

ORDINANCE NO. 1138-10-17

AN ORDINANCE OF THE CITY OF HONDO, TEXAS ("CITY") AMENDING THE CODE OF ORDINANCES CITY OF HONDO CHAPTER 7 TO A MUNICIPAL COURT OF RECORD; AMENDING ARTICLE 7.01 GENERAL PROVISIONS; DECLARING A PUBLIC PURPOSE; INCORPORATING RECITALS; PROVIDING A REPEALER; PROVIDING FOR SEVERABILITY AND SETTING AN EFFECTIVE DATE.

WHEREAS, Texas Government Code Section 30.0003 authorizes the governing body of a municipality to create a municipal court of record to provide a more efficient disposition of cases in the municipality;

WHEREAS, 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 City of HONDO; and

WHEREAS, at this time, City Council desires to establish one municipal court of record:

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

SECTION 1 AMENDMENT. The Code of Ordinances, City of HONDO, Texas, is hereby amended by replacing Article VII. Municipal Court of Record, numbered Sections 7.01.002 – 7.01.008 which now reads as follows below and renumbering 7.01.007 Forfeiture of Bond to 7.01.020 Time for Decision changed to 7.01.009 Forfeiture of Bond to 7.01.022 Time for Decision, to wit:

Article VII. Municipal Court of Record

Sec. 7.01.002 Established

There is created a unified court of record ("court") which shall be known as the Municipal Court of Record in the City of HONDO, Texas and is hereby established pursuant to Texas Government Code Chapter 30, Subchapter A, and the terms set forth therein are hereby adopted governing the operation of the court.

Sec. 7.01.003 Judge

- (a) The city council shall appoint one a municipal court judge to the court. The judge so appointed shall serve a two (2)/four (4) year term of office and:
 - (1) be a resident of the State of Texas;
 - (2) be a citizen of the United States;
 - (3) be a licensed attorney in good standing with the State Bar of Texas; and
 - (4) have two or more years of experience in the practice of law in the State of Texas.
- (b) The city council shall determine term and the salary of each municipal judge. The amount of a 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.

- (c) The city attorney shall prepare a contract evidencing the agreement with each municipal judge which shall be signed by the Mayor and filed with the official records of the City.

- (d) Appointment of Assistant or Additional Judges.

The City Council may appoint such assistant judges as may be necessary to perform the duties of the Judge of the Municipal Court; or a temporary judge to act for the Judge in the case of his temporary absence or disability; and such assistant, additional or temporary judges shall receive such compensation as may be set by the Council.

- (e) If there is more than one municipal judge in the municipality, the City Council of the municipality shall appoint one of the judges as the presiding judge.

- (1) The presiding judge shall:

- a. maintain a central docket for cases filed within the territorial limits of the municipality over which the municipal courts of record have jurisdiction;
 - b. provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the courts;
 - c. request the jurors needed for cases that are set for trial by jury;
 - d. temporarily assign judges or substitute judges to exchange benches and to act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts; and
 - e. supervise and control the operation and clerical functions of the administrative department of each court, including the court's personnel, during the proceedings of the court.

Sec. 7.01.004 Jurisdiction

- (a) The court has 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 city and are punishable only by fine.

- (b) The Municipal Court has jurisdiction over criminal cases arising under ordinances authorized by Sections 215.072, 217.042, 341.903, and 551.002, Local Government Code.

- (c) The Municipal Court shall have jurisdiction in all criminal cases arising under this code and any ordinances of the city in which the punishment is by fine only, and where the maximum fine for the offense charged does not exceed \$500, with the exception of ordinances regulating fire safety, zoning, public health and sanitation in which the fine may not exceed \$2,000, and where the offense charged arose within the corporate limits of the city (or outside of the corporate limits but within an area over which the city has jurisdiction and control under the laws of the state).

- (d) The court has:

- (1) 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 and their successor statutes as amended;
 - (2) Concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local 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; and

- (3) Authority to issue: (i) search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and (ii) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

Sec. 7.01.005 Term/Sessions

The court has no terms and may sit for any time for the transaction of business of the court.

Sec. 7.01.006 Clerk of the Court.

- (a) In accordance with the City Charter, the City Manager shall appoint a Clerk of the Municipal Court of Record.
- (b) The Municipal Clerk shall keep the records of the municipal courts of record, issue process, and generally perform the duties that a clerk of a county court at law exercising criminal jurisdiction performs 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.
- (c) The City Manager may appoint one or more deputy clerks who, when acting in such capacity, shall have the same authority as the Clerk of the Municipal Court.

Sec. 7.01.007 Court Reporter

- (a) The Municipal Court Clerk may appoint a court reporter who must meet the qualifications provided by law for official court reporters. The court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of those methods to record the proceedings of the Court. The court reporter is not required to record testimony in any case unless the Judge or one of the parties requests a record in writing, and files the request with the Court before trial.
- (b) A court reporter is not required to be present during proceedings of the Municipal Court of Record, provided that proceedings required to be recorded by this section are recorded by a good quality electronic recording device. If a record is made, it shall be kept for the 20-day period, beginning the day after the last day of the court proceeding, trial or denial of motion for new trial, whichever occurs last. If a case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

Sec. 7.01.008 Court Costs and Fees

- (a) Court costs shall be assessed pursuant to and in compliance with the state statutes.
- (b) All costs and fines imposed by the Municipal Court shall be paid into the treasury for the use and benefit of the city.
- (c) In cases where a defendant complained of calls for a jury for his or her trial in the Municipal Court, and then by judgment is determined to be guilty, the judgment, at the discretion of the Judge, may include as costs a jury fee not in excess of that provided by statute.
- (d) In the event a case is appealed from the Municipal Court, the following costs shall be paid:
 - a. For preparation of the Clerk's record, \$25. The preparation fee does not include the fee for an actual transcription of the proceedings.

- b. The defendant shall pay the fee for the preparation of the Clerk's record, and the fee for an actual transcription of the proceedings.
- (e) The fees for dismissal of noncompliance traffic fines such as no driver's license on person; expired inspection stickers; expired registration, and the like shall be \$10 or, if the applicable statute so provides, the sum of \$20.
- (f) The time payment fee shall be \$25.

SECTION 2. PUBLIC PURPOSE. The City Council expressly finds that the amendment of code by the creation of a municipal court of record is necessary to provide a more efficient disposition of the cases arising in the municipality.

SECTION 3. INCORPORATION OF RECITALS. The City Council finds the recitals contained in the preamble to this ordinance are true and correct and incorporates them as findings of fact.

SECTION 4. REPEALER. All ordinances, resolutions, and code sections in conflict herewith are repealed to the extent of such conflict. The municipal court established pursuant to the general law is abolished in the manner prescribed thereby and all pending cases transferred to said court which shall assume jurisdiction thereof.

SECTION 5. SEVERABILITY. If any provision of this code is found by a court of competent jurisdiction to be invalid or unconstitutional, or if the application of this code to any person or circumstances is found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this code which can be given effect without the invalid or unconstitutional provision or application.

SECTION 6. EFFECTIVE DATE. The ordinance shall be effective immediately following its approval by the City Council.

ORDERED AND APPROVED, this 23rd day of **OCTOBER**, 2017.

CITY OF HONDO, TEXAS

By: _____

Hon. James W. Danner, Sr.
Mayor

ATTEST

Miguel Cantu
City Secretary

