

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE BY REVISING CHAPTER 2, ARTICLE IV, DIVISION 6 (MUNICIPAL COURT) FOR THE PURPOSE OF REMOVING THE OFFICE OF MUNICIPAL COURT ASSISTANT JUDGE; CLARIFYING APPOINTMENT AND REMOVAL PROVISIONS, QUALIFICATIONS, AND TERM OF OFFICE; PROVIDING FOR SUBSTITUTE JUDGES DURING A TEMPORARY ABSENCE OF A MUNICIPAL JUDGE, AND THE FILLING OF A VACANCY OF AN UNEXPIRED TERM; AND OTHER RELATED GENERAL REVISIONS; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”), to protect the public health, safety, and welfare; and

WHEREAS, [Ordinance No. 4992](#) created two Divisions of the Municipal Court of the City of Mesquite, Texas, (“**City**”) and the creation of the office of the City of Mesquite, Texas, *Municipal Court Associate Judge* to assist the *Municipal Court Presiding City Judge* in providing judicial services; and

WHEREAS, [Section 29.004](#) of the Texas Government Code states that a *Municipal Court Presiding City Judge* and any additional *Municipal Court Alternate Judges* are selected pursuant to a home-rule municipality’s charter provisions; and

WHEREAS, [Section 29.007](#) of the Texas Government Code provides for appointment of additional *Municipal Court Associate Judge(s)* pursuant to a home-rule municipality’s charter provisions, or by ordinance adopted by the City Council; and

WHEREAS, this ordinance removes the office of *Municipal Court Assistant Judge*; and

WHEREAS, this ordinance clarifies appointment and removal provisions, qualifications, and term of office in accordance with State law and the Texas Constitution; providing for *substitute judges* during a temporary absence of a municipal judge, and the filling of a vacancy of an unexpired term in accordance with State law; and

WHEREAS, Mesquite City Charter, Article IV, [Section 27](#), creates the Municipal Court of the City, and its jurisdiction; and

WHEREAS, the City is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life, and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government, order, and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life, and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code as herein provided.

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

SECTION 1. Recitals Incorporated.

The City Council hereby finds and determines the recitals made in the preamble of this Ordinance are true and correct, and hereby incorporates such recitals here in the body of this Ordinance as if copied in their entirety.

SECTION 2. MESQUITE CITY CODE TEXT AMENDMENT:

Amending Chapter 2 – ADMINISTRATION.

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code, Chapters, and Articles shall remain in full force and effect.

SECTION 3. Conflicts Resolution Clause.

In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Severability Clause.

Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.

SECTION 5. Effective Date.

That this ordinance shall take effect and be in force immediately upon its adoption pursuant to Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ON THE 5th DAY OF JUNE, 2023.

Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary

David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. _____

City of Mesquite, Texas

Mesquite City Code
Chapter 2 – Administration,
Article IV – Officials and Employees Generally,
Division 6 – Municipal Court.

MESQUITE CITY CODE

* * *

Chapter 2 – ADMINISTRATION

[Editor's Note: Make the following revisions with additions identified in green font and underlined, and deletions identified in ~~red font with strikethrough~~.]

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ARTICLE IV. – OFFICIALS AND EMPLOYEES GENERALLY

* * *

DIVISION 6. – MUNICIPAL COURT

Sec. 2-170. – In General.

The City has created and established the Municipal Court of the City of Mesquite, Texas, and its jurisdiction pursuant to Mesquite City Charter, Article IV, [Section 27](#).

(Ord. No. 4992, § 2(Exh. A), 10-17-22)

Charter reference— Municipal Court, Art. IV, [§ 27](#).

State Law reference— Municipal Courts, V.T.C.A. Government Code, Title 2, Subtitle A, Chapter 29.

Sec. 2-171. – Reserved.

Sec. 2-172. – Municipal Court; Divisions.

