

AN ORDINANCE 100824

AMENDING THE CITY CODE, CHAPTER 20, MUNICIPAL COURT, BY REPEALING OUTDATED REGULATIONS; ADOPTING COMPREHENSIVE REGULATIONS SETTING OUT THE COURT'S AUTHORITY, OPERATIONS AND PROCEDURES; CLARIFYING DUTIES, BUDGETARY INPUT AND STAFFING FOR THE JUDICIARY; CREATING FUNDS AND PROVIDING FOR EFFECTIVE DATES.

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WHEREAS, the Municipal Courts in the City of San Antonio (previously known as "Corporation Courts") were initially formed under Chapter 29 of the Texas Government Code (the "Government Code"); and

WHEREAS, in 1985, the City established the Municipal Courts of Record pursuant to Chapter 30 of the Government Code, which contains some provisions that are specific to San Antonio; and

WHEREAS, when the Courts of Record (the "Courts") were established, the City Charter (the "Charter") contained five provisions governing the courts which were outdated; and

WHEREAS, although the Charter has been amended and condensed to one short paragraph to conform with state law, neither the Charter nor our City Code (the "Code") provides sufficient guidance regarding these Courts; and

WHEREAS, the Code is intended to provide a source of review for the compilation of ordinances that establish local law, with Chapter 20 addressing Municipal Court matters; and

WHEREAS, although the current sections of Chapter 20 of the Code cross-reference state law and the sections of the Charter, most of these five provisions are outdated; and

WHEREAS, our Code provisions significantly lack detail regarding appointment, authority and duties imposed on the Judges, Clerk and staff within the Municipal Courts of Record; and

WHEREAS, this lack of detail has caused confusion for the Judiciary, staff and public surrounding attendant responsibilities, hindering court operations, judicial process and inviting legal challenges; and

WHEREAS, to rectify the lack of structure and guidance, the proposed ordinance provides reference to local and state authority for all matters in the Courts, as well as

direction regarding personnel and official duties, including more input by the Judiciary during the budgetary process; and

WHEREAS, the proposed ordinance does not amend or revise any of the current fees for service or fines included in the FY 2005 Adopted Budget nor does the proposed ordinance amend or revise current appropriation levels established within the FY 2005 Adopted Budget as set forth in Ordinance No. 99725, passed and approved on September 16, 2004; and

WHEREAS, the proposed legislation represents many hours of research reviewing state law, the operations of other major cities and the history of San Antonio's Municipal Courts, with input from the Judiciary, the Court Clerk, the Interim Municipal Court Director and the City Attorney's Office; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby approves amending the San Antonio City Code, Chapter 20, Municipal Court, to repeal Sections 20-1 through 20-5.

SECTION 2. The City Council also hereby approves the adoption of the following provisions for Chapter 20 of the City Code, Municipal Court, as renumbered below:

20-1. Creation of the Court

In accordance with the City Charter and Chapter 30 of the Texas Government Code, there shall be a municipal court of record for the City of San Antonio which shall be divided into the *Municipal Courts of Record Nos. 1 through 8* and the *Magistrate Court* (hereinafter "Municipal Court(s)" unless otherwise noted).

20-2. Jurisdiction

The Municipal Courts and the Magistrate Court shall have, but not be limited to:

- a) the general jurisdiction provided by Chapter 30 of the Texas Government Code and all other state laws for municipal courts, municipal courts of record and magistrate courts;
- b) jurisdiction over criminal cases arising under ordinances authorized by Sections 215.072, 217.042, 341.903, and 401.002 of the Local Government Code, as amended;
- c) concurrent jurisdiction with a justice court in any precinct in which the City is located in criminal cases that arise within the territorial limits of the City and are punishable only by fine;

- d) civil jurisdiction for the purpose of enforcing City ordinances enacted pursuant to Subchapter A, Chapter 214, Local Government Code; Chapter 682, Transportation Code, or Subchapter E, Chapter 683, Transportation Code;
- e) concurrent jurisdiction with a district court or a county court at law under Subchapter B, chapter 54, Local Government Code, pursuant to Chapter 30 of the Government Code, within the City's territorial limits and property owned by the City located in the City's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances;
- f) jurisdiction for all appeals as provided under general, state and local law for municipal courts of record;
- g) authority to issue search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation;
- h) authority to issue seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises; and
- i) authority to issue additional writs, warrants and other process as authorized by the general laws of the state.

