

ORDINANCE NO. 2005-05-24-002
(REVISION OF NO. 1999-09-21-004)

AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS PROVIDING FOR THE PROCEDURE, PRACTICE AND ADMINISTRATION OF THE KEMPNER MUNICIPAL COURT CONSISTENT WITH STATE LAW; PROVIDING FOR LOCAL RULES AND OTHER REQUIREMENTS; PROVIDING OPEN MEETINGS; SEVERABILITY CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

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

Section 1. Municipal Court Established. There is hereby created and maintained in the city, a municipal court.

- a. **State law.** The municipal Court is hereby created and established and shall have the full powers as set forth in V.T.C.A., Government Code Chapter 29, as amended from time to time. The City Council may prescribe such additional rules as are not inconsistent with the law creating the municipal court, or in conflict with the general laws of the state.
- b. **Clerk of court.** The city secretary, or other person appointed by the council, shall be ex-officio clerk of the court and is hereby authorized to appoint a deputy with the same powers as the secretary. The ex-officio clerk shall hold office during his/her term as otherwise prescribed by the city council. The clerk shall keep minutes of the proceedings of the municipal court, issue all process and generally perform the duties of the clerk of a county court, as prescribed by law for a county clerk in so far as the same may be applicable. It shall be the further duty of the clerk to make a monthly report of all fines and collections and the disposition of all cases, and file the same with the council.
- c. **Fines imposed by court.** The fines imposed in the municipal court may be the same as are prescribed for like offenses by the penal statutes of the state, but shall never be greater. Where any offense is covered solely and alone by ordinances of the city, such ordinance shall control. All fines assessed by the municipal court shall be paid to the clerk of the municipal or some officer designated by her to receive the same.
- d. **Clerk may tax costs.** The clerk of the municipal court may tax costs in each case the same is allowed in the justices' courts of this state to the justice of the peace and county attorney and the constable for like services. Such costs and fines may be collected by the clerk and turned into the city treasury, taking the receipt of such treasurer for the same.
- e. **City attorney to represent city.** The city attorney, either in person or deputy, shall be required by the city council from time to time, represent the city in the prosecution of each and every complaint, and for such representation there may be taxed and collected as cost by the

clerk of the municipal court the same fees as are allowed in a like case to the county attorney by the statutes of the state. Such fees when collected are to be paid to the clerk of the city by the clerk of the municipal court.

f. Jurisdiction. The municipal court shall have concurrent jurisdiction within the limits of the city, in criminal matters, with the courts of the justices of the peace, as is provided by statutes of the state. The rules of procedure for justice courts and the rules of evidence, as provided by the statutes of the state for the county court, shall be the rules of procedure and laws governing the different subjects tried in the municipal court. See. V.T.C.A., Government Code § 29.003 and Vernon's Ann. C.C.P. art. 4.14; evidence, Vernon's Ann. C.C.P. art. 4.15; court procedures, Vernon's Ann. C.C.P. art. 45.01 et seq.

g. Municipal judge.

(a) Council to appoint. The office of judge of the municipal court shall be filled by appointment by the council. The judge shall be at least 18 years of age and shall not have been convicted of a felony nor a crime involving moral turpitude.

(b) Duties. The judge of the municipal court shall perform the duties as prescribed by the laws of the state. The judge shall be responsible for setting the time for the trial of cases.

(c) Term of appointment; compensation. The judge shall be appointed for a term of office running concurrently with the office of the mayor. He/she shall receive such compensation as the council shall fix by ordinance or resolution, and shall furnish such surety bond as may be required by the council, the premium to be paid by the city.

h. Administrative judge. The City Council may appoint an administrative judge. The administrative judge shall be responsible for uncontested matters including authorizing defensive driving, accepting no contest or guilty pleas for judgment and other matters not requiring a hearing and assessing the approved fine and penalty for the offense alleged. Any defendant requesting a variance from the approved fines or penalties shall be set for appearance before the presiding judge to determine the proper fine or penalty. The City Council may designate a court clerk as the administrative judge.

i. Fines and punishment.

The court is authorized to establish policies and procedures for setting and assessing fines that are consistent with the appropriate policies and procedures set forth by the State in the Code of Criminal Procedure and applicable to the particular offense alleged. Punishment and fines may be assessed and include all remedies available under the State law for the particular offense alleged. Fines and punishment under any ordinance of the City shall be set forth in the ordinance and include any additional remedies that would be available under State law.

j. Cases to be tried in open court. All cases coming before the municipal court shall be tried and disposed of in open court.

k. City employee not to represent defendant. It shall be unlawful for any person who receives a salary from the city to be in any way, directly or indirectly, interested in the defense of any person charged with the violation of any ordinance of the city or any of the criminal laws of the state, except so far as may be necessary, to give evidence on behalf of persons so charged with violating any of such ordinances or criminal laws.

l. Local rules. The judge may from time to time adopt local rules and procedures for administration of the court, which are not inconsistent with the procedural requirements of the State.

Section 2. Repeal of Conflicting Ordinances. All parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.


Section 3. Severability. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is 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, Chapt. 511, Tex. Gov't. Code.

Attest:

CITY OF KEMPNER, TEXAS



Frances Spinney, City Secretary



Gene Isenhour, Mayor

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