- (a) *In general.* Mesquite City Charter, Article IV, [Section 27](#), creates the Municipal Court of the City of Mesquite, Texas, and its jurisdiction.
- (b) *Divisions of Municipal Court.* There is hereby created and established two divisions of the Municipal Court of the City of Mesquite, Texas, in accordance with Texas Government Code, Chapter 29, Section 29.007, its successor or as amended. The Municipal Court Clerk shall serve as clerk of all the Divisions with the assistance of the Deputy Clerk as needed. The Municipal Court Presiding City Judge shall determine the allocation and administration of judicial duties and services for both Divisions of the Municipal Court.
 - (1) *Division 1.*
 - a. The Municipal Court Presiding City Judge shall preside over the Municipal Court of the City of Mesquite, Texas, Division 1. The Municipal Court Presiding City Judge may transfer cases, exchange benches, and preside over any other Divisions of the Mesquite Municipal Court.
 - b. It shall be permissible for any other Mesquite Municipal Court Judge, regardless of what his or her title may be, to supplement, and assist the Municipal Court Presiding City Judge in the provision of all judicial services for Division 1.
 - (2) *Division 2.*
 - a. The Municipal Court Associate Judge shall preside over the Municipal Court of the City of Mesquite, Texas, Division 2. The Municipal Court Associate Judge may transfer cases, exchange benches, and preside over any other Divisions of the Mesquite Municipal Court.

- b. It shall be permissible for any other Mesquite Municipal Court Judge, regardless of what his or her title may be, to supplement, and assist the Municipal Court Associate Judge in the provision of all judicial services for Division 2.

(Ord. No. 4992, § 2(Exh. A), 10-17-22)

Charter reference— Municipal Court, Art. IV, [§ 27](#).

State Law references— Municipal Courts, V.T.C.A. Government Code, Title 2, Subtitle A, Chapter 29 Municipal Courts. Divisions and panels of the Municipal Court, V.T.C.A. Government Code, § 29.007.

Sec. 2-173. – Municipal Court Presiding City Judge.

- (a) *In general.* The Municipal Court Presiding City Judge shall be appointed, and shall serve in accordance with State law, the City Charter, and this Section.
- (b) *Office of the Municipal Court Presiding City Judge.* There is hereby created the office of City of Mesquite, Texas, Municipal Court Presiding City Judge.
- (c) *Appointment and removal.*
- (1) *Appointment.* In accordance with the City Charter, Article IV, [Section 27](#), the City Council shall appoint one (1) person to serve as Municipal Court Presiding City Judge. Any person appointed to such office shall hold such office as provided by State law, and the City Charter.
 - (2) *Removal.* A municipal judge of a home-rule municipality may be removed from office by the City Council as provided by Section 1-a, Article V, Texas Constitution.
- (d) *Qualifications.* Any person appointed to such office shall be:
- (1) a resident, ~~qualified voter~~ of the City of Mesquite, Texas; ~~and, and shall hold such office as provided by State law, the City Charter, and this section.~~ and;
 - (2) a qualified voter of the City; and
 - (3) a citizen of the United States; and
 - (4) be a licensed attorney in good standing; and
 - (5) have two (2) or more years of experience in the practice of law in Texas.
- (e) *Term of office.* The Municipal Court Presiding City Judge serves for a term of office of two (2) years, and shall hold such office as provided by State law, the City Charter, and this section.
- (f) *Duties and powers.* The Municipal Court Presiding City Judge shall have all duties and powers granted under the State's constitution, State law, City Charter, and the Mesquite City Code.

(Ord. No. 4992, § 2(Exh. A), 10-17-22)

Cross reference – Municipal Court; Divisions; Chapter 2, Article IV, Division 6, [Sec. 2-172](#).

Charter reference— Municipal Court Presiding City Judge; [Appointment and removal](#); Art. IV, [§ 27](#); and Art. VIII, [§ 3](#).

State Law references—

Judges of the Municipal Court, V.T.C.A. Government Code, § 29.004.

Term of office, V.T.C.A. Government Code, § 29.005.

Judge, V.T.C.A. Government Code, § 30.00006.

Presiding Judge, V.T.C.A. Government Code, § 30.00007.

Removal of Judge, V.T.C.A. Government Code, § 30.000085.

Mesquite, V.T.C.A. Government Code, Title 2, Subtitle A, Chapter 30, Subchapter YY.

Sec. 2-174. – Municipal Court Associate Judge.

