

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, CREATING ARTICLE XI, "EFFECTIVE RESPONSE TO STRANGULATION", OF CHAPTER 54, "MISCELLANEOUS OFFENSES"; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, strangulation is an indicator of the escalation of violence and associated with increased risk of serious injury and/or death in cases of intimate partner violence; and

WHEREAS, strangulation has been identified as one of the most lethal forms of domestic violence and sexual assault; and used to exert power over a victim by taking from them control of their own body; and

WHEREAS, intimate partners who have a history of strangulation pose a greater risk to their victim and society at-large; and

WHEREAS, when strangled, unconsciousness and anoxic brain injury may occur within seconds and death within minutes; and

WHEREAS, oftentimes, even in fatal cases, there is no external evidence of injury from strangulation, yet because of underlying brain damage due to the lack of oxygen during strangulation assault, victims may have serious internal injuries or die days, or even weeks, later; and

WHEREAS, many first responders lack the specialized training to identify the signs and symptoms of strangulation and often focus on visible, obvious injuries like stab wounds, or contusions; and

WHEREAS, this lack of training has led to the minimization of this type of violence, exposing victims to potential serious short-term and long-term health consequences, permanent brain damage, and increased likelihood of death; and

WHEREAS, there is a need to develop more experts in the field of strangulation and to use those experts in court proceedings to educate juries and judges so they understand the signs and symptoms associated with this crime, and the severity of this crime; and

WHEREAS, some jurisdictions and nationwide have taken legislative measures to address the brutality and lethality of strangulation assaults, many states, to date, still do not adequately

address strangulation in their law enforcement training and/or criminal statutes, underestimating the significance of the act of strangulation and potential lethality; and

WHEREAS, lacking specific legislation and specialized training, many near-fatal strangulation cases are only prosecuted as misdemeanor crimes; and

WHEREAS, given the lethality of strangulation, offenders should be held accountable with a penalty that is commensurate with the nature of their crimes which is equivalent of attempted homicide or serious felony assault; and

WHEREAS, the International Association of Chiefs of Police assembled at its 121<sup>st</sup> Annual Conference in Orlando, Florida, supports statutes and legislation that hold perpetrators accountable for the potentially lethal strangulation assaults; and

WHEREAS, the City Council hereby finds and determines that the regulations set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS:**

SECTION 1.  
ADOPTION

That Article XI, "Effective Response to Strangulation", of Chapter 54 of the Code of Ordinances of the City of Burleson is hereby adopted to read as follows:

**ARTICLE XI. EFFECTIVE RESPONSE TO STRANGULATION**

**Section 54-180. GENERAL PURPOSE OF ORDINANCE.**

It is the purpose of this Ordinance to protect victims whose health, safety, and welfare may be jeopardized through exposure to violence by means of strangulation.

**Section 54-181. DEFINITIONS.**

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Chief of Police. Chief of Police means the chief of police of the city.
- (2) Family Violence. Family Violence means "Family Violence" as defined in Texas Family Code § 71.004.
- (3) Fire Chief. Fire Chief means the fire chief of the city.



- (4) Emergency Medical Personnel. Emergency Medical Personnel means a firefighter, emergency medical technician, or emergency care attendant that provides first response to requests for emergency medical services and provides immediate on-scene care to ill or injured persons, while acting in his or her official capacity, and is employed by or contracted by the city or a separate governmental entity that has entered into an inter-local agreement with the city to provide such services.
- (5) Peace Officer. Peace Officer means a "Peace Officer" as defined in Texas Code of Criminal Procedure Article 2.12 that is employed by the city and acting in his or her official capacity.
- (6) Strangulation. Strangulation means impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

**Section 54-182. PROTOCOL FOR RESPONDING TO AN ACCUSATION OF STRANGULATION.**

- (a) When the act of strangulation is alleged or suspected within the city, the peace officer will summon emergency medical personnel to the scene to evaluate and render aid to the victim.
- (b) The peace officer will document emergency medical personnel's presence and role in the police report by including their name, identification number, employment agency and unit number.
- (c) Peace officers shall provide the victim referral information to the appropriate support agency for assistance and document the referral in their police report.
- (d) Peace officers will thoroughly document the suspect's behavior, actions, and any comments made during the act of strangulation.
- (e) When the act of strangulation is alleged or suspected within the city, peace officers shall utilize a checklist approved by the Chief of Police to help evaluate the situation and provide aid to the victim.
- (f) When the act of strangulation is alleged or suspected within the city, emergency medical personnel shall conduct a medical evaluation and assessment to help evaluate the situation and provide aid to the victim.

**Section 54-183. STRANGULATION TASK FORCE.**

The Chief of Police shall designate a strangulation task force (STF) consisting of members from law enforcement, emergency medical personnel, medical community personnel, advocate representatives, and any other members deemed appropriate by the Chief of Police. The STF

shall aid and advise the Chief of Police and Fire Chief in developing and implementing checklists, questionnaires, and an education training program for peace officers, emergency medical personnel, and other first responders encountering strangulation scenarios.

**Section 54-184. PENALTY.**

Any violator of this article may be punished by administrative means by the city manager or the city manager's designee in their discretion. A violation of this article is not subject to the penalties outlined in Section 1-14 of this code. The imposition of the penalty provided in this section is not a criminal conviction and may not be considered a conviction for any purpose. The penalty provided in this section shall be cumulative of other remedies provided by state law.

**Sections 54-185 – 54-189. - RESERVED.**

**SECTION 2.  
FINDINGS OF FACT**

The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

**SECTION 3.  
CUMULATIVE CLAUSE**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

**SECTION 4.  
SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the city council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are 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 and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in its ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.  
SAVINGS CLAUSE**

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of the Burleson City Code of Ordinances that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both

civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.  
PUBLICATION CLAUSE


The City Secretary of the City of Burleson is hereby directed to give notice of the passage of this ordinance by causing the caption or title and penalty clause of this ordinance to be published as required by Section 36 of the Charter of the City of Burleson.

SECTION 7.  
EFFECTIVE DATE


This Ordinance shall be in full force and effect sixty (60) days after its publication as provided by law.

**AND IT IS SO ORDAINED.**

PASSED AND APPROVED THIS 19th DAY OF February, 2018.

  
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MAYOR

ATTEST:

  
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CITY SECRETARY

