

**ORDINANCE 2023-0504B**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILMER, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WILMER TO REPEAL CHAPTER 7, "MUNICIPAL COURT", IN ITS ENTIRETY AND TO ADD A NEW CHAPTER 7 TO BE ENTITLED, "MUNICIPAL COURT OF RECORD", TO ESTABLISH THE WILMER MUNICIPAL COURT AS A MUNICIPAL COURT OF RECORD; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council is authorized to establish a municipal court of record pursuant to Chapter 30 of the Texas Government Code; and

**WHEREAS**, the City Council has determined that the creation of a municipal court of record is necessary in order to provide a more efficient process in the disposition of Municipal Court cases that arise within the City and to enforce ordinances of the City more effectively; and

**WHEREAS**, the City Council deems it in the public interest to establish a municipal court of record pursuant to Chapter 30 of the Texas Government Code, to be known as the Municipal Court of Record in the City of Wilmer.

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

**SECTION 1.** Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2.** Amendments.

Chapter 7, "Municipal Court", of the Code of Ordinances of the City of Wilmer, Texas, is hereby repealed in its entirety.

A new Chapter 7 entitled, "Municipal Court of Record", is hereby adopted into the Code of Ordinances of the City of Wilmer and shall be and read in its entirety as follows:

**CHAPTER 7 – MUNICIPAL COURT OF RECORD**

**7.01. Court Established.**

The City Council hereby establishes the Wilmer Municipal Court as a municipal court of record in order to provide a more efficient disposition of cases arising in the City, and in order to enforce the ordinances of the City more effectively. The Wilmer Municipal

Court shall become a court of record from and after the effective date of this Ordinance, and shall be known as "The Municipal Court of Record in the City of Wilmer".

#### **7.02. Municipal Court Judge.**

The judge of the municipal court of record in the City of Wilmer shall be appointed by the City Council by ordinance for a term of two (2) years. The municipal judge must be a licensed attorney in good standing in the State of Texas and must have two (2) or more years of experience in the practice of law in Texas. The judge must be a citizen of the United States and the State of Texas. The City Council shall establish the salary of the judge, which shall not be based directly or indirectly on fines or costs collected by the court. Such salary may not be diminished during the term for which the judge is appointed.

#### **7.03. Appointment of Court Clerk and Court Personnel.**

The City Administrator shall appoint a clerk of the municipal court of record who shall perform duties in accordance with state law and City ordinance. During the proceedings of the Court, the clerk and other court personnel shall serve at the direction of the municipal court judge. At all other times they shall serve at the direction and supervision of the City Administrator who shall have the authority to remove the court clerk or other personnel according to the rules set forth in the City's personnel policies. The clerk of the municipal court of record shall keep the records of the municipal court of record and issue, process, and perform the duties described in Section 30.00009 of the Texas Government Code.

The City shall require the court clerk, before entering upon the duties of the office, to execute a good and sufficient surety company bond, in such amount as the City may demand, payable to the City and conditioned for the faithful performance of the duties of the office. The premium of such bond is to be paid by the City.

#### **7.04. Vacancies; Associate Judge.**

If a vacancy occurs in the office of a municipal judge of a court of record, the City Council shall by ordinance appoint a qualified person to fill the office for the remainder of the unexpired term. The City Council may appoint more than one qualified person as an associate judge to be available to serve for a municipal judge who is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason. The municipal judge shall select one of the qualified persons appointed by the

City Council to serve during the absence of the municipal judge. The associate judge, while serving as a municipal judge, has all the powers and shall discharge all the duties of a municipal judge. An associate judge must meet the qualifications prescribed for the municipal judge. The City Council shall set the compensation for the associate judge.

#### **7.05. Fines.**

All monies received as court-imposed fines or penalties shall be paid into the general fund of the City treasury, unless otherwise required by State law.

#### **7.06. Municipal Court Jurisdiction.**

The municipal court of record has the jurisdiction provided by Chapter 30 of the Government Code for municipal courts of record.

#### **7.07. Terms of Government Code Adopted.**

The municipal court of record is established pursuant to the authority granted in Subchapter A, Chapter 30, of the Government Code of the State of Texas, known as the Uniform Municipal Courts of Record Act, and the terms set forth therein are hereby adopted governing the operation of said court.

#### **7.08. Court Reporter.**

The proceedings of trials in municipal court of record shall be recorded by a good quality electronic recording device and kept for a period of twenty-one (21) days after the last day of the court proceedings, trial, or denial of a motion for a new trial, whichever occurs last. If the case is appealed, the proceedings shall be transcribed from the recording by an official court reporter.

#### **7.09. Jury.**

The court clerk shall supervise the selection of persons for jury service in the municipal court of record.

#### **7.10. Transcript Preparation Fee.**

In the event of an appeal, the appellant shall pay a transcript preparation fee in the amount of \$25. The transcript preparation fee does not include the fee for an actual transcript of the proceedings, which the appellant must pay. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee for the actual transcript of the proceedings and statement of facts must be paid by the appellant.

### **7.02. ARTICLE FEES AND FUNDS**

#### **Building security fund.**

The city council does hereby establish a municipal court building security fund as provided

by Senate Bill No. 349, 74th Legislature, Regular Session, 1995. The city administrator is hereby directed to establish an account to receive funds for this purpose. The funds received and deposited in the account shall be used only in accordance with the revised article 102.017 of the Texas Code of Criminal Procedure. These funds shall be at all times under the direction of the city council and shall be administered according to the direction of the city council.

**Technology fund.**

The city council does hereby establish a municipal court technology fund as provided by Senate Bill No. 601, 76th Legislature, Regular Session, 1999. The city administrator is hereby directed to establish an account to receive funds for this purpose. The funds received and deposited in the account shall be used only in accordance with the revised article 102.0172 of the Texas Code of Criminal Procedure. These funds shall be at all times under the direction of the city council and shall be administered according to the direction of the city council.

**SECTION 3.** This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the Ordinance shall remain in full force and effect.

**SECTION 4.** If any section, subsection, clause, phrase or provision of this Ordinance, or any application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or any application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

**SECTION 5.** This Ordinance shall become effective immediately upon its passage and adoption in accordance with state law.

**ATTEST:**



Mayra A. Ortiz, City Secretary

**APPROVED:**



Sheila Petta, Mayor

**APPROVED AS TO FORM:**



Michael B. Halla, City Attorney