

ORDINANCE NO. 123

AN ORDINANCE CREATING AND PROVIDING FOR A MUNICIPAL COURT OF RECORD PURSUANT TO THE PROVISIONS OF THE UNIFORM MUNICIPAL COURT OF RECORD ACT, TEXAS GOVERNMENT CODE SECTIONS 30.00001 THROUGH 30.00027 AND ADOPTING STANDARDS AND REGULATIONS REGARDING THE INDIAN LAKE MUNICIPAL COURT INCLUDING REGULATIONS AFFECTING THE MUNICIPAL JUDGE AND OTHER MUNICIPAL COURT STAFF AND THE APPOINTMENT OF THE MUNICIPAL COURT JUDGE; REPEALING ALL KNOWN ORDINANCES OR PART OF ORDINANCES IN CONFLICT THERE WITH; PROVIDING A SEVERABILITY CLAUSE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Town of Indian Lake currently has a municipal court of non-record; and

WHEREAS, Chapter 30 of the Texas Government Code authorizes the governing body of a municipality to create a municipal court of record in order to provide for more efficient disposition of cases arising in the municipality; and

WHEREAS, the Town Council of Indian Lake has determined that it would be in the public interest of the citizens of the Town of Indian Lake to establish a municipal court of record; and

WHEREAS, the Town Council of Indian Lake finds that certain standards and guidance should be utilized in the Indian Lake Municipal Court in order to better serve the citizens, the public, and the parties who appear before the court; and

WHEREAS, the Town Council of Indian Lake finds that it has encountered unexpected growth of the Town and improved procedures and processes are needed to handle changes in the Court related to the Town's growth; and

WHEREAS, the Town Council of Indian Lake finds the impartial and fair procedures already utilized by the Municipal Court should be memorialized for the Municipal Court of Record and to better assist the public; and

WHEREAS, the presiding Municipal Court Judge shall be a licensed attorney in the State of Texas who is qualified to sit as a municipal court of judge for a court of record; and

WHEREAS, the Town Council of Indian Lake recently retained a new Town attorney and Prosecutor and that such attorney has requested updates to the procedures utilized in municipal court to allow for remote access and handling the court and as well as updates due to changes by the state legislature.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN LAKE, TEXAS that the following regulations are hereby adopted and shall have immediate effect upon passage:

I. Municipal Court

- A. Creation – There is hereby created a court in the Town of Indian Lake, Texas, to be known as the Indian Lake Municipal Court of Record. Such court may be referenced simply as the Indian Lake Municipal Court for administrative purposes.
- B. Jurisdiction – The Indian Lake Municipal Court of Record shall have jurisdiction over Class C misdemeanor offenses as provided by the laws of the State of Texas, and exclusive jurisdiction over its municipal ordinances.
 - a. The Municipal Court of Record shall additionally have:
 - i. Concurrent jurisdiction with a District Court of record or a County Court at Law Under Subchapter B, Chapter 54, Local Government Code, within the territorial limits of the Town and all property owned by the Town of Indian Lake located in the Town’s extraterritorial jurisdiction for the purpose of enforcing health, safety and nuisance abatement ordinances;
 - ii. Civil jurisdiction authorized by state law, including but not limited to enforcing City Ordinances authorized pursuant to Subchapter A, Chapter 214, Local Government Code, or Subchapter E, Chapter 683, Texas Transportation Code and any other state or federal law conveying authority or jurisdiction upon a municipal court of record.
 - b. The Indian Lake Municipal Court of Record shall furthermore have authority to:
 - i. Issue search warrants for the purpose of investigating a health or safety or nuisance abatement ordinance violation or any other administrative or criminal warrants authorized by state law;
 - ii. To issue seizure warrants for the purpose of securing, removing or demolishing the offending property and removing the debris from the premises or any other administrative or criminal warrants authorized by state law;

- iii. To hear all criminal cases arising under the code and the ordinances of the Town and shall also have concurrent jurisdiction with the justice of the peace in the county precinct in which this town is situated in all criminal cases arising under the criminal laws of the state in which punishment is by fine only, and where the maximum of such fine may not exceed the limits as set forth by ordinance or state law;
 - iv. To hear all other cases in which state or federal law permits municipal courts of record to adjudicate the cases.
- c. The Indian Lake Municipal Court of Record shall have all other powers, authorities, and jurisdiction allowed to be exercised by a court of record under state law.
 - d. The Indian Lake Municipal Court of Record in the Town of Indian Lake, Texas, shall become effective immediately upon the passage of this code provision. Upon such effective date, the non-record Municipal Court of the Town of Indian lake is abolished as the Town cannot have both a court of record and a court of non-record. All cases pending in the non-record court shall be automatically transferred to the record court, maintain all charging instruments, case documents, and filings. All administrative matters of the non-record court and business operations shall be transferred to the record court automatically.