20-3. Municipal Courts Department

Pursuant to Articles V and VIII of the City Charter, there shall be a Municipal Courts Department for the City of San Antonio, consisting of the Office of the Judiciary and Municipal Court Administrative Services. The Administrative Services Director/Municipal Court Clerk and Presiding Judge shall work in cooperation for the benefit of the Municipal Courts. As part of the budget process, the budget for the Municipal Courts Department shall be divided into separate budgets for the Office of the Judiciary and Municipal Court Administrative Services.

20-4. Office of the Judiciary

Pursuant to Article VIII of the City Charter and §30.00003 of the Texas Government Code, there is hereby created the Office of the Judiciary of the Municipal Courts Department which shall consist of the Presiding Judge, the full-time Municipal Judges, Substitute Judges and other assigned personnel as needed for the operation of the courts, including a Court Administrator appointed by the City Manager with the recommendation of the Presiding Judge. The Court Administrator shall hire, supervise, direct and remove administrative personnel assigned to the Office of the Judiciary as authorized by the City Manager in the annual budget.

20-5. Judge

Pursuant to Article VIII of the City Charter and §§30.00006 and 30.00224 of the Texas Government Code:

- a) the City Council shall appoint each full-time Municipal Judge and Substitute Municipal Judge (to include part-time Municipal Judges by definition) by ordinance for a term of two (2) years, beginning on the date established by the ordinance that accomplishes the appointment or reappointment;
- b) each Municipal Judge and Substitute Municipal Judge shall:
 - 1) be a resident of Texas;
 - 2) be a citizen of the United States;
 - 3) be a licensed attorney in good standing;
 - 4) have two or more years of experience in the practice of law in Texas;
 - 5) be a resident of the City for at least three years immediately preceding the judge's appointment;
- c) the City Council shall establish, at the time of appointment, the salary and benefits of full-time Municipal Judges as provided or authorized by ordinance, which may not be diminished during the Municipal Judge's term of office and may not be based directly or indirectly on fines, fees or costs collected by the court. Substitute Municipal Judges shall be compensated on an hourly basis as provided by ordinance for service as a temporary replacement for a Municipal Judge for any reason and as directed by the Presiding Judge;
- d) each Substitute Municipal Judge, while serving as a Municipal Judge, possesses all of the powers and shall discharge all of the duties of a Municipal Judge ("Municipal Judge" shall mean full-time Municipal Judge and Substitute and part-time Municipal Judge unless otherwise noted);
- e) the Municipal Judges shall take judicial notice of state law and the ordinances and corporate limits of the City. The Municipal Judges may grant writs of mandamus, attachment and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court. The Municipal Judges are Magistrates and shall perform the duties of a Magistrate in the City Detention Center as needed in accordance with the Texas Code of Criminal Procedure, to include issuing administrative search warrants;
- f) the Municipal Judges within the City may exchange benches under the direction of the Presiding Judge and act for each other in any proceeding pending in the Municipal Courts of Record or Magistrate Court. An act performed by any of the Municipal Judges is binding on all parties to the proceeding;

- g) a Municipal Judge who accepts employment with the City of San Antonio vacates the judicial office;
- h) if a vacancy occurs in the office of Municipal Judge during a term, then a qualified person shall be appointed and confirmed in the same manner for the remainder of the unexpired term;
- i) each Municipal Judge is subject to the holdover provision in Section 160 of the City Charter prior to appointment and confirmation of a successor;
- j) Municipal Judges shall be subject to removal from office as provided by state law;
- k) the Municipal Judges shall have all other powers and duties assigned to a Municipal Judge by the City charter, City ordinances and state law;
- l) the Municipal Judges shall follow all rules of practice, procedure and operation contained in the ordinances of the City and state law;
- m) each Municipal Judge shall maintain work hours as directed by the Presiding Judge and shall be responsible for the caseload distributed to him by the Presiding Judge; and
- n) each full-time Municipal Judge shall submit documentation for all leave taken during work hours as established by the Presiding Judge.

20-6. Presiding Judge

There shall be a Presiding Judge of the Municipal Courts of Record for the City of San Antonio, who shall be appointed by the City Council from among the associate full-time Municipal Judges.

