

City of Houston, Texas, Ordinance No. 2020-950

**AN ORDINANCE AMENDING EXHIBIT "E1" OF THE CITY OF HOUSTON FIRE DEPARTMENT CLASSIFIED PERSONNEL ORDINANCE NO. 2019-446 TO ABOLISH TWO (2) REMEDIAL CAPTAIN POSITIONS AND ONE (1) REMEDIAL COMMUNICATIONS SENIOR CAPTAIN POSITION AND IDENTIFY REMAINING REMEDIAL POSITIONS; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\*\*\*\*

**WHEREAS**, the City of Houston amended the Fire Department Classified Personnel Ordinance to create various positions within the Houston Fire Department pursuant to a Court order, settlement of a lawsuit, or in accordance with Chapter 143 of the Texas Local Government Code;

**WHEREAS**, those positions, hereinafter referred to as "remedial positions", were intended to only increase the number of positions in their respective ranks for as long as the incumbent held the position and would thereafter be abolished when the incumbent vacated the remedial position;

**WHEREAS**, City of Houston Ordinance No. 2011-88 amended Exhibit "A" (Fire Classified Personnel Ordinance) of City of Houston Ordinance No. 2010-526 by adding one (1) Senior Captain position and three (3) Captain positions in compliance with the January 27, 2011 *Order on Interlocutory Judgment for Partial Entry of the Settlement Agreement and Partial Motion to Dismiss* (hereinafter referred to as "Interlocutory Order") entered in *Dwight Bazile, et al v. City of Houston*, Case No. H-08-2404 in the U.S. District Court for the Southern District of Texas, which mandated that these remedial positions be abolished once the incumbents vacated the positions;

**WHEREAS**, City of Houston Ordinance No. 2012-926 amended Exhibit "A" of City of Houston Ordinance No. 2012-578 by abolishing one (1) Senior Captain position created by City of Houston Ordinance No. 2011-88 after the incumbent vacated the position;

**WHEREAS**, two (2) of the incumbents in the remedial Captain positions created by City of Houston Ordinance No. 2011-88 vacated those positions on February 21, 2015 and March 14, 2016;

**WHEREAS**, it is necessary to abolish two Captain positions because those remedial Captain positions created by City of Houston Ordinance No. 2011-88 were not abolished in accordance with *Bazile* Interlocutory Order;

**WHEREAS**, City of Houston Ordinance No. 2015-268 amended Exhibit "A" of the City of Houston Ordinance No. 2015-0192 to add one Senior Communications Captain Position until such time as the incumbent vacates the position, in accordance with the partial settlement of a lawsuit styled *Isaac J. O'Neal, III and James M. Dugar v. City of Houston*, Civil Action No. 4:14-cv-00236, in the U.S. District Court of the Southern District of Texas;

**WHEREAS**, the incumbent vacated the remedial Senior Communications Captain position created by City of Houston Ordinance No. 2015-268 on September 30, 2017;

**WHEREAS**, it is necessary to abolish the remedial Senior Communications Captain position created by City of Houston Ordinance No. 2015-268 and vacated on September 30, 2017 to comply with City of Houston Ordinance No. 2015-268;

**WHEREAS**, City of Houston Ordinance No. 2015-1239 amended Exhibit "A" of the City of Houston Ordinance No. 2015-753 to add one Senior Communications Captain Position until such time as the incumbent vacates the position, in accordance with the settlement of a lawsuit styled *Isaac J. O'Neal, III and James M. Dugar v. City of Houston*, Civil Action No. 4:14-cv-00236, in the U.S. District Court of the Southern District of Texas;

**WHEREAS**, City of Houston Ordinance No. 2015-181 amended Exhibit "A" of the City of Houston Ordinance No. 2014-28 to add one (1) Assistant Fire Marshal position in accordance with Chapter 143.102(e) of the Texas Local Government Code, increasing the number of authorized positions to two (2), until such time as one of the incumbents leaves the position of Assistant Fire Marshal;

**WHEREAS**, it is necessary to specifically identify the remaining remedial Captain (2011-88), Senior Communications Captain (2015-1239), and Assistant Fire Marshall (2015-181) positions in the Exhibit "E2" and establish the mechanism for their removal from the Fire Department Classified Ordinance at the time the respective incumbents vacate those remedial positions;

**WHEREAS**, the abolishment of those positions identified will not result in a force reduction pursuant to Chapter 143.085 of the Texas Local Government Code because those positions are not presently held by a firefighter;

**WHEREAS**, it is recommended that the City Council approve this Ordinance, with its attached Exhibit "E2" to abolish the positions identified above and identify remaining

remedial positions of which will be abolished at the time the incumbents vacate the remedial positions; **NOW THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON,  
TEXAS:**

**Section 1.** The findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** That all exhibits of City of Houston Ordinance No. 2017-462 remain in effect except as provided in Section 3 of this Ordinance.

**Section 3.** That Exhibit "E1" of City of Houston Ordinance No. 2019-446 is hereby replaced with Exhibit "E2" and attached hereto.

