

CITY OF COCKRELL HILL, TEXAS

ORDINANCE NO. 2015-10132015A

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS AMENDING CHAPTER 35, "MUNICIPAL COURT," OF THE CITY OF COCKRELL HILL CODE OF ORDINANCES BY REPEALING THE CHAPTER ENTITLED "MUNICIPAL COURT," IN ITS ENTIRETY, AND REPLACING THAT CHAPTER WITH A NEW CHAPTER 35 ENTITLED "MUNICIPAL COURT," THEREBY ESTABLISHING THE COCKRELL HILL MUNICIPAL COURT AS A MUNICIPAL COURT OF RECORD; ESTABLISHING THE JURISDICTION OF THE MUNICIPAL COURT; PROVIDING FOR THE APPOINTMENT OF MUNICIPAL COURT JUDGES; PROVIDING FOR THE QUALIFICATIONS, TERMS, SALARY, AND POWERS AND DUTIES OF MUNICIPAL COURT JUDGES; PROVIDING FOR A PRESIDING JUDGE; PROVIDING FOR THE FILLING OF VACANCIES; PROVIDING FOR THE REMOVAL OF JUDGES; PROVIDING FOR A MUNICIPAL COURT CLERK, WITH POWERS AND DUTIES; PROVIDING FOR THE MUNICIPAL COURT BUILDING SECURITY FUND; PROVIDING FOR THE MUNICIPAL COURT TECHNOLOGY FUND; PROVIDING FOR A CHILD SAFETY FUND; AUTHORIZING FEES FOR DISCOVERY OR COPIES OF COURT INFORMATION; PROVIDING FOR WARRANT FEES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the City of Cockrell Hill, Texas (the "City") is a Type A general law municipal corporation organized and existing by virtue of the Constitution and laws of the State of Texas; and

WHEREAS, the City Council of the City of Cockrell Hill, Texas (the "City Council"), pursuant to Texas Local Government Code, Sections 51.001 and 51.012, is authorized to adopt an ordinance, not inconsistent with state law, that is for the good government, interest, welfare, peace, or order of the City, and that is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, Chapter 30 of the Texas Government Code provides that the City Council has the authority to establish a municipal court of record by ordinance; and

WHEREAS, the City Council finds and determines that the creation of a municipal court of record is necessary to provide a more efficient disposition of cases arising within the City.

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

SECTION 1. PREMISES INCORPORATED. That the findings set forth above are found to be true and correct and are hereby approved and incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

SECTION 2. AMENDMENT OF CHAPTER 35, "MUNICIPAL COURT," OF THE CITY OF COCKRELL HILL, TEXAS CODE OF ORDINANCES BY REPEALING THE CHAPTER ENTITLED "MUNICIPAL COURT" IN ITS ENTIRETY, AND REPLACING IT WITH A NEW CHAPTER ENTITLED "MUNICIPAL COURT", THEREBY ESTABLISHING THE COCKRELL HILL MUNICIPAL COURT AS A MUNICIPAL COURT OF RECORD. That, from and after the effective date of this Ordinance, Chapter 35, "Municipal Court," of the City of Cockrell Hill, Texas Code of Ordinances, shall be amended by repealing the chapter entitled "Municipal Court," in its entirety, and replacing it with a new chapter entitled "Municipal Court," with new Sections 35.01 through 35.35.11 and 35.15 through 35.19, to read as follows:

"CHAPTER 35: MUNICIPAL COURT

Section

General Provisions

- 35.01 Creation and Name
- 35.02 Jurisdiction
- 35.03 Appointment of Judge or Judges
- 35.04 Qualifications
- 35.05 Term
- 35.06 Salary
- 35.07 Powers and Duties
- 35.08 Presiding Judge
- 35.09 Vacancies
- 35.10 Removal of Judge
- 35.11 Municipal Court Clerk; Powers and Duties

Municipal Court Costs and Fees

- 35.15 Municipal Court Building Security Fund
- 35.16 Municipal Court Technology Fund
- 35.17 Child Safety Fund
- 35.18 Discovery Fees; Court Case or Judicial Records Fees
- 35.19 Warrant Fees

GENERAL PROVISIONS

§ 35.01. CREATION AND NAME.

(A) The City Council hereby finds and determines that the creation of a municipal court of record is necessary to provide a more efficient disposition of cases arising within the City.

(B) The City Council, in conformity with the provisions of Chapter 30 of the Texas Government Code, as amended, hereby creates a municipal court of record to be known as the “Municipal Court of Record No. 1 in the City of Cockrell Hill, Texas.”

§ 35.02. JURISDICTION.

The municipal court of record shall have:

(A) the general jurisdiction as provided by Section 30.00005 of the Texas Government Code, as amended;

(B) concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Texas Local Government Code, within the City’s territorial limits and property owned by the City located in the City’s extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances;

(C) civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Texas Local Government Code, or Subchapter E, Chapter 683, Texas Transportation Code; and

(D) authority to issue:

(1) search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and

(2) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

§ 35.03. APPOINTMENT OF JUDGE OR JUDGES.

