

TOWN OF ADDISON

ORDINANCE NO. 099-031

AN ORDINANCE OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, AMENDING ARTICLE VIII, "MUNICIPAL COURT OF RECORD," OF CHAPTER 2, "ADMINISTRATION," OF THE CODE OF ORDINANCES TO COMPLY WITH CHAPTER 30 OF THE TEXAS GOVERNMENT CODE, AS AMENDED BY HOUSE BILL 731, ADOPTED BY THE 76TH LEGISLATURE, REGULAR SESSION (1999); MAKING CERTAIN STRUCTURAL, SEMANTIC AND GRAMMATICAL CHANGES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, House Bill 731, adopted by the 76th Legislature, Regular Session (1999), amended Chapter 30, "Municipal Courts of Record," of the Texas Government Code; and

WHEREAS, the city council finds that it is necessary to amend Article VIII, "Municipal Court of Record," of Chapter 2, "Administration," of the Code of Ordinances to comply with the changes made by this legislation;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. That Article VIII, "Municipal Court of Record," of Chapter 2, "Administration," of the Code of Ordinances is hereby amended to read as follows:

"ARTICLE VIII. MUNICIPAL COURT OF RECORD

Sec. 2-201. Scope.

The provisions of this article govern the creation, establishment, operation, and jurisdiction of the municipal court of record within the town, including the judges of the court.

Sec. 2-202. Creation of the municipal court of record.

There is hereby established one (1) municipal court of record within the town, with the numerical designation of "Municipal Court of Record No. 1."

Sec. 2-203. Reserved.

Sec. 2-204. Jurisdictional limits of court.

The municipal court of record has the jurisdiction provided by general law for municipal courts contained in Section 29.003, Texas Government Code, including concurrent jurisdiction with justice courts as provided by Section 29.003. The municipal court of record also has jurisdiction over cases arising outside the territorial limits of the town under ordinances authorized by Texas Local Government Code Sections 215.072, 271.042, 341.903, and 401.002, or otherwise as provided by law.

Sec. 2-205. Judges of court.

(a) The municipal court of record shall be presided over by a judge, who shall be known as the "municipal judge." The judge shall be appointed by ordinance for a term of two (2) years and shall be entitled to a salary set by the city council. The amount of the judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(b) The judge must:

- (1) be a citizen of the United States;

- (2) be a resident of this state;
- (3) be a licensed attorney in good standing; and
- (4) have two or more years of experience in the practice of law in this state.

(c) A person may not serve as a municipal judge if the person is otherwise employed by the municipality. A municipal judge who accepts other employment with the municipality vacates the judicial office.

(d) If a vacancy occurs in the office of municipal judge, the council shall adopt an ordinance appointing a qualified person to fill the office for the remainder of the unexpired term.

(e) There shall also be as many as three (3) alternate judges appointed by the city council, subject to the same qualifications, who shall have all the powers and shall discharge all the duties of a municipal judge while serving as municipal judge. Each alternate judge shall be appointed for a term of two years. If the regular municipal judge is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason, he shall select one of the alternate judges to serve during his absence.

(f) The municipal judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding on all parties to the proceeding.

(g) The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the municipality.

(h) A municipal judge is a magistrate and may issue administrative search warrants.

(i) A municipal judge may be removed from office by the city council at any time for incompetency, misconduct, malfeasance, or disability.

Sec. 2-206. Writ power.

The judges of the municipal court of record may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the municipal court of record and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the municipal court of record.

Sec. 2-207. Court Rules.

The Code of Criminal Procedure and the Texas Rules of Appellate Procedure, as modified by Chapter 30, Texas Government Code, govern the trial of cases before the municipal court of record. The court may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with law.

Sec. 2-208. Clerk of court.

The city manager of the town shall appoint a clerk of the municipal court of record who may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office. The clerk or the clerk's deputies shall keep the records of the municipal court of record, issue process, and generally perform the duties for the court that a clerk of the county court at law exercising criminal jurisdiction is required by law to perform for that court. In addition, the clerk or the clerk's deputies shall maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts. The clerk shall perform the duties in accordance with statutes, and the charter and ordinances of the town.

Sec. 2-209. Preserving court record.

(a) For the purpose of recording the proceedings and preserving a record in all cases tried before the municipal court of record, a good quality electronic recording device shall be used. When the recording device is

used, a court reporter need not be present at the trial to certify the statement of facts. Proceedings of the court that are appealed shall be transcribed from the recording by an official court reporter. The recording shall be kept and stored for a 20-day period beginning the day after the last day of the proceeding, trial or denial of motion for a new trial, whichever occurs last.

(b) In lieu of a good quality electronic device and as deemed necessary by the municipal judge, a court reporter appointed by the court clerk under Texas Government Code Section 30.00010, shall preserve the record. The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of these methods to record the proceedings of the municipal court of record. The court reporter shall keep the record for a 20-day period beginning the day after the last day of the court proceeding, trial or denial of motion for new trial, or until any appeal is final, whichever occurs last.