- (a) *In general.* Any Municipal Court Associate Judge(s) shall be appointed, and shall serve in accordance with State law, the City Charter, and this Section.
- (b) *Office of the Municipal Court Associate Judge.* There is hereby created the office of City of Mesquite, Texas, Municipal Court Associate Judge.
- (c) *Appointment and removal.*
 - (1) Appointment. The City Council may appoint one (1) person to serve as Municipal Court Associate Judge. Any person appointed to such office shall hold such office as provided by State law, and the City Charter.
 - (2) Removal. A municipal judge of a home-rule municipality may be removed from office by the City Council as provided by Section 1-a, Article V, Texas Constitution.
- (d) *Qualifications.* Any person appointed to such office shall be:
 - (1) ~~a resident, qualified voter of the City of Mesquite, Texas; and, and shall hold such office as provided by State law, the City Charter, and this section.~~
 - (2) a qualified voter of the City; and
 - (3) a citizen of the United States; and
 - (4) be a licensed attorney in good standing; and
 - (5) have two (2) or more years of experience in the practice of law in Texas.
- (e) Term of office. The Municipal Court Associate Judge serves for a term of office of two (2) years, and shall hold such office as provided by State law, the City Charter, and this section.
- (f) *Duties and powers.* The Municipal Court Associate Judge shall supplement, and assist the Municipal Court Presiding City Judge, appointed under the provisions of Article IV, Section 27 of the Mesquite City Charter, in the provision of all judicial services. Such Municipal Court Associate Judge shall have all the powers and duties of the Municipal Court Presiding City Judge while so acting.

(Ord. No. 3856, § 1, 3-5-07; Ord. No. 4992, § 2(Exh. A), 10-17-22)

Cross reference – Municipal Court; Divisions; Chapter 2, Article IV, Division 6, [Sec. 2-172](#).

Charter reference— Municipal Court; [Appointment and removal](#); Art. IV, [§ 27](#); and Art. VIII, [§ 3](#).

State Law references—

Term of office, V.T.C.A. Government Code, § 29.005.

Associate judges of the municipal court, V.T.C.A. Government Code, § 29.007.

[Judge, V.T.C.A. Government Code, § 30.00006.](#)

[Removal of Judge, V.T.C.A. Government Code, § 30.000085.](#)

~~Sec. 2-175. – Municipal Court Assistant Judge.~~

- ~~(a) *In general.* Any City of Mesquite, Texas, Municipal Court Assistant Judge(s) shall be appointed, and shall serve in accordance with State law, the City Charter, and this Section.~~
- ~~(b) *Office of the Municipal Court Assistant Judge.* There is hereby created the office of City of Mesquite, Texas, Municipal Court Assistant Judge.~~
- ~~(c) *Appointment and removal.* The City Council may appoint one (1) person to serve as Municipal Court Assistant Judge. Any person appointed to such office shall hold such office as provided by State law, and the City Charter.~~

- ~~(d) **Qualifications.** Any person appointed to such office shall be a resident of the City of Mesquite, Texas, a qualified voter of the City, and shall hold such office as provided by State law, the City Charter, and this section.~~
- ~~(e) **Duties and powers.** The Municipal Court Assistant Judge shall supplement, and assist the Municipal Court Presiding City Judge, appointed under the provisions of Article IV, Section 27 of the Mesquite City Charter, in the provision of all judicial services. Such Municipal Court Assistant Judges shall have all the powers and duties of the Municipal Court Presiding City Judge while so acting.~~

~~(Ord. No. 3856, § 1, 3-5-07)~~

~~**Cross reference**— Municipal Court; Divisions; Chapter 2, Article IV, Division 6, Sec. 2-172.~~

~~**Charter reference**— Municipal Court, Art. IV, § 27; and Art. VIII, § 3.~~

~~**State Law references**—~~

~~Alternate judges of the municipal court, V.T.C.A. Government Code, § 29.004.~~

~~Term of office, V.T.C.A. Government Code, § 29.005.~~

Sec. ~~2-176~~ 2-175. – Municipal Court Alternate Judge(s).