The City Council shall by resolution appoint the judge or judges of the municipal court.

§ 35.04. QUALIFICATIONS.

An individual appointed to serve as a municipal court judge shall:

(A) Be a resident of this state;

(B) Be a citizen of the United States;

(C) Be a licensed attorney in good standing; and

- (D) Have two (2) or more years of experience in the practice of law in this state.

§ 35.05. TERM.

All individuals appointed to serve as municipal judge for the court of record shall serve a term of two (2) years.

§ 35.06. SALARY.

A municipal judge is entitled to a salary, the amount of which shall be determined by the City Council. The amount of a judge's salary may not be diminished during the judge's term of office. Further, the amount of the municipal court judge's salary shall not be based directly or indirectly on fines, fees, or costs collected by the court of record.

§ 35.07. POWERS AND DUTIES.

The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the City. The municipal judge shall have all powers assigned by state law, including the power to grant writs of mandamus, attachment, and other writs necessary to the enforcement of the jurisdiction of the court of record and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court of record. The municipal judge is a magistrate and may issue administrative search warrants.

§ 35.08. PRESIDING JUDGE.

(A) If there is more than one municipal judge, the City Council shall appoint one of the judges as the presiding judge.

(B) The presiding judge shall:

(1) maintain a central docket for cases filed within the territorial limits of the City over which the municipal court of record has jurisdiction;

(2) provide for the distribution of cases from the central docket to the individual municipal judges to equalize the distribution of business in the courts;

(3) request the jurors needed for cases that are set for trial by jury;

(4) temporarily assign judges or substitute judges to exchange benches and to act for each other in a proceeding pending in a court if necessary for the expeditious disposition of business in the courts; and

(5) supervise and control the operation and clerical functions of the administrative department of each court, including the court's personnel, during the proceedings of the court.

§ 35.09. VACANCIES.

If a vacancy occurs in the office of municipal judge, the City Council shall by ordinance provide for the appointment of a qualified person to fill the office for the remainder of the unexpired term.

§ 35.10. REMOVAL OF JUDGE.

A municipal judge may be removed from office at any time for the reasons stated and consistent with section 30.000085 of the Texas Government Code, as amended.

§ 35.11. MUNICIPAL COURT CLERK; POWERS AND DUTIES.

(A) The City Manager shall appoint a clerk of the municipal court of record who shall be known as the "Municipal Court Clerk." The municipal court clerk may hire, direct, and remove the personnel authorized in the city's annual budget for the clerk's office, including court support personnel and marshals, as may be necessary or appropriate, in accordance with the ordinances, policies, and procedures of the City and subject to the final approval of the City Manager.

(B) The municipal court clerk or the clerk's deputies shall keep the records of the municipal court of record, issue process, and generally perform the duties for the court that a clerk of the county court at law exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with state law and city ordinances.

(C) The municipal court clerk shall further:

(1) prepare and maintain accurate dockets and minutes for each municipal court of record created under this chapter;

(2) maintain custody of all documents and papers relating to the business of the municipal court;

(3) supervise the collection of fines, fees, and costs imposed by the municipal court;

(4) maintain complaints for all cases in the municipal court for which a complaint is required by law;

(5) have all other powers and duties assigned to the municipal court clerk by city ordinance, Chapter 30 of the Texas Government Code, and the Constitution and laws of the State of Texas;

(6) be responsible for the full and proper accounting of all fines, fees, and costs collected, and issue a receipt to any person who pays a fine, fee or cost with cash money;

(7) preserve the records of the municipal court in accordance with any city records retention schedule; and

(8) appoint a court reporter who shall meet the qualifications provided by law for official court reporters.

MUNICIPAL COURT COSTS AND FEES

§ 35.15. MUNICIPAL COURT BUILDING SECURITY FUND.

(A) There is hereby established a municipal court building security fund, which shall be maintained by the City in accordance with Texas Code of Criminal Procedure, Article 102.017, as amended.

(B) All defendants who are convicted of misdemeanor offenses in the municipal court of record shall pay a security fee not to exceed \$3.00 for each offense as a cost of court.

(C) A person is considered convicted 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 municipal court clerk shall collect the costs and pay them to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court building security fund.

(E) The municipal court building security fund may be used only to finance security personnel, services, and items related to buildings that house the operations of the municipal court of record, including:

- (1) the purchase or repair of X-ray machines and conveying systems;
- (2) handheld metal detectors;
- (3) walkthrough metal detectors;
- (4) identification cards and systems;
- (5) electronic locking and surveillance equipment;

- (6) video conferencing systems;
- (6) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- (7) signage;
- (8) confiscated weapon inventory and tracking systems;
- (9) locks, chains, alarms, or similar security devices;
- (10) the purchase or repair of bullet-proof glass; and
- (11) continuing education on security issues for court personnel and security personnel; and
- (12) warrant officers and related equipment.

