

**ORDINANCE NO. 2020 - 315**

**AN ORDINANCE OF THE CITY OF DEVERS, TEXAS, ESTABLISHING THE CITY OF DEVERS MUNICIPAL COURT AS A MUNICIPAL COURT OF NON-RECORD; CREATING THE OFFICE OF MUNICIPAL COURT JUDGE AND PROVIDING FOR APPOINTMENT OF SAME; CREATING THE OFFICE OF MUNICIPAL COURT CLERK AND PROVIDING FOR THE APPOINTMENT OF SAME; CREATING THE POSITION OF COURT PROSECUTOR AND PROVIDING FOR THE APPOINTMENT OF SAME; ESTABLISHING A COURT SECURITY COMMITTEE; PROVIDING FOR A MUNICIPAL COURT BUILDING SECURITY FUND; PROVIDING FOR ASSESSMENT AND COLLECTION OF A MUNICIPAL COURT BUILDING SECURITY FUND FEE; PROVIDING FOR A MUNICIPAL COURT TECHNOLOGY FUND; PROVIDING FOR ASSESSMENT AND COLLECTION OF A MUNICIPAL COURT TECHNOLOGY FUND FEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Devers, Liberty County, Texas (the "City"), is a Type B general-law municipality and the City Council of the City of Devers, Liberty County, Texas (the "City Council"), has the authority to adopt an ordinance, not inconsistent with state law, that the City Council considers proper for the governance of the City pursuant to Texas Local Government Code, Section 51.032; and

**WHEREAS**, Chapter 29 of the Texas Government Code governs the creation, organization, and jurisdiction of municipal courts in general-law municipalities; and

**WHEREAS**, Section 29.002, Texas Government Code, created a municipal court in each municipality in the State of Texas, including the City; and

**WHEREAS**, the City Council has the authority conferred by Texas Government Code, Section 29.002 to establish a municipal court with exclusive original jurisdiction and concurrent jurisdiction over certain matters occurring within the City's territorial limits or extraterritorial jurisdiction; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City and its residents to establish the City of Devers Municipal Court as a municipal court of non-record as provided for in this Ordinance to provide for the enforcement of its municipal ordinances and to protect the public health, safety, and welfare; and



**WHEREAS**, the City Council desires to create the offices of the municipal judge, prosecutor and court clerk and to provide for the appointment and qualifications of the judge and court clerk of the municipal court pursuant to Section 29.004(b), Texas Government Code; and

**WHEREAS**, Texas Government Code, Section 29.014 requires the creation of a Court Security Committee; and

**WHEREAS**, Article 102.0 of the Code of Criminal Procedure provides for the establishment of a Municipal Court Building Security Fund; and

**WHEREAS**, Article 102.0172 of the Code of Criminal Procedure provides for the establishment of a Municipal Court Technology Fund; and

**WHEREAS**, the City Council of the City of Devers finds that establishing a municipal court building security fund fee and a municipal court technology fund fee is a fair and appropriate way to acquire funding for these important purposes, as is authorized by state law.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEVERS, LIBERTY COUNTY, TEXAS THAT:**

#### **SECTION I. ESTABLISHMENT OF CITY OF DEVERS MUNICIPAL COURT**

The City Council hereby establishes the Municipal Court of the City of Devers, Liberty County, Texas as a municipal court of non-record.

#### **SECTION II. CITY OF DEVERS MUNICIPAL COURT.**

- (a) In order to protect the public health, safety, and welfare and effectively enforce the ordinances of the City, there is hereby established one (1) municipal court within the City of Devers, Liberty County, Texas with the designation of "The City of Devers Municipal Court" (the "Municipal Court").
- (b) All prosecutions in the Municipal Court shall be conducted as provided for in Code of Criminal Procedure, Article 45.002, as may be amended from time to time. Complaints and pleadings must substantially conform to the relevant provisions of Code of Criminal Procedure, Chapters 27, 39 and 45.