The Presiding Judge shall be the Administrative Judge for the Office of the Judiciary of the Municipal Courts Department and shall perform the duties of that office as provided by §§30.00007 and 30.00224 of the Texas Government Code, other state law and as assigned by the City Council by ordinance. The Presiding Judge shall:

- a) maintain administrative oversight of the Municipal Judges;
- b) establish work rules for the administration of the Municipal Courts, in consultation with the Director/Clerk;
- c) maintain a central docket for the cases filed within the Municipal Court's jurisdiction;

- d) provide for the distribution of cases from the central docket to the individual Municipal Judges to equalize the distribution of business in the courts, to include shifting the assignment of cases between individual courts and Municipal Judges in furtherance of judicial economy;
- e) establish the work hours for each Municipal Judge;
- f) schedule and approve vacation and other absences for each Municipal Judge and provide monthly reports of these to the City Council;
- g) provide monthly case adjudication reports for each Municipal Judge, as well as judicial complaints to City Council;
- h) assign the duties of each Municipal Judge;
- i) assign Municipal Judges to exchange benches and to act for each other in pending proceedings;
- j) designate a full-time Municipal Judge to assist in administration and to act for the Presiding Judge while the Presiding Judge is absent; and
- k) administer the budget established through the City's budget process for the Office of the Judiciary of the Municipal Courts Department.

20-7. Court Reporter

Pursuant to §30.00226 of the Texas Government Code, a Court Reporter shall be provided for the purpose of preserving a record in cases tried before the Municipal Courts. The Court Reporter shall:

- a) meet the qualifications provided by law;
- b) be selected by the City Manager with the recommendation of the Presiding Judge;
- c) receive compensation as set by the City Manager on the recommendation of the Presiding Judge;
- d) preserve the record through written notes, transcribing equipment, recording equipment or any combination of these methods; and
- e) not be required to record testimony in a case in which neither the Defendant, the Prosecutor nor the Municipal Judge demands it.

20-8. Municipal Court Administrative Services

Pursuant to Articles V and VIII of the City Charter and §30.00003 of the Texas Government Code, there is hereby created the Municipal Court Administrative Services of the Municipal Courts Department which shall consist of the Administrative Services Director/Municipal Court Clerk and assigned staff.

20-9. Administrative Services Director/Municipal Court Clerk

The Administrative Services Director of the Municipal Courts Department shall be appointed by the City Manager, shall serve as the Municipal Court Clerk and shall be the official clerk for the Municipal Courts and Magistrate Court. The Administrative Services Director/Municipal Court Clerk ("Director/Clerk" unless otherwise noted) shall discharge the duties attendant upon that position as prescribed herein and by §§30.00009 and 30.00225 of the Texas Government Code and applicable state law. The Director/Clerk shall:

- a) administer oaths and affidavits, issue process, make certificates, provide all clerical preparation of complaints, affix the seal of the courts thereto, and generally perform the duties that a clerk of a county court of law exercising criminal jurisdiction performs for that court, including maintaining an index of all court judgments;
- b) maintain a central docket for all cases filed in the Municipal Courts, in consultation with the Presiding Judge;
- c) maintain an index of Municipal Court judgments;
- d) to the extent required by law, maintain and preserve all documents and other records of the Municipal Courts and make them available for inspection at all reasonable times by any interested party;
- e) collect all fines, court costs and fees for offenses prosecuted under the jurisdiction of the Municipal Courts and issue receipts for payment;
- f) require all designated staff responsible for collection of fines, costs and fees to execute fidelity bonds as may be required by law; however, the City may self-insure for these fidelity bonds as permitted by law and if self-insured, the Director/Clerk shall maintain a record of said bonds;
- g) make a daily report of all cases brought before the Municipal Courts reflecting whether reset, adjudicated, dismissed or tried, to include the case number, the name of the defendant, the nature of the offense and reason for each dismissal or acquittal, and make such report available to the Presiding Judge and the Chief Prosecutor;

- h) administer the budget established by the City's budget process for the Municipal Court Administrative Services of the Municipal Court Department and hire, direct, supervise and remove all staff as authorized by the City Manager; and
- i) take an oath to faithfully perform the duties of the position.

