

# CITY OF VON ORMY, TEXAS

ORDINANCE NO: 2009-23

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**AN ORDINANCE OF THE CITY OF VON ORMY, TEXAS, ESTABLISHING AND CREATING A MUNICIPAL COURT TO BE KNOWN AS THE MUNICIPAL COURT IN THE CITY OF VON ORMY; PROVIDING FOR THE JURISDICTION OF THE MUNICIPAL COURT ; PROVIDING FOR THE APPOINTMENT AND QUALIFICATIONS OF THE MUNICIPAL JUDGE AND ALTERNATE MUNICIPAL JUDGES; PROVIDING FOR THE DUTIES OF THE MUNICIPAL COURT CLERK; PROVIDING FOR PROSECUTIONS; PROVIDING FOR COURT COSTS; PROVIDING A REPEALING AND SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Von Ormy, Texas, determines that the formation of a municipal court is necessary to provide a more efficient disposition of cases arising in the City. Now, Therefore,

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

**SECTION 1.** That there is hereby created and established a municipal court for the City of Von Ormy, Texas, which shall operate in accordance with the following provisions of this ordinance:

**“CHAPTER \_\_\_\_**

**Sec. \_\_-1. Created; jurisdiction.**

(a) There is hereby created a municipal court in and for the City of Von Ormy, Texas, to be designated as “The Municipal Court in the City of Von Ormy.” The Court shall have no term and may sit at any time for the transaction of business of the Court. Where the term “municipal court” is used in this ordinance or any other ordinance of the City, it shall mean the municipal court created herein. Any provision of the city ordinances or state law that is applicable to a municipal court shall be applicable to the municipal court created herein unless the provision is in conflict or inconsistent with Chapter 45 of the Texas Code of Criminal Procedure, as amended, or Chapter 29, Texas Government Code, as amended, which govern this municipal court.

(b) The municipal court shall be a unified municipal court and shall have and exercise that jurisdiction conferred by Article 4.14, Texas Code of Criminal Procedure, as amended, and Section 29.030 of the Texas Government Code, as amended, and any other law conferring jurisdiction upon the municipal court. Any city ordinance or state law that is applicable to a municipal court shall be applicable to the municipal court created herein unless the provision is in conflict or inconsistent with state law which governs the municipal courts.

**Sec. \_\_-2. Judge; powers and duties.**

(a) The municipal court is presided over by a municipal judge who shall be appointed by the city council for a term of two (2) years which shall run concurrently with the term for the mayor.<sup>1</sup> The municipal judge shall be entitled to compensation as set by the city council and the amount of the judge's compensation may not be diminished during the judge's term of office. The compensation may not be based directly or indirectly on fines, fees, or costs collected by the court. The first appointed judge shall serve until the expiration of the current mayor's term of office.

(b) The municipal judge must be a citizen of the United States, [and] a resident of the State of Texas, [a licensed attorney in good standing, and have two or more years of experience in the practice of law in the State of Texas].<sup>2</sup> In the event of a vacancy in the office of the municipal judge, the City Council may appoint a qualified person to fill the vacancy and to preside over the municipal court for the remainder of the unexpired term.

(c) The city council may appoint alternate judges, subject to the same qualifications as the municipal judge, who shall have all the powers and shall discharge all the duties of the municipal judge while serving as municipal judge. Each appointment shall be for a term of two (2) years. 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.

(e) The municipal judge and alternate judges shall take judicial notice of state law and the ordinances and corporate limits of the city and shall have all powers and authority as provided by State law. The judges may grant such writs necessary to the enforcement of the jurisdiction of the court as authorized by State law. A municipal judge is a magistrate and may issue search warrants.

(f) The municipal judge and any alternate judge may be removed in accordance with Section 22.077 of the Local Government Code.<sup>3</sup>

**Sec. \_\_-3. Court clerk.**

(a) The city council shall appoint a clerk for the municipal court who shall serve for a term of two (2) years which shall run concurrently with the term of the municipal judge.<sup>4</sup> The clerk 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 have all duties and authority as provided by Section 29.010, Texas Government Code, as amended. The clerk shall serve at the direction of the city council [city administrator]. The first appointed clerk shall serve until the expiration of the current mayor's term of office.

(b) The court clerk shall acquire and maintain a seal in conformance with state law for the municipal court in the city.