#### **SECTION III. JURISDICTION OF COURT.**

- (a) The Municipal Court has exclusive original jurisdiction over cases arising within the City's territorial limits and property owned by the City located in the City's extraterritorial jurisdiction to the extent provided for by Government Code, Section 29.003, Texas Code of Criminal Procedure, Article 4.14, the Texas Constitution, Texas state law, and pursuant to ordinances duly passed by the City Council.



- (b) The Municipal Court has concurrent jurisdiction with the justice court of a precinct in which the City is located in all criminal cases arising under state law that arise within the City's territorial limits or property owned by the City located in the City's extraterritorial jurisdiction to the extent provided for by Government Code, Section 29.003, Texas Code of Criminal Procedure, Article 4.14, the Texas Constitution, Texas state law, and pursuant to ordinances duly passed by the City Council.

**SECTION IV. CREATION OF OFFICE OF MUNICIPAL COURT JUDGE  
AND APPOINTMENT OF MUNICIPAL COURT JUDGE**

- (a) The office of Municipal Court Judge is hereby created, and shall receive such compensation as may be fixed by the City Council.
- (b) The Municipal Court Judge shall have all the powers and authority as granted by Texas state law and the ordinances of this City, and shall perform the duties as required by Texas state law and the ordinances of this City.
- (c) The City Council shall appoint the Judge of the Municipal Court of the City.
- (d) The Municipal Court Judge shall be appointed for a term of two (2) years and such term shall coincide with the term of the current mayor of the City.
- (e) If the City Council fails to reappoint the Municipal Court Judge or appoint a new Municipal Court Judge by the 91<sup>st</sup> day following the expiration of the Judge's term then said Judge shall continue to serve for another term of office beginning on the date the previous term of office expired.
- (f) If the regular Municipal Court Judge is temporarily unable to act, the City Council may appoint any other qualified person to serve temporarily as the Municipal Court Judge.
- (g) If a vacancy exists in the office of Municipal Court Judge, the City Council shall by appointment fill the vacancy for the remainder of the unexpired term of office.
- (h) The Mayor of the City ceases to be the ex officio Municipal Court Judge on the date of appointment of the Municipal Court Judge.
- (i) The City Council hereby appoints John W. Wilson to serve as Municipal Court Judge of the Municipal Court of the City of Devers to be effective as of the date of his appointment.

**SECTION V. CREATION OF OFFICE OF MUNICIPAL COURT CLERK  
AND APPOINTMENT OF MUNICIPAL COURT CLERK**

- (a) The office of Municipal Court Clerk is hereby created, and shall receive such compensation as may be fixed by the City Council.

- (b) The Municipal Court Clerk shall have all the powers and authority as granted by Texas state law and the ordinances of this City, and shall perform the duties as required by Texas state law and the ordinances of this City.
- (c) The Municipal Court Clerk shall be appointed to the office by the City Council and shall be subject to removal at any time by the City Council.
- (d) The Clerk of the Municipal Court shall keep minutes of the proceedings of the Municipal Court, issue all process, and generally perform the duties for the Municipal Court as required by law.
- (e) The City Secretary, who is appointed by the City Council, shall serve as the Municipal Court Clerk unless the City Council appoints another person to serve as the Municipal Court Clerk.

**SECTION VI. CREATION OF POSITION OF MUNICIPAL COURT PROSECUTOR  
AND APPOINTMENT OF MUNICIPAL COURT PROSECUTOR**

- (a) The office of Municipal Court Prosecutor is hereby created, and shall receive such compensation as may be fixed by the City Council.
- (b) The Municipal Court Prosecutor shall have all the powers and authority as granted by Texas state law and the ordinances of this City, and shall perform the duties as required by Texas state law and the ordinances of this City.
- (c) The City Attorney, who is appointed by the City Council, shall be the Municipal Court Prosecutor (“Prosecutor”) unless the City Council appoints another attorney to serve as Prosecutor, in which case the Prosecutor shall be a Deputy City Attorney.