(F) The municipal court building security fund shall be administered by, or under the direction of, the City Council.

§ 35.16. MUNICIPAL COURT TECHNOLOGY FUND.

(A) There is hereby established a municipal court technology fund, which shall be maintained by the City in accordance with Texas Code of Criminal Procedure, Article 102.0172, as amended.

(B) All defendants who are convicted of misdemeanor offenses in the municipal court of record shall pay a technology fee not to exceed \$4.00 for each offense as a cost of court.

(C) A person is considered convicted 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 municipal court clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.

(E) The municipal court technology fund may be used only to finance the purchase of or to maintain technological enhancements for the municipal court of record, including:

- (1) computer systems;
- (2) computer networks;
- (3) computer hardware;
- (4) computer software;
- (5) imaging systems;
- (6) electronic kiosks;
- (7) electronic ticket writers; and
- (8) docket management systems.

(F) The municipal court technology fund shall be administered by, or under the direction of, the City Council.

§ 35.17. CHILD SAFETY FUND.

(A) There is hereby established a municipal court child safety fund, which shall be maintained by the City in accordance with Texas Code of Criminal Procedure, Article 102.014, as amended.

(B) All defendants who are convicted in the municipal court of record of a misdemeanor offense of violating the provisions of this code regulating the stopping, standing or parking of vehicles or of Transportation Code, Chapter 682, shall pay a child safety fee not to exceed \$5.00 for each offense as a cost of court.

(C) A person is considered convicted 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 municipal court clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in an interest-bearing account, and such fund shall be known as the municipal court child safety fund.

(E) The municipal child safety fund may be used for any purpose specified in the Texas Code of Criminal Procedure, Article 102.014(g), as amended, including:

(1) to funding a school crossing guard program so long as the City operates one;

(2) for programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention if the City does not operate a school crossing guard program or if the money collected in the fund exceeds the amount necessary to fund the school crossing guard program.

(F) The municipal court technology fund shall be administered by, or under the direction of, the City Council.

§ 35.18. DISCOVERY FEES; COURT CASE OR JUDICIAL RECORDS FEES.

As authorized by the Texas Code of Criminal Procedure, Article 39.14(l), as amended, the municipal judge may, by order or standing order, require a defendant to pay costs related to discovery, provided that the costs do not exceed the charges prescribed by Subchapter F, Chapter 552 of the Government Code as promulgated by the Office of the Attorney General in Title 1, Part 3, Chapter 70 entitled “Cost of Copies of Public Information” of the Texas Administrative Code.

As authorized by the Texas Government Code, Section 552.266, the municipal court clerk may impose a charge for providing court case or judicial records. Such costs shall not exceed the charges promulgated by the Office of the Attorney General, and set forth in Title 1, Part 3, Chapter 70 entitled “Cost of Copies of Public Information” of the Texas Administrative Code.

§ 35.19. WARRANT FEES.

The City is authorized by and through the municipal court to establish and maintain a fee as set by City Council ordinance, for the issuance and service of a warrant of arrest for an offense under the Texas Penal Code, Section 38.11, or under Uniform Act Regulating Traffic on Highways, Section 149 (Tex. Rev. Civ. Stat., Art. 6071d), and special expenses described in Texas Code of Criminal Procedure, Article 17.04, all for special expenses involved with the issuance and service of a warrant of arrest, after due notice, not to exceed the amount set by City Council ordinance, and the same fee shall be paid into the city treasury for the use and benefit of the city.”

SECTION 3. REPEALER CLAUSE. All ordinances, orders, or resolutions heretofore passed and adopted by the City Council are hereby repealed to the extent that said ordinances, orders, or resolutions or parts thereof, are in conflict herewith.

SECTION 4. SEVERABILITY CLAUSE. It is hereby declared to be the intention of the City Council that the words, phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any word, phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of

competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional word, phrase, clause, sentence, paragraph, or section.

SECTION 5. SAVINGS CLAUSE. All rights and remedies of the City of Cockrell Hill are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective, and shall be in full force and effect, from and immediately after the date of its passage and publication, as the law in such cases provides, and it is accordingly so ordained.

PASSED AND APPROVED the 13th day of October, 2015.



Luis Carrera, Mayor
City of Cockrell Hill, Texas

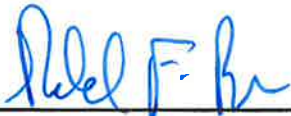
ATTEST:



Bret Haney, City Administrator
City of Cockrell Hill, Texas

[SEAL]

APPROVED AS TO FORM:



Robert F. Brown, City Attorney
City of Cockrell Hill, Texas