



Date: March 22, 2006

To: Honorable Mayor and City Council Members

From: Janina Jewell, Acting City Manager

A handwritten signature in cursive script, appearing to read 'J. Jewell', is written over the printed name 'Janina Jewell'.

Ref: Approval of Ordinance Amending Article 7.100 Section 7.106

Enclosed for your approval is an Ordinance to amend Watauga Code of Ordinance Article 7.100 Section 7.106 to be in agreement with City of Watauga Home Rule Charter Article VIII Section 8.02 regarding requirements for the Municipal Court Judge.

CITY OF WATAUGA, TEXAS
ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WATAUGA, TEXAS AMENDING ARTICLE 7.100, SECTION 7.106 OF THE CITY OF WATAUGA CODE OF ORDINANCES CONCERNING REQUIREMENTS FOR OFFICE OF MUNICIPAL COURT JUDGE; PROVIDING THAT ALL ORDINANCES IN CONFLICT HERewith ARE HEREBY REPEALED TO THE EXTENT THAT THEY ARE IN CONFLICT; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE

WHEREAS, The City of Watauga Home Rule Charter, Article VIII, Section 8.02, Judge of the Municipal Court, was amended by a Home Rule Charter Amendment Election held May 7, 2005; and

WHEREAS, The City Council has determined that Article 7.100, Section 7.106 of the City of Watauga Code of Ordinances, Requirements for Office of Municipal Court Judge, should be updated to reflect the amendment to this section of the Home Rule Charter.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Watauga, Texas that:

I.

Article 7.100, Section 7.106 of the City of Watauga Code of Ordinances shall be amended to read as follows:

Sec. 7.106 Requirements for Office of Municipal Court Judge

The municipal court judge must be a resident of this state, be a citizen of the United States, be a licensed attorney in good standing in Texas, and have been licensed by the Supreme Court of Texas to practice law in Texas for five (5) or more years. The person serving as the municipal court judge may not be employed with the city. In the event the municipal court judge accepts employment with the city, his judicial office shall be vacated.

II.

This Ordinance shall be and is hereby cumulative of all other ordinances of the City of

Watauga, Texas and this Ordinance shall not operate to repeal or affect any such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

III.

If any section, subsection, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

IV.

This Ordinance shall become effective and shall be in full force and effect after passage and adoption by the City Council of the City of Watauga, Texas, and upon approval thereof by the Mayor of the City of Watauga, Texas and publication hereof as prescribed by law.

PASSED AND ADOPTED by the City Council of the City of Watauga, Texas, this _____ day of _____, 2006.

APPROVED:

HENRY J. JEFFRIES, Mayor

ATTEST:

NANCY MEADOWS, City Secretary

APPROVED AS TO FORM AND LEGALITY:

MARK G. DANIEL, City Attorney

ARTICLE 7.100 MUNICIPAL COURT GENERALLY*

Sec. 7.101 Municipal Court Established

The city council hereby establishes its municipal court, as provided in section 8.01 of the Home Rule Charter for the city, as a municipal court of record in order to provide a more efficient disposition of appeals from municipal court and in order to more effectively enforce its ordinances. (1977 Code of Ordinances, Chapter 2, Article 3, Section 1)

Sec. 7.102 Court to be a Court of Record

The municipal court of record is hereby established pursuant to the authority granted in title 2, chapter 30 of the Texas Government Code, as now or hereafter amended, and the terms set forth therein are hereby adopted governing the operation of said court. (1977 Code of Ordinances, Chapter 2, Article 3, Section 2)

Sec. 7.103 Method of Selecting Municipal Court Judge

The municipal judge for the municipal court of records for the city shall be appointed by ordinance commencing in May, 2002. (Ordinance 1112 adopted 3/25/02)

Sec. 7.104 Reserved

Sec. 7.105 Term of Municipal Court Judge

The term of office for the judge of the municipal court of record shall be for two (2) years. The judge may continue in office after the end of his or her term for not more than ninety (90) days or until his successor is appointed and qualified, whichever occurs first. (1977 Code of Ordinances, Chapter 2, Article 2, Section 5; Ordinance 1112 adopted 3/25/02)

Sec. 7.106 Requirements for Office of Municipal Court Judge

The municipal court judge must be a resident of the state, a citizen of the United States, a licensed attorney in good standing in the State Bar of Texas and have two (2) or more years of experience in the practice of law in the state. The person serving as the municipal judge may not be employed in the city. In the event the municipal judge accepts employment with the city, his judicial office shall be vacated. (Ordinance 1112 adopted 3/25/02)