20-10. Deputy Clerks

Pursuant to Article V and VIII of the City Charter and §§30.00009 and 30.00225 of the Texas Government Code, the Director/Clerk may hire Deputy Clerks, Warrant Officers and other personnel as needed for the proper operation of the courts, as authorized by the City Manager and approved by the City Council in the annual budget. The Deputy Clerks shall:

- a) assist the Director/Clerk in performing the duties of that position;
- b) execute fidelity bonds as may be required by law; however, the City may self-insure for these fidelity bonds as permitted by law;
- c) act for one another in performing services to the Municipal Courts as needed; and
- d) possess all of the powers of the Clerk and shall discharge all of the attendant duties of the position as required.

20-11. City Marshal

There shall be the position of Marshal. The position may consist of a City Marshal, Deputy Marshal(s), Part-Time Deputy Marshal(s), and Reserve Deputy Marshal(s). The City Marshal(s) shall:

- a) meet and maintain all qualifications necessary and be certified as peace officers by the Texas Commission on Law Enforcement Officer Standards and Education;
- b) be peace officers of the City, hired as municipal employees only and not in compliance with Chapter 143 of the Local Government Code;
- c) be hired and directed by the Director/Clerk as authorized by the City Manager in the annual budget for the Municipal Courts Administrative Services of the Municipal Courts Department;
- d) perform all the duties assigned by the Director/Clerk to include:

- 1) executing legal process issuing from Municipal Courts and the Magistrate Court including, but not limited to: warrants of arrest, subpoenas, citations, and summons;
 - 2) facilitating case closure through the collection of case fines/costs using approved departmental procedures;
 - 3) providing security services as needed, to include serving as a court bailiff, providing prisoner transport, assisting with detention officer duties and operating security equipment;
 - 4) maintaining records and all documents required for designated duties; and
 - 5) other duties as assigned by the Director/Clerk; and
- e) not accept or maintain any off-duty employment that conflicts with the policy established by the Director/Clerk, subject to approval by the City Manager.

20-12. General Practice, Procedure and Operations

- a) The practices, procedures and operations of the Municipal Courts shall be governed by:
- 1) local rules established by the San Antonio Municipal Courts, as amended;
 - 2) applicable state law, as amended, including:
 - i) Chapter 30 of the Government Code;
 - ii) Chapters 27, 44 and 45 of the Code of Criminal Procedure; and
 - iii) the Texas Rules of Appellate Procedure, as amended.
- b) General hours of operation shall be from 8:00 a.m. to 5:00 p.m., with additional weekend and evening hours established as determined to be necessary by the Presiding Judge and Director/Clerk and as supported by the budgets of the Department.
- c) The Magistrate Court shall operate 24 hours a day, seven days a week.
- d) There shall be a twenty-five dollar (\$25.00) transcript preparation fee, established pursuant to §30.00014 of the Government Code, as amended.

- e) Except as designated herein, all other court fees, special expense or administrative fees, and fines shall be assessed in accordance with state law or by ordinance as required by statute.

20-13. Municipal Court Technology Fund

- a) There is hereby created a Municipal Court Technology Fund. The Municipal Courts shall by order require a defendant convicted of a misdemeanor offense to pay a technology fee not to exceed \$4 as a cost of court pursuant to §102.0172, Code of Criminal Procedure, as amended.
- b) In this section, a person is considered convicted if:
 - 1) a sentence is imposed on the person;
 - 2) the person is placed on community supervision, including deferred adjudication; or
 - 3) the court defers final disposition of the person's case.
- c) The Director/Clerk shall collect the costs and pay the funds to the City treasurer for deposit in a fund to be known as the "Municipal Court Technology Fund".
- d) This fund may be used only to finance the purchase of or to maintain technological enhancements for the Municipal Courts, including:
 - 1) computer systems;
 - 2) computer networks;
 - 3) computer hardware;
 - 4) computer software;
 - 5) imaging systems;
 - 6) electronic kiosks;
 - 7) electronic ticket writers; and
 - 8) docket management systems.
- e) The City Council hereby directs the City Manager to administer the Municipal Court Technology Fund.

- f) This section shall control over any prior ordinance provisions in conflict herewith.