C. Court Management

- a. In order to consolidate Town resources, avoid duplication of effort and costs, and more efficiently manage Town and court operations, the municipal court shall utilize the Town's finance department for all financial aspects of the court, the Town's Human Resource personnel to handle all aspects of court staff, employees, and the compensation to any municipal court judge, the Town's public works staff for handling of any matters related to physical access and the availability of Town facilities for holding court or conducting court matters. The presiding judge shall coordinate through the Town secretary or the mayor for all administrative matters of the court which require the use of Town resources.

II. Municipal Judge

A. Presiding Judge

- 1) The Court shall be presided over by a presiding municipal judge. The presiding municipal judge shall be recommended by the mayor and confirmed by the Town Council, by ordinance, for a term of two (2) years which shall correspond to the term of the office of the Mayor of the Town of Indian Lake.

- 2) The presiding judge shall receive such compensation as may be determined by the Town Council. The compensation shall be fixed and commensurate with the duties performed by the presiding judge.
- 3) The presiding judge may be removed from office for lack of confidence or for cause, if, after the judge is given notice and an opportunity to be heard, upon the recommendation of the mayor and confirmation by the Town Council to remove the judge from office by the affirmative vote of a majority of the full Town Council.
- 4) If the presiding judge resigns for any reason, the mayor is authorized to accept or reject such resignation.
- 5) The Municipal Judge shall be:
 - a. A resident of Cameron County and the State of Texas;
 - b. A citizen of the United States of America;
 - c. A licensed attorney at law of the State of Texas;
 - d. In good standing with the State bar of Texas;
 - e. Have two (2) or more years' experience in the practice of law in the state of Texas; and
 - f. Any other qualifications the City Council may determine, from time to time, are necessary for the position.
- 6) Any substituted judge, acting in the absence of the Municipal Judge, shall have all the powers and shall discharge all the duties of the Municipal Judge. Any substitute judge must meet the qualifications prescribed for the Municipal Judge.
- 7) The Municipal Judge may be removed from his/her position pursuant to state law, including but not limited to, when a determination is made by the City Council that the Municipal Judge is no longer qualified for the position, has committed malfeasance, is determined to be incapable of performing his/her duties as required, or is otherwise unfit for the position. The Municipal Judge can only be removed by the City Council. The Municipal Judge does not report to the City Manager but is the judicial official in charge of the Indian Lake Municipal Court pursuant to Chapter 30 of the Texas Local Government Code. As such, the Municipal Judge retains the ability to remove any substitute or alternate judges if the Municipal Judge feels such substitute or alternate judge is not performing properly in his/her absence.

B. Alternate Judge

- 1) The Town Council may appoint or remove such alternative, associate, and temporary judges upon recommendation of the mayor as deemed appropriate and authorized by law.
- 2) The alternate judge shall serve in the absence of the presiding judge and shall have all the powers and shall discharge all the duties of the presiding judge in the absence of the presiding judge.
- 3) The alternate judge may also be assigned such additional duties and determined to be necessary by the presiding judge.
- 4) The alternate judge's compensation shall be set by the Town Council. However, the alternate judge reports to the presiding judge for supervision.
- 5) If the alternate judge resigns for any reason, the mayor is authorized to accept or reject such resignation.

C. Standards and Responsibilities - The presiding and alternate judges shall:

- 1) Be a resident of Cameron County and 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 qualified to hold a municipal judge position in a court of record as required by state law, including but not limited to maintaining all legal and judicial education credits from an appropriate training facility;
- 4) Have two (2) or more years' experience in the practice of law in the State of Texas;
- 5) Have any other qualifications the Town Council may determine, from time to time, are necessary for the position and be qualified under the Town's ordinances;
- 6) Be competent and have sufficient knowledge to interpret federal and state statutes and Town ordinances, as well as department rules and regulations;
- 7) Be competent and have sufficient knowledge of judicial procedure and rules of evidence as well as the organization, duties, powers, limitations and authority of the municipal court;
- 8) Be competent and have sufficient knowledge to analyze evidence, apply existing laws impartially and render prompt, equitable verdicts;
- 9) Not otherwise be employed with the Town of Indian Lake or hold any other office or position with the Town of Indian Lake at any time.