(c) The court clerk shall supervise the selection of persons for jury service in the municipal court

**Sec. \_\_-4. Prosecutions.**

All prosecutions in the municipal court shall be conducted by the city attorney of the city or by his/her deputy.

**Sec. \_\_-5. Court costs.**

(a) Upon conviction, a defendant shall also remit to the city such court costs as are authorized by law, imposed by the State, and established by the city.

(b) Municipal Court Building Security Fund. There is established and created a municipal court building security fund to be used for the purpose of providing security services for buildings housing a municipal court. A defendant convicted of a misdemeanor offense in the municipal court shall pay a \$3.00 security fee as court costs, in addition to other court costs and fees imposed by law.

- (1) The municipal court building security fund may only be used to fund items or services as allowed by state law and to finance items when used for the purpose of providing security services for buildings housing the municipal court, including:
  - (A) the purchase or repair of X-ray machines and conveying systems;
  - (B) handheld metal detectors;
  - (C) walkthrough metal detectors;
  - (D) identification cards and systems;
  - (E) electronic locking and surveillance equipment;
  - (F) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
  - (G) signage;

- (H) confiscated weapon inventory and tracking systems;
  - (I) locks, chains, alarms, or similar security devices;
  - (J) the purchase or repair of bullet-proof glass;
  - (K) continuing education on security issues for court personnel and security personnel; and
  - (L) any other item, or for any other lawful purpose, authorized by Article 102.017, Texas Code of Criminal Procedure, as amended, or other laws of the state.
- (2) The municipal court clerk shall collect the costs and pay the funds as provided in this subsection to the municipal treasurer or other official of the city who discharges the duties delegated to the municipal treasurer for deposit in a fund which shall be known as the “municipal court building security fund.”

(c) Municipal Court Technology Fund. There is established and created a municipal court technology fund for the purpose of financing the purchase of technological enhancements for the municipal court. A defendant convicted of a misdemeanor offense in the municipal court shall pay a technology fee of \$4.00, in addition to other court costs and fees imposed by law.

- (1) The municipal court technology fund shall be used only to finance the purchase of technological enhancements for the municipal court, including:
- (A) computer systems;
  - (B) computer networks;
  - (C) computer hardware;
  - (D) computer software;
  - (E) imaging systems;
  - (F) electronic kiosks;
  - (G) electronic ticket writers;
  - (H) docket management systems; and
  - (I) any other item, or for any other lawful purpose, authorized by Article 102.0172, Texas Code of Criminal Procedure, or other laws of the state.
- (2) The municipal court clerk shall collect the costs and pay the funds as provided in this subsection to the municipal treasurer or other official of the city who discharges the duties delegated to the municipal treasurer for deposit in a fund to be known as the “municipal court technology fund.”<sup>5</sup>

**SECTION 2.** That all provisions of the ordinances of the City of Von Ormy, Texas, in conflict with the provisions of this Ordinance be and the same are hereby

repealed, and all other provisions of the ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**SECTION 3.** If any provision contained in this Ordinance shall for any reason be held to be unconstitutional, invalid, illegal or unenforceable in any respect, such unconstitutionality, invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Ordinance shall be construed as though such unconstitutional, invalid, illegal, or unenforceable provision was not contained in the Ordinance.

**SECTION 4.** That this Ordinance shall take effect from and after the date of its passage.

**DULY PASSED** by the City Council of the City of Von Ormy, Texas, on the 19th day of August, 2009.

CITY OF VON ORMY:

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MAYOR ART MARTINEZ DE VARA

ATTEST:

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JULIA ANN HERNANDEZ  
CITY CLERK

<sup>1</sup> In a general law city, the mayor is ex officio judge of the municipal court unless the municipality by ordinance authorizes the election or appointment of the judge. See Sec. 29.004, Texas Government Code..

<sup>2</sup> It is not required by state law that the municipal judge be a licensed attorney.

<sup>3</sup> A home rule city should make reference to any removal provisions contained in the city's charter.

<sup>4</sup> A city secretary may also serve as clerk of the municipal court. If the city secretary serves as clerk, the council may authorize the appointment of a deputy clerk by the city secretary. Also, if the city secretary serves as clerk, that person serves as clerk during the term as city secretary.

<sup>5</sup> Cities are not required to establish a security fund and/or technology fund, but they cannot assess and collect the additional fee for such purposes without establishing the funds.

<sup>6</sup> Many general law cities do not require the city attorney to formally approve ordinances.