**SECTION VII. COURT SECURITY COMMITTEE**

- (a) There is hereby created and established a Court Security Committee (the “Committee”) pursuant to Texas Government Code, Section 29.014.
- (b) The Municipal Court Judge shall establish a court security committee composed of:
  - (1) The Municipal Court Judge, or the Judge’s designee;
  - (2) A representative of the law enforcement agency or other entity that provides the primary security for the court;
  - (3) A representative of the municipality; and
  - (4) Any other person the committee determines necessary to assist the Committee.
- (c) The person described by subsection (a)(1) serves as presiding officer of the Committee.
- (d) The Committee shall establish the policies and procedures necessary to provide adequate security to the municipal court served by the Municipal Court Judge.



- (e) The Committee may recommend to the municipality the uses of resources and expenditures of money for courthouse security, but may not direct the assignment of those resources or the expenditure of those funds.

#### **SECTION VIII. MUNICIPAL COURT BUILDING SECURITY FUND**

- (a) There is hereby created and established a Municipal Court Building Security Fund (the "Building Security Fund") pursuant to Article 102.017 of the Code of Criminal Procedure.
- (b) The Municipal Court of the City of Devers, Texas is hereby authorized and required to assess a Municipal Court Building Security Fee (the "Building Security Fee") in the amount of \$3.00 against all Defendants convicted of a misdemeanor offense by the Municipal Court. Each misdemeanor conviction shall be subject to a separate assessment of the Building Security Fee.
- (c) A person is considered to have been convicted in a case if:
  - (1) A sentence is imposed on the person;
  - (2) The person receives community supervision, including deferred adjudication; or
  - (3) The Court defers final disposition of the person's case.
- (d) The Building Security Fee shall be collected on convictions for offenses committed on or after this ordinance is adopted.
- (e) The Building Security Fee is to be collected by the clerk of the court and remitted to the municipal treasurer for deposit in a fund to be established and known as the Municipal Court Building Security Fund. Money in the fund may be used only to finance those items as specified in Code of Criminal Procedure, Article 102.017 when used for the purpose of providing security services for buildings housing a municipal court.
- (f) The Building Security Fund will be administered by or under the direction of the City Council.

#### **SECTION IX. MUNICIPAL COURT TECHNOLOGY FUND**

- (a) There is hereby created and established a Municipal Court Technology Fund (the "Technology Fund") pursuant to Article 102.0172 of the Code of Criminal Procedure.
- (b) The Municipal Court of the City of Devers is hereby authorized and required to assess a Municipal Court Technology Fee (the "Technology Fee") in the amount of \$4.00 against all Defendants convicted of a misdemeanor offense by the Municipal Court. Each misdemeanor conviction shall be subject to a separate assessment of the Technology Fund Fee.
- (c) A person is considered to have been convicted in a case if:

- (1) A sentence is imposed on the person;
  - (2) The person receives community supervision, including deferred adjudication; or
  - (3) The Court defers final disposition of the person's case.
- (d) The Technology Fee shall be collected on convictions for offenses committed on or after this ordinance is adopted.
- (e) The Technology Fee is to be collected by the clerk of the court and remitted to the municipal treasurer for deposit in a fund to be established and known as the Municipal Court Technology Fund. Money in the fund may be used only to finance those items as specified in Code of Criminal Procedure, Article 102.0172 when used for the purpose of technology for buildings housing a municipal court.
- (f) The Technology Fund will be administered by or under the direction of the City Council.

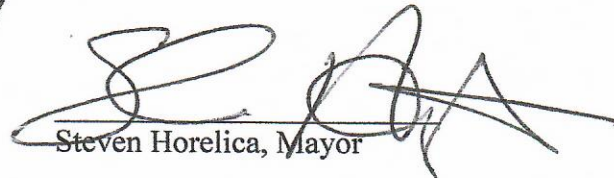
**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Devers, Liberty County, Texas, that this Ordinance shall become effective upon signature by the Mayor, or, if not signed or vetoed by the Mayor, upon expiration of the time for ordinances to become law without the signature by the Mayor.

**BE IT FURTHER ORDAINED** that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this ordinance are hereby declared severable.

**BE IT FURTHER ORDAINED** that all ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above and foregoing ordinance shall be in full force and effect from and after its adoption, approval and publication, as provided by law.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Devers, this the 11<sup>th</sup> day of February, 2020.

  
Steven Horelica, Mayor

**ATTEST:**

  
Kristi Ayers, City Secretary