(c) Testimony is not required to be recorded in a case unless requested by the judge or one of the parties.

Sec. 2-210. Court facilities and Seal.

(a) The city council shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the council determines necessary for the proper operation of the municipal court of record.

(b) The city council shall provide the municipal court of record with a seal that contains the phrase "Municipal Court of Addison, Texas." The seal's use must conform to Article 45.012 of the Code of Criminal Procedure.

Sec. 2-211. Complaints and Pleadings.

Complaints and pleadings must substantially conform to the relevant provisions of Chapters 27 and 45, Code of Criminal Procedure.

Sec. 2-212. Prosecution.

Prosecution in the municipal court of record shall be conducted as provided by Article 45.201, Code of Criminal Procedure.

Sec. 2-213. Reserved.

Sec. 2-214. Jury of court.

(a) A person who is brought before the municipal court of record and who is charged with an offense is entitled to be tried by a jury of six (6) persons. Trial by jury, including the summoning of jurors, must substantially conform to Chapter 45, Code of Criminal Procedure.

(b) The court clerk shall supervise the selection of persons for jury service.

Sec. 2-215. Reserved.

Sec. 2-216. Appeal from judgment of conviction in municipal court of record.

(a) A defendant has the right of appeal from a judgment or conviction. The State of Texas has the right to appeal as provided by Article 44.01, Code of Criminal Procedure. The county criminal courts or county criminal courts of appeal of Dallas County have jurisdiction of appeals from the municipal court of record.

(b) To perfect an appeal, the appellant must file a motion for new trial not later than the 10th day after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the clerk of the municipal court of record. The motion must set forth the points of error of which the appellant

complains. The motion or an amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed 90 days from the original filing deadline. If the court does not act on the motion before the expiration of the 30 days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

(c) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court no later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed 90 days from the original filing deadline.

(d) If the defendant is in custody, the appeal is perfected when the notice of appeal is given.

(e) The transcript preparation fee, which does not include the fee the defendant must pay for the actual transcript of the proceedings, is twenty-five dollars (\$25.00). The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant.

Sec. 2-217. Appeal bond and record on appeal.

If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the municipal court of record. The bond must be approved by the court and must be filed not later than the tenth day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond. The appeal bond must be in the amount of one hundred dollars (\$100.00) or double the amount of fines and costs adjudged against the defendant, whichever is greater. The bond must be payable to the State of Texas for the use and benefit of the town. It must state that the defendant was convicted in the case and has appealed, and be conditioned on the defendant's immediate and daily personal appearance in the court to which the appeal is taken.

The record on appeal must substantially conform to the provisions relating to the preparation of a record on appeal in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 2-218. Transcript.

The transcript must substantially conform to the provisions relating to the preparation of a transcript in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 2-219. Statement of facts.

(a) A statement of facts included in the record on appeal must substantially conform to the provisions relating to the preparation of a statement of facts in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

(b) The appellant shall pay for the statement of facts.

Sec. 2-220. Bills of Exception.

Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Section 2.221. Transfer of record.

(a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file with the clerk of the municipal court:

- (1) the statement of facts;
- (2) a written description of material to be included in the transcript in addition to the required material; and
- (3) any material to be included in the transcript that is not in the custody of the clerk.

(b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.

(c) After the court approves the record, the clerk shall promptly forward the record to the appellate court clerk.

Section 2-222. New Trial.

(a) Each party, on filing the party's brief on appeal with the appellate court clerk, shall deliver a copy of the brief to the municipal judge.

(b) The trial court shall decide from the briefs of the parties whether the appellant should be permitted to withdraw the notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time before the record is filed with the appellate court.

(c) If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the municipal court or record.

Section 2-223. Certificate of Appellate Proceedings.

(a) Upon receipt of the certificate of appellate proceedings from the appellate court clerk, the clerk of the municipal court of record shall file the certificate with the papers in the case and note the certificate on the case docket.

(b) If the municipal court of record judgment is affirmed, to enforce the judgment the court may:

- (1) forfeit the bond of the defendant;
- (2) issue a writ of capias for the defendant;
- (3) issue an execution against the defendant's property;
- (4) order a refund for the defendant's costs; or
- (5) conduct an indigency hearing at the court's discretion.

Secs. 2-224 – 2-250. Reserved.”

Section 2. If any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions and applications of the ordinance without the invalid parts and to this end the provisions of this ordinance shall remain in full force and effect.


Section 3. That this ordinance shall become effective from and after its date of passage as provided by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS,
this 14th day of September, 1999.



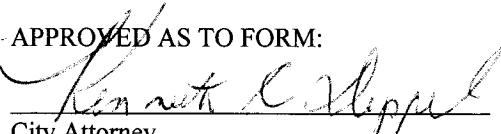
Mayor

ATTEST:



City Secretary

APPROVED AS TO FORM:



City Attorney

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