas this, the 13th day of April 2020.

APPROVED:


ARTHUR L. MINER, MAYOR

ATTEST:


ANDREA GARDNER, CITY SECRETARY



APPROVED AS TO FORM AND LEGALITY:


GEORGE HYDE, CITY ATTORNEY