- (a) *In general.* Any City of Mesquite, Texas, Municipal Court Alternate Judge(s) shall be appointed, and shall serve in accordance with State law, the City Charter, and this Section.
- (b) *Office of the Municipal Court Alternate Judge.* There is hereby created the office of City of Mesquite, Texas, Municipal Court Alternate Judge.
- (c) *Appointment and removal.*
- (1) **Appointment.** The City Council may appoint one (1) or more persons to serve as Municipal Court Alternate Judge. Any person appointed to such office shall hold such office as provided by State law, and the City Charter.
 - (2) **Removal.** A municipal judge of a home-rule municipality may be removed from office by the City Council as provided by Section 1-a, Article V, Texas Constitution.
- (d) *Qualifications.* Any person appointed to such office shall be:
- (1) a resident of the City of Mesquite, Texas; and;
 - (2) a qualified voter of the City; and; ~~and shall hold such office as provided by State law, the City Charter, and this section.~~
 - (3) a citizen of the United States; and
 - (4) be a licensed attorney in good standing; and
 - (5) have two (2) or more years of experience in the practice of law in Texas.
- (e) **Term of office.** The Municipal Court Alternate Judges serves for a term of office of two (2) years, and shall hold such office as provided by State law, the City Charter, and this section.
- (f) *Duties and powers.* Municipal Court Alternate Judges shall supplement, and assist the Municipal Court Presiding City Judge, appointed under the provisions of Article IV, Section 27 of the Mesquite City Charter, in the provision of all judicial services. Such Municipal Court Alternate Judges shall have all the powers and duties of the Municipal Court Presiding City Judge while so acting.

(Code 1960, § 2-2; Code 1960, § 2-29; Code 1960, § 2-30; Ord. No. 4992, § 2(Exh. A), 10-17-22)

Cross reference – Municipal Court; Divisions; Chapter 2, Article IV, Division 6, Sec. 2-172.

Charter reference— Alternate judges; Appointment and removal; Art. IV, § 27; and Art. VIII, § 3.

State Law references— Alternate judges of the municipal court, V.T.C.A. Government Code, § 29.004.

Term of office, V.T.C.A. Government Code, § 29.005.

Judge, V.T.C.A. Government Code, § 30.00006.

Removal of Judge, V.T.C.A. Government Code, § 30.000085.

Sec. 2-176. – Temporary absence; Substitute judges.

- (a) Temporary absences. A temporarily absence may occur due to illness, family death, continuing legal or judicial education programs, or any other reason.

- (b) Substitute judges.
 - (1) Appointment by City Council.
 - a. In accordance with § 30.00008 of the Texas Government Code, or successor and as amended, the City Council may appoint one or more qualified persons, as substitute judges, to be available to serve for a Mesquite municipal judge who is temporarily absent.

 - b. A substitute judge must meet the qualifications prescribed for Municipal Court Alternate Judges.

 - c. In addition to any specifically appointed substitute judges, the Municipal Court Presiding City Judge, Municipal Court Associate Judge, and any Municipal Court Alternate Judges may all serve, as a substitute judge, for any Mesquite municipal judge who is temporarily absent.

 - (2) Selection and assignment by the Municipal Court Presiding Judge.
 - a. The Municipal Court Presiding City Judge shall select one of the qualified persons appointed by the City Council to serve during the temporary absence of any Mesquite municipal judge.

 - b. In the event the Municipal Court Presiding City Judge is temporarily absent, the Municipal Court Associate Judge shall serve in the role as a substitute judge.

 - (3) Duties and powers. The substitute judge, while serving as a Mesquite municipal judge, has all the powers and shall discharge all the duties of a Municipal Court Presiding City Judge, Municipal Court Associate Judge, or a Municipal Court Alternate Judge when appointed or selected to do so.

State law reference – Vacancies: Temporary Replacement, V.T.C.A. Government Code, § 30.00008.

Sec. 2-177. – Vacancies; Filling the office for the unexpired term.

If a vacancy occurs in the office of a Mesquite municipal judge, the City Council shall appoint a qualified person to fill the office for the remainder of the unexpired term.

State law reference – Vacancies: Temporary Replacement, V.T.C.A. Government Code, § 30.00008.

Secs. ~~2-177~~ 178— 2-179. - Reserved.

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