

**ORDINANCE NO. 18-05**

**AN ORDINANCE OF THE CITY OF WOODWAY, TEXAS ESTABLISHING A MUNICIPAL COURT OF RECORD, INCLUDING PROVIDING FOR FINDINGS OF FACT, PURPOSE, JURISDICTION, AND DEFINITIONS; PROVIDING FOR THE CREATION OF A MUNICIPAL COURT OF RECORD, APPOINTMENT OF MUNICIPAL COURT JUDGES, ESTABLISHING SALARY AND TERM OF THE MUNICIPAL COURT JUDGES; PROVIDING FOR RELATION TO OTHER ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING**

WHEREAS, the City Council of the City of Woodway ("City") seeks to provide for the enforcement of its municipal ordinances through a Municipal Court of Record rather than the current Municipal Court; and

WHEREAS, the City Council determines that the creation of a municipal court of record is necessary to provide a more efficient disposition of cases arising in the municipality; and

WHEREAS, the City Council finds that the appointment of a presiding judge and associate is necessary; and

WHEREAS, the City Council is authorized to establish a municipal court of record by virtue of the Texas Government Code, Chapter 30.

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

**1. INTRODUCTION**

**A. Findings of Fact**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Woodway and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**B. Purpose**

This ordinance is adopted so that the City Council may promote the public health, safety, morals and general welfare within the City through the enforcement of the City of Woodway's ordinances.

## **2. ESTABLISHMENT OF COURT OF RECORD**

### **A. Scope**

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

### **B. Creation of the Municipal Court of Record**

There is hereby established one (1) municipal court of record within the City, with the numerical designation of "Municipal Court of Record of Woodway, Texas" (sometimes administratively referred to as "Municipal Court of Record" "Municipal Court" or "Record Court")

The non-record Municipal Court that is operating on the date that this Ordinance is adopted is abolished on the effective date of this Ordinance, and all cases filed after the date of the adoption of this Ordinance shall be filed in the Municipal Court of Record. All cases pending in the non-record court at abolishment of that court are hereby automatically transferred to the new Municipal Court of Record for disposition; maintaining all charging instruments, case documents, and filings. All administrative matters of the non-record court and business operations shall be transferred to the record court automatically.

### **C. Jurisdictional Limits of Court**

The municipal court of record has the jurisdiction provided by Section 30.00005 of the Texas Government Code.

Furthermore, the Municipal Court of Record created hereby is expressly further granted:

- (1) Concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the municipality that are punishable by only by fine;
- (2) Civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Local Government Code, or Subchapter E, Chapter 683, Transportation Code;
- (3) Concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local Government Code, within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances;
- (4) Authority to issue:
  - (a) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
  - (b) Seizure warrants for the purpose of securing, removing, or demolishing the

- offending property and removing the debris from the premises; and,
- (5) Concurrent jurisdiction with a district court and a justice court over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.

#### **D. Judges of Court**

- (1) The municipal court of record shall be presided over by a judge, who shall be known as the "presiding municipal judge and as many as three (3) associate judges." The judge(s) shall be appointed for a term of two (2) years and shall be entitled to a salary set by the City Council, which amount 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.
- (2) The judge must:
- a. Be a citizen of the United States;
  - b. Be a resident of this state;
  - c. Be a licensed attorney in good standing; and
  - d. Have three or more years of experience in the practice of law in this state.
- (3) 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.
- (4) If a vacancy occurs in the office of municipal judge, the City Council shall appoint a qualified person to fill the office for the remainder of the unexpired term.
- (5) 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.
- (6) The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the municipality.
- (7) A municipal judge is a magistrate and may issue administrative search warrants.

#### **E. Appointment of Initial Judge.**

Upon this Ordinance's effective date, the non-record Municipal Court of the City of Woodway is abolished as the City cannot have both a court of record and a court of non-

record. The Municipal Judge(s) in office on such effective date, shall continue as the municipal judge(s) in the Woodway Municipal Court of Record in the City of Woodway, Texas, provided such judge is qualified to sit in a court of record under state law. Such continuance is considered an automatic appointment by the City Council to the position of municipal court judge for the court of record. The judge's term shall start on the effective date of this Ordinance. The judge is required to take new oath(s) of office.

**F. 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.

**G. 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.

**H. Clerk of Court**

The city manager, with the advice and consent of the presiding judge, 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. In the event that the City Manager and Municipal Judge do not make such an appointment, the City Council shall be vested with the authority to make such appointment.

The Clerk and other court personnel perform their duties under the direction and control of the presiding judge. The clerk 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 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 City. The appointment of the Clerk of the current non-record court is hereby continued as the Clerk of the Court of Record.

**I. Preserving Court Record**

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. 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.

- (1) Proceedings of the court that are appealed shall be transcribed from the

recording by an official court reporter, who shall be engaged at the direction of the presiding judge, in lieu of a good quality, electronic device and as determined by the Government Code Section 30.00010.

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

#### **I. Court Facilities and Seal**

- (1) 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.
- (2) The City Council shall provide the municipal court of record with a seal that contains the phrase "Municipal Court of The City of Woodway, Texas,"
- (3) The Court shall maintain the appearance of neutrality and professional decorum.

#### **J. Complaints and Pleadings**

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

#### **K. Prosecution**

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

#### **L. Jury**

- (1) 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.
- (2) The court clerk shall supervise the selection of persons for jury service.

#### **M. Appeal from Judgment of Conviction**

Appeals from the Municipal Court of Record shall be conducted in accordance with Section 30.0014 of the Texas Government Code.

## **N. Appeal Bond**

An appeal bond is required as provided by Section 30.00015 of the Texas Government Code.

## **O. Fees for Appeal**

There is hereby established a fee for the preparation of the clerk's record in the amount of \$25.00. The preparation fee does not include the fee for an actual transcription of the proceedings. 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.

The defendant shall pay the fee for the preparation of the clerk's record and the fee for an actual transcription of the proceedings.

## **3. RELATION TO OTHER ORDINANCES**

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

## **4. EFFECTIVE DATE**

This ordinance shall take effect October 1, 2018 after its passage and publication as may be required by governing law.

## **5. SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be 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 or sections of this ordinance, and the remainder of this ordinance shall be enforced as written.

## **6. PROPER NOTICE AND MEETING**

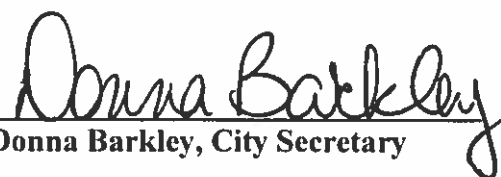
It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**PASSED AND APPROVED** this the 24<sup>th</sup> day of September, 2018 by the City Council of the City of Woodway, Texas.

**CITY OF WOODWAY**

By:   
\_\_\_\_\_  
Bob Howard, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Donna Barkley, City Secretary

**APPROVED:**

  
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Mike Dixon, City Attorney