**Section 4.** That when a firefighter currently occupying a remedial position identified in Exhibit "E2" (attached hereto) vacates the remedial position, regardless of the reason, and without further action by Council, the vacated remedial position shall hereby be abolished. Nothing herein precludes adjustment of the number of positions in the Houston Fire Department by City Council.

**Section 5.** That all ordinances and parts of ordinances in conflict herewith are hereby expressly repealed to the extent of such conflict only.

**Section 6.** That all ordinances and parts of ordinances, whether codified, affecting the positions, ranks, classes or classifications for classified fire fighters in the Fire Department of the City of Houston in conflict herewith are hereby expressly repealed to the extent of such conflict only, and the positions, ranks, classes and classifications

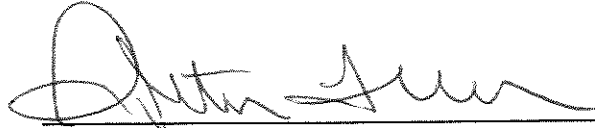
enumerated and set out in this Ordinance shall be in effect in the Houston Fire Department.

**Section 7.** That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such non-substantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

**Section 8.** That if any provision, section, subsection, sentence, clause, or phrase 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, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 9.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon passage and approval by the Mayor.

PASSED AND APPROVED this 4<sup>th</sup> day of November, 2020.

  
 Mayor of the City of Houston

**APPROVED:**

DocuSigned by:  
 By: Samuel Peña  
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 Sam Peña  
 Fire Chief  
 Houston Fire Department

DocuSigned by:  
 By: Jane E. Cheeks  
23571A9195C84FE...  
 Jane E. Cheeks  
 Director  
 Human Resources Department

DocuSigned by:  
 By: Deidra Norris Sullivan  
E005D5659CAF478...  
 Deidra Norris Sullivan  
 Senior Assistant City Attorney  
 Legal Department

LD No.: 0352000262001

| AYE     | NO      |                        |
|---------|---------|------------------------|
| ✓       |         | <b>MAYOR TURNER</b>    |
| ••••    | ••••    | <b>COUNCIL MEMBERS</b> |
| ✓       |         | PECK                   |
| ✓       |         | DAVIS                  |
| ✓       |         | KAMIN                  |
| ✓       |         | EVANS-SHABAZZ          |
| ✓       |         | MARTIN                 |
| ✓       |         | THOMAS                 |
| ✓       |         | TRAVIS                 |
| ✓       |         | CISNEROS               |
| ✓       |         | GALLEGOS               |
| ✓       |         | POLLARD                |
| ✓       |         | MARTHA CASTEX-TATUM    |
| ✓       |         | KNOX                   |
| ✓       |         | ROBINSON               |
| ✓       |         | KUBOSH                 |
| ✓       |         | PLUMMER                |
| ✓       |         | ALCORN                 |
| CAPTION | ADOPTED |                        |

CAPTION PUBLISHED IN DAILY COURT  
 REVIEW DATE: **NOV 10 2020**

# **EXHIBIT E2**

**FIRE DEPARTMENT AUTHORIZED POSITIONS ORDINANCE  
(CLASSIFIED)**

| <u>Revised<br/>No. of<br/>Positions<br/>Auth.</u> | <u>Min. Pos.<br/>Rec'd by<br/>Referendum &amp;<br/>Ord. No. 5198</u> | <u>Classification</u>                                    |
|---|--|--|
| <b>CIVIL SERVICE CLASS D</b>                      |  |  |
| 338   | 50   | GRADE II<br>Firefighter, Probationary                    |
| 2146  | 325  | GRADE III<br>Firefighter                                 |
|   |  | GRADE IV   |
| 1104  | 120  | Engineer/Operator  |
|   |  | GRADE V  |
| 429<br>1  | 65   | Captain<br>Captain (remedial promotion per Ord. 2011-88) |
|   |  | GRADE VI   |
| 193   | 22   | Senior Captain   |
|   |  | GRADE VII  |
| 105   | 20   | District Chief   |
|   |  | GRADE VIII   |
| 9   | 2  | Deputy Chief   |
|   |  | GRADE IX   |
| 8   | 1  | Assistant Fire Chief                                     |
|   |  | GRADE X  |
| 3   |  | Executive Assistant Fire Chief                           |

**FIRE DEPARTMENT AUTHORIZED POSITIONS ORDINANCE  
(CLASSIFIED)**

Revised No. of Positions Auth.      Min. Pos. Rwd'd by Referendum & Ord. No. 5198

Classification

**CIVIL SERVICE CLASS E**

**GRADE V**

102      20      Inspector  
54      0      Investigator

**GRADE VI**

16      0      Senior Inspector  
9      0      Senior Investigator

**GRADE VII**

6      1      Chief Investigator  
7      1      Chief Inspector

**GRADE VIII**

1      1      Deputy Chief Investigator  
1      1      Assistant Fire Marshal  
1      1      Assistant Fire Marshal (remedial promotion per Ord. 2015-181)

**GRADE IX**

1      1      Assistant Fire Chief (Fire Marshal)



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|---|--|-----------------------|
|---|--|-----------------------|

**CIVIL SERVICE CLASS G**

GRADE VI

1 Shop Supervisor

GRADE VII

1 Master Mechanic

Fire Chief

Revised: October 5, 2020