- 10) Ensure all judicial and administrative functions of the municipal court operate efficiently and in accordance with state and local law.
- 11) Be aware the municipal clerks, bailiffs, and warrant officers may be shared employees with the Town which requires the municipal judge to properly schedule and accommodate for efficient operation.
- 12) Preside over municipal court for all class C misdemeanors, Town matters, jury and nonjury trials, pre-trial conferences, juvenile warnings and other cases appropriately tried in municipal court;
- 13) Work with Town administration for the administrative hosting of the court by the Town, including but not limited to, ensuring a proper budget is presented timely to Town council, working with the mayor on all matters related to court employees and operations, and managing all administrative records of the court;
- 14) Comply with statistical reporting and records management policies and procedures in accordance with state and local law;
- 15) Hear cases presented to the court, under the criminal, civil, and administrative jurisdiction of the court;
- 16) Timely execute court documents, including but not limited to orders, warrants, summons, judgments, and writs;
- 17) Perform all magistrate duties as authorized by state law;
- 18) Act as an administrative hearing officer when authorized by Town ordinance and/or state law;
- 19) Cooperate with Town departments, officials, and employees in sharing the allocation of Town resources;
- 20) Administer oaths;
- 21) Schedule, preside over and determine cases and appropriate hearings (including, but not limited to, property, emergency protective order, code enforcement, etc.);
- 22) Approve docketing, calendaring and case management policies and procedures as submitted by Court administration staff;
- 23) Be competent to perform legal analysis of case law, statutes, ordinances, and rules;
- 24) Remain abreast of changes in the law;

- 25) Be available, as needed, during or after regular court hours of operation to perform any necessary magistrate duties, review filings and sign orders or warrants;
- 26) Collaborate with the applicable Town departments to ensure policies, ordinances and orders are within the parameter of state law, but also consistent with the values of the community and needs of the departments;
- 27) Collaborate with the Town Council to establish Judge-specific performance benchmarks regarding the effectiveness and productivity of the court;
- 28) Be aware of Town expectations and must:
 - i. Administer justice fairly and impartially and do so for all parties to a case filed and before the judge.
 - ii. Follow all statutory and ordinance requirements while avoiding any waste of Town shared resources.
 - iii. Be mindful and observe or utilize any available changes in technology, processes, equipment, or personnel to seek improvement and better efficiency in court operations.
 - iv. Not discriminate based on race, color, religion, sex, national origin, age, disability, military or veteran status, or status in any group protected by applicable federal, state or local law against any party in a case before the court, any court staff member, or any member of the public.
 - v. Act professionally with all parties, witnesses, departments of the Town, court personnel, and members of the public. Such includes but is not limited to avoiding offensive or physically threatening language, keeping a professional demeanor which is appropriately calm and polite, and being respectful of others' time, opinions, and positions.
 - vi. Keep Town administration timely advised of any administrative (i.e. non-judicial or non-case related) matters which affect the sharing of Town resources.
 - vii. Coordinate and cooperate properly with Town departments in relation to court employee matters and shared employees, including HR related documentation and payroll information.
 - viii. Actively participate in the court security committee as required.
 - ix. Not, while performing the duties of a judicial office, be under the influence of any substance, including alcohol, drugs (prescription

or recreational), or supplements which negatively affect the judge's mental abilities or the ability to comply with the requirements of this ordinance. Further definitions of these terms shall be found in the Town's personnel policy manual.

- x. Project a professional appearance at all times while performing the role of a judge, including being well groomed and being dressed appropriately for each hearing, setting, or meeting.
- xi. Be prepared for each court docket in a timely manner.
- xii. Be punctual and on-time for all hearings, settings, and meetings.
- xiii. Avoid not only actual conflicts of interest, but the perception of a legal conflict of interest.
- xiv. Abide by any requirements utilized by the Town in relation to the facilities where court personnel work, including but not limited to, the Town's adopted smoke-free workplace policy, security policies, access to electronic security policies, and public access policies.
- xv. Abide by any requirements utilized by the Town in relation to reimbursement to a judge for authorized expenses, use of the proper financial, disclosure, and administrative forms utilized by the Town which apply to the judge.
- xvi. Abide by Rule 12 of the Texas Rules of Judicial Administration which provides for access to certain court records. As the Texas Public Information Act does not apply to municipal court records, the municipal judges must follow Rule 12 to allow public access to designated records.
- xvii. Be individually responsible for paying for and attending any and all necessary judicial education training needed to retain the position.

29) Perform such additional duties as required or authorized by state or local law.

III. Municipal Clerk

- a. The Municipal Court of Record shall be staffed with a municipal court clerk.
- b. The Town Council shall appoint a municipal clerk pursuant to state law. The Town Council may appoint the Town Secretary as the municipal clerk, if such appointment is determined to be in the best interest of the Town. If the Town Secretary serves as clerk, that person serves as clerk during the term as Town

Secretary. Should the clerk resign for any reason the mayor is authorized to accept such resignation.