Sec. 7.107 Municipal Court Judge Compensation

The city council shall determine the salary of the municipal judge for arraignment services, warrant execution services, docket settings, trial settings and other matters coming before the court. Once established, the amount of the judge's salary shall not be diminished during the term of office. The salary for the municipal court judge shall not be based directly or indirectly on fines, fees, or costs collected by the court. The municipal judge shall select a substitute judge to serve if he/she is unavailable to serve temporarily due to illness, family death, continuing legal or judicial education program or other reason. The municipal judge shall select his temporary substitute from a list established by the city council pursuant to resolution. The municipal court judge and any relief municipal judge shall not be considered to be employees of the city. The municipal judge and relief municipal judge shall be paid contract compensation and shall not be permitted to participate in other employee benefit programs of the city, including but not limited to vacation time, sick leave, health insurance, retirement plan and compensation time. (Ordinance 1245 adopted 9/26/05)

* **State law references**—Municipal courts generally, V.T.C.A., Government Code, sec. 29.001 et seq.; jurisdiction of municipal courts, V.T.C.A., Government Code, sec. 29.003; municipal court fines, costs and special expenses, Tex. Code Crim. Proc. art. 45.203.

The Council shall create, establish, or appoint, as may be required by law or circumstances, those boards, commissions, and committees which are deemed necessary to carry out the function and obligations of the City. The Council shall prescribe accountability and tenure of each board, commission and committee where such are not prescribed by law. The Council shall prescribe the purpose, composition, function and duty of each board, committee, or commission where such are not prescribed by law.

Section 7.08 Employee and Citizen Grievances:

The City of Watauga shall maintain at all times a current Personnel, Administrative and Financial Policies and Procedures Manual to be approved by resolution of the City Council. Employee grievances shall be addressed and strictly governed by the policies and procedures as set forth in the Personnel, Administrative and Financial Policies and Procedures Manual in effect at the time of the action which gives rise to such grievance. The City Council of the City of Watauga, Texas, as an elected governing body, shall be available to the citizens of Watauga in order to address concerns and grievances.

ARTICLE VIII

LEGAL AND JUDICIAL SERVICES

Section 8.01 Municipal Court:

There shall be established and maintained a court designated as "Municipal Court in the City of Watauga," for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to municipal courts and municipal courts of record. All fines imposed by said court shall be paid into the City Treasury for the use and benefit of the City.

Section 8.02 Judge of the Municipal Court:

The Judge of the Municipal Court shall be appointed by the City Council and serve in accordance with Chapter 30 of the Government Code, as now or hereafter amended, for a term not to exceed two (2) years.

The municipal judge shall hold office for the duration of the term unless removed at the will and discretion of the City Council. If the judge is removed or vacates the office, the City Council shall immediately appoint a qualified person to fill the unexpired term.

The municipal judge must:

- a. be a resident of this state.
- b. be a citizen of the United States.

- c. be a licensed attorney in good standing in Texas.
- d. have been licensed by the Supreme Court of Texas to practice law in Texas for five (5) or more years.

The Judge of the Municipal Court shall receive such compensation as may be determined by the Council.

Section 8.03 Clerk of the Municipal Court:

There shall be a clerk of the Municipal Court to be appointed by the City Manager with the concurrence of the City Council. Said clerk may hold another position of City employment concurrent with, but secondary to and not in conflict with this position.

The clerk of the court and deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court, and generally do and perform any and all acts as usual and necessary to be performed by the clerks of courts in issuing process of said courts and conducting the business thereof.

Section 8.04 City Attorney:

The Mayor shall recommend the appointment of a competent and duly licensed attorney practicing law in the State of Texas who shall be the City Attorney. The City Attorney shall receive for his services such compensation as may be fixed by the City Council and shall hold his office at the pleasure of the City Council. The City Attorney, or such other attorneys approved by the City Council, shall represent the City in all litigation. The City Attorney shall be the legal advisor of, and attorney and counselor for, the City, all offices and departments and for all officers and employees of the City in matters relating to their official powers and duties.

The City Attorney must:

- a. be a resident of this state.
- b. be a citizen of the United States.
- c. be a licensed attorney in good standing in Texas.
- d. have been licensed by the Supreme Court of Texas to practice law in Texas for five (5) or more years.

The City Attorney shall review and concur or dissent upon all documents, contracts and legal instruments in which the City may have an interest.

The City Council shall have the right to retain special counsel any time it determines such action to be necessary.