

TOWN OF PROVIDENCE VILLAGE, TEXAS

ORDINANCE NO.: 2010-06

AN ORDINANCE ESTABLISHING AND MAINTAINING A COURT DESIGNATED AS A MUNICIPAL COURT FOR THE TRIAL OF MISDEMEANOR OFFENSE; POWERS AND DUTIES PRESCRIBED BY THE LAWS OF THE STATE OF TEXAS; AND PROVIDING OTHER DETAILS RELATING TO THE PASSAGE OF THIS ORDINANCE.

WHEREAS, in accordance with Section 29.002 of the Texas Government Code, the Town Council of the Town of Providence Village has determined that there is a need for the creation of a municipal court; and

WHEREAS, in accordance with Section 29.003 of the Texas Government Code, the Town Council by ordinance shall provide that the municipal court, including the municipal court of record, shall have an exclusive original jurisdiction, as well as a concurrent jurisdiction with the justice court of the local precinct; and

WHEREAS, in accordance with Section 29.004 of the Texas Government Code, the charter provisions of the Town of Providence Village provide for the appointment of a judge to preside over the municipal court without the necessity of an election; and

WHEREAS, in accordance with Section 29.004(b) of the Texas Government Code, the Town Council for the Town of Providence Village may designate any duly licensed attorney to serve as judge of the municipal court; and

WHEREAS, in accordance with Section 20.010 of the Texas Government Code, the Town Council for the Town of Providence Village may designate that the town secretary serve as the municipal court clerk and that the term of said appointment shall continue during the term of the town secretary appointment; and

WHEREAS, the municipal court clerk shall perform all other duties required by law, ordinance, resolution, or order of the governing body; and

WHEREAS, in accordance with Section 29.011 of the Texas Government Code, the Town Council for the Town of Providence Village may fill any vacancy in the officer of the municipal judge or municipal court clerk for the remainder of any unexpired term of office; and

WHEREAS, in accordance with the provisions of the Texas Government Code and Texas Local Government Code, the Town Council for the Town of Providence Village may designate the practices and procedures and collection of fines and court costs relating to the municipal court.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF PROVIDENCE VILLAGE, TEXAS:

SECTION 1. The facts and matters set out above in the recitations are found to be true and correct.

SECTION 2. MUNICIPAL COURT CREATED

There shall be established and maintained a court designated as a Municipal Court for the trial of misdemeanor offense, 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.

SECTION 3. MUNICIPAL JUDGE AND CLERK

The judge or judges of said Municipal Court shall be appointed by the Town Council, shall hold his or her office at the pleasure of the Town Council, shall receive such salary as may be fixed by the Town Council, shall be under the administrative direction of the Mayor and said judge shall not be an elected official. The Town Secretary or an assistant Town Secretary shall be ex officio clerk of said municipal court.

SECTION 4. CLERK OF COURT

The Clerk of said Municipal Court and his or her deputy shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto; and generally do and perform any and all acts usual and necessary by the clerk of courts in issuing process of said courts and conducting the business thereof.

SECTION 5. ASSOCIATE JUDGE

The Town Council by ordinance may provide for the appointment of one (1) or more judges to serve if the regular judge, the presiding judge, or an associate judge is temporarily unable to act. A Town elective officer or employee may not serve in such position.

SECTION 6. QUALIFICATIONS OF JUDGES

Each Judge of said Municipal Court shall be a duly licensed attorney if some such suitable attorney is available.

SECTION 7. PRACTICE AND PROCEDURE

Proceedings in the Municipal Court shall be commenced by complaint, which may be sworn to before the Judge, or his or her deputy, or any other officer authorized by law to administer oaths. Where not otherwise prescribed by the terms of this Charter or ordinance, the rules of pleadings, practice and procedure prevailing and prescribed by law for municipal and/or justice courts shall apply to the Municipal Court, as far as applicable.

SECTION 8. JURY TRIAL

Every person brought before the Judge to be tried for any offense to which the penalty may be fine shall be entitled, if he or she shall demand it, to be tried by a jury of six legal voters of the Town of Providence Village, who shall be summoned, impaneled and qualified as are jurors in justice court; under the laws of the State.

SECTION 9. COMPLAINTS AND PROSECUTIONS

In all prosecutions in said Municipal Court, either under ordinances or the provisions of the Penal Code of the State of Texas, the complaint shall commence: "In the name and by the authority of the State of Texas," and shall conclude: "Against the peace and dignity of the State," and where the offense is covered by an ordinance the complaint may also conclude: "Contrary to the said Ordinance." Prosecutions of such court shall be conducted by the person acting in the capacity of City Attorney, or his or her deputy.

SECTION 10. FINES AND COSTS

All fines imposed and collected by said Municipal Court shall be paid into the Town treasury for the use and benefit of the Town. Court costs for the Criminal Justice Planning Fund and Texas Commission on Law Enforcement Officers Standards and Education, and for such other funds as may be provided by law, shall be collected in each case, except parking tickets or pedestrian offenses, in which a fine is imposed.

SECTION 11. JURY-WITNESS FEE; BONDS; MISCELLANEOUS COURT PROCEEDINGS

Proceedings in the Municipal Court in regard to the amount paid to jurors and witnesses, enforcing the attendance of witnesses upon said court, authority of the court to punish for contempt, service of process, execution and issuance of writs, and proceedings in relation to peace bonds and bonds required by the court, shall be governed by the provisions of the Penal Code and Code of Criminal Procedure as the same now exists, or may hereafter be amended, relating to Justice Courts and Municipal Courts.

SECTION 12. APPEALS

Appeals from judgment rendered by said Municipal Court shall be heard by the state court of competent jurisdiction in Denton County, Texas, and in all such appeals the trial shall be de novo; the same as if the prosecution had been originally commenced in that court. Said appeals shall be governed by the rules of practice and procedure for appeals from justice courts to the county courts, as far as the same may be applicable.

SECTION 13. COLLECTION OF FINES IN APPEAL CASES

In all cases, the fines imposed on appeal, together with the costs, if any, imposed in the Municipal Court and the court to which the appeal is taken, shall be collected of the defendant and his or her bondsman, and such costs, if any, when collected, be paid into the treasury of the Town. When the defendant in such cases is committed to custody, he or she shall be committed to the custody of the officer acting as Chief of Police of the Town, to be held by him or her in accordance with the ordinances of the Town, providing for the custody of prisoners convicted before said court.


SECTION 14. NO TERMS

Said Municipal Court shall hold no terms and shall be at all times open for the transaction of business.

SECTION 15. SEVERABILITY

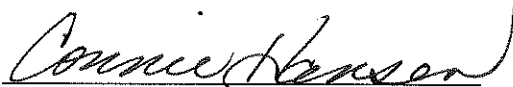
If any section, paragraph, sentence, clause, phrase or word of this ordinance of the application thereof to any person or circumstance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portion of this ordinance, and the Town Council hereby declares that it would have passed such remaining portions despite invalidity or unconstitutionality.

PASSED, APPROVED AND ADOPTED this 11TH DAY OF OCTOBER, 2010.



Brian D. Roberson
Mayor, Town of Providence Village, Texas

ATTEST:



Connie Hansen, Town Clerk