20-14. Municipal Court Building Security Fund

- a) There is hereby created a Municipal Court Building Security fund. The Municipal Courts shall by order require a defendant convicted of a misdemeanor offense in Municipal Court to pay a \$3 security fee as a cost of court pursuant to §102.017, Code of Criminal Procedure, as amended.
- b) In this section, a person is considered convicted if:
- 1) a sentence is imposed on the person;
 - 2) the person receives community supervision, including deferred adjudication; or
 - 3) the court defers final disposition of the person's case.
- c) The Director/Clerk shall collect the costs and pay them to the City treasurer for deposit in a fund to be known as the "Municipal Court Building Security Fund".
- d) This fund may be used only to finance items when used for the purpose of providing security services for the Municipal Court building, including:
- 1) the purchase or repair of X-ray machines and conveying systems;
 - 2) handheld metal detectors;
 - 3) walkthrough metal detectors;
 - 4) identification cards and systems;
 - 5) electronic locking and surveillance equipment;
 - 6) bailiffs, deputy sheriffs, deputy constables or contract security personnel during times when they are providing appropriate security services;
 - 7) signage;
 - 8) confiscated weapon inventory and tracking systems;
 - 9) locks, chains, alarms, or similar security devices;

- 10) the purchase or repair of bullet-proof glass; and
 - 11) continuing education on security issues for court personnel and security personnel.
- e) The City Council hereby directs the City Manager to administer the Municipal Court Building Security Fund.
 - f) This section shall control over any prior ordinance provisions in conflict herewith.

20-15. Municipal Court Child Safety Trust Fund

- a) There is hereby created the Municipal Court Child Safety Trust Fund. The Municipal Court shall by order assess a court cost on each parking violation not less than \$2 and not to exceed \$5, as established by City Council in the annual budget, pursuant to §102.014 of the Code of Criminal Procedure, as amended. The court costs under this subsection shall be collected in the same manner that other fines in the case are collected.
- b) A person convicted of an offense under Subtitle C, Title 7, Transportation Code, when the offense occurs within a school crossing zone as defined by Section 541.302 of that code, shall pay as court costs \$25 in addition to other taxable court costs. A person convicted of an offense under Section 545.066, Transportation Code, shall pay as court costs \$25 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected and shall be assessed only in the City.
- c) A person convicted of an offense under Section 25.093 or 25.094, Education Code, shall pay as taxable court costs \$20 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.
- d) In this section, a person is considered to have been convicted in a case if the person would be considered to have been convicted under Section 133.101, Local Government Code.
- e) The Director/Clerk shall collect the costs and shall pay them to the City treasurer for deposit in a fund to be known as the "Municipal Court Child Safety Trust Fund" established as required by Chapter 106, Local Government Code and in compliance with Chapter 343, Local Government Code, as amended.
- f) The City Council hereby directs the City Manager to administer the Municipal Court Child Safety Trust Fund.

g) This section shall control over any prior ordinance provisions in conflict herewith.

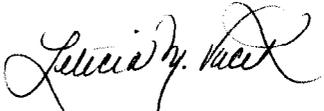
SECTION 3. The City Council directs the City Manager to implement these provisions by October 1, 2005.

PASSED AND APPROVED this 5th day of May, 2005.



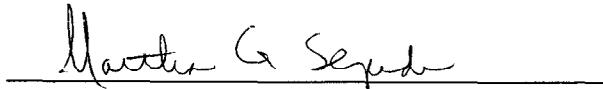
M Y O R

ATTEST:



Lucia M. Vaca
City Clerk

APPROVED AS TO FORM:



Martha Sepeda
Acting City Attorney

Agenda Voting Results

Name: 33.

Date: 05/05/05

Time: 06:20:01 PM

Vote Type: Multiple selection

Description: An Ordinance amending the City Code, Chapter 20, Municipal Court, by repealing outdated regulations; adopting comprehensive regulations setting out the Court's authority, operations and procedures; clarifying duties, budgetary input and staffing for the Judiciary; creating funds and providing for effective dates. [Presented by Martha Sepeda, Acting City Attorney; J. Rolando Bono, Interim City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
JOEL WILLIAMS	DISTRICT 2	Not present			
RON H. SEGOVIA	DISTRICT 3		x		
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
ENRIQUE M. BARRERA	DISTRICT 6		x		
JULIAN CASTRO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
CARROLL SCHUBERT	DISTRICT 9	Not present			
CHIP HAASS	DISTRICT_10	Not present			
MAYOR ED GARZA	MAYOR	Not present			