- c. The clerk shall keep minutes of the proceedings of the court, issue process, and generally perform the duties for the municipal court that a county clerk performs for a county court.
- d. The clerk shall notify the Texas Judicial Council of the name of each person appointed to the position of municipal court judge, each person appointed to the position of clerk of a municipal court, and any other statutory requirements for reporting to the Texas Judicial Council and the Texas Office of Court Administration.
- e. The clerk shall be supervised by the presiding judge in relation to all judicial functions. The clerk shall be supervised by the mayor for all administrative functions.
- f. The clerk shall comply with any additional duties assigned by the presiding judge, the mayor, or directed by Town ordinance.
- g. The municipal court clerk shall supervise the selection of persons for jury service and shall be responsible for all other functions of a municipal court of record.
- h. Furthermore, the Municipal Court of Record may be staffed with a deputy municipal court clerk, warrant officer or other support personnel as may be necessary for the efficient administration of the Municipal Court of Record. Such additional positions are subject to budgetary allocations of the Town Council of the Town of Indian Lake.

IV. **Texas State Commission on Judicial Conduct.** For all judicial matters, a municipal judge does not report to the mayor or the Town Council but is held responsible for the judge's actions by the Texas State Commission on Judicial Conduct. A person who takes issue with any rule of decision of the municipal court judge must address the issue with the Commission. For any complaints a person may have against an administrative decision of a municipal court judge which is not controlled by the Commission may file a complaint with the mayor, who shall advise the Town Council. If the administrative complaint is against an alternate judge, such complaint may be filed with the presiding judge.

V. **Clarification of Authorized Actions**

A. **Authorized Actions.** In an attempt to clarify any state law authorizations for any actions by a municipal court judge and to provide guidance to the Town's presiding judge, to the extent allowed by law, the presiding judge for the Town of Indian Lake Municipal Court may:

- 1) Pass local rules and standing orders to allow for more efficient operation of the court, to allow for easier access to the court for any criminal defendants

or other parties, and to allow for the adjustment of practices to account for changes in the law and Town circumstances.

- 2) Sign any post-judgment orders, writs, or other documents to assist with the collection of any fines, fees, or amounts owed to the Town or the State. Such include, but are not limited to:
 - i. Abstracts of judgment;
 - ii. Writs of execution;
 - iii. Writs of possession;
 - iv. Orders on a motion to compel interrogatives in aide of judgment;
 - v. Orders authorizing the placement of liens on non-exempt property.
- 3) Issue such orders authorized by ordinance to enforce administrative orders and rulings.
- 4) Issue destruction orders and demolition orders.

B. Prohibited Actions. No municipal court judge is authorized to:

- 1) Dismiss a case filed in the municipal court without a motion to dismiss from the prosecution, a plea of guilty or no contest and completion of the terms of any plea agreement (including deferred disposition or defensive driving course completion) as authorized by law, or if dismissal is expressly authorized by state or local law to be performed by the judge. The judge may still not dismiss a case unless the records, testimony and documents before the court justify such dismissal under the applicable law.
- 2) Refuse, in the case of a judgment of a criminal conviction being affirmed on appeal from the Town of Indian Lake Municipal Court, to forfeit the bond of the defendant, or to issue a *capias* for the defendant, or an execution against his property, or to enforce the judgment of the court, as if no appeal had been taken. Tex. Code Crim. Pro. Ann. Art. 44.28.
- 3) Utilize a criminal defendant's ability to pay or indigency when ruling upon the defendant's guilt or innocence. A criminal defendant's ability to pay a judgment or the defendant's indigency shall be considered once a defendant has plead guilty or no contest or had a verdict of guilty issued against them by a judge or jury. The presiding judge shall adopt local rules with standards for what proof a criminal defendant must provide the court in order to establish indigency or an inability to pay a judgment and the judge must apply those standards uniformly. Such standards shall require sworn testimony, statements, or verifiable proof of indigency or an inability to pay.

- 4) Refuse to take judicial notice of properly enacted municipal ordinances upon being provided a certified copy of such municipal ordinance.
- 5) Refuse to issue an order, when requested by the state or the City Attorney, directing a peace officer or marshal to serve process which has been issued out of the municipal court under the rules and conditions listed in Tex. Code Crim. Pro. Ann. Art. 45.202, including serving process anywhere in the county.

VI. **Preservation of Judicial Privileged.** Nothing in this ordinance is intended to or shall affect any privilege or immunities possessed by any municipal judge of the Town of Indian Lake or court personnel.

VII.

CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the Town of Indian Lake, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

VIII.

SEVERABILITY

That it is hereby declared to be the intention of the City Council of the Town of Indian Lake. that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IX.

PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

DULY PASSED on the _____ day of _____ 2022, at a regular meeting of the City Council of the Town of Indian Lake, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

TOWN OF INDIAN LAKE, TEXAS

James Chambers, Mayor
Town of Indian Lake, Texas

ATTEST:

Amy Lopez, City Secretary

APPROVED:

Alyssa J. Castillon, City Attorney