

**ORDINANCE NO. MC-2016A**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKSPRINGS, TEXAS ESTABLISHING A MUNICIPAL COURT, INCLUDING PROVIDING FOR: FINDINGS OF FACT, PURPOSE, DEFINITIONS, CREATION AND JURISDICTION; APPOINTMENT OF A MUNICIPAL COURT JUDGE, APPOINTMENT OF A MUNICIPAL COURT CLERK, APPOINTMENT OF A PROSECUTOR, AND JURISDICTION OF THE COURT; PROCEDURES FOR THE OPERATION AND ADMINISTRATION OF THE COURT; AUTHORIZATION TO IMPOSE COURT COSTS AND FEES; AUTHORIZATION TO COLLECT CIVIL FINES OR CRIMINAL PENALTIES NOT TO EXCEED \$2,000; SEVERABILITY; AN EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.**

**WHEREAS**, the City Council of the City of Rocksprings, Texas ("City") seeks to provide for the enforcement of its municipal ordinances in order to protect the public health, safety and welfare; and

**WHEREAS**, the City Council finds that the enactment of this ordinance is necessary for the good government, peace and order of the municipality and proper for carrying out the power granted by law to the municipality; and

**WHEREAS**, the City Council determines that the creation of a municipal court is necessary to provide an efficient disposition of cases arising in the municipality; and

**WHEREAS**, the City Council finds that the office of a municipal court judge must be established; and

**WHEREAS**, the City Council finds that the appointment of a municipal court clerk is necessary; and

**WHEREAS**, the City Council is authorized to establish a municipal court by virtue of Chapter 29 of the Texas Government Code;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKSPRINGS, TEXAS:**

**SECTION 1. FINDINGS OF FACT.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

**SECTION 2. PURPOSE.** This ordinance is adopted so that the City Council may promote the public health, safety, morals and general welfare within the City through the enforcement of the City's ordinances and applicable state laws in municipal court.

**SECTION 3. DEFINITIONS.** Words and phrases used in this ordinance shall have the meanings set forth in the section. Other words and phrases shall be given their common,

ordinary meaning unless the context clearly requires otherwise. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this ordinance. The words below shall have the following meanings:

- (A) "City" means the City of Rocksprings, Texas.
- (B) "Person" means any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.
- (C) "State" means the State of Texas.

**SECTION 4. CREATION OF MUNICIPAL COURT.** There is hereby established one (1) municipal court within the City with the designation of "Municipal Court of the City of Rocksprings, Texas."

**SECTION 5. JURISDICTION.** The municipal court has the jurisdiction provided by general law for municipal courts contained in section 29.003 of the Government Code and Article 4.14 of the Code of Criminal Procedure, including concurrent jurisdiction with justice courts as provided by section 29.003 of the Government Code. The municipal court also has jurisdiction over cases arising within the City's corporate boundaries under ordinances authorized by law.

**SECTION 6. JUDGES OF COURT.**

- (A) The municipal court shall be presided over by a judge, who shall be known as the "municipal judge." The judge shall be appointed by ordinance or resolution of the City Council for a term of two (2) years and shall be entitled to a salary set by the City Council. The first appointed judge serves until the expiration of the Mayor's term. The amount of the judge's salary may not be diminished during the judge's term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court. Until such time as a municipal judge is appointed by the Commission, the Mayor can and shall serve as municipal judge.
- (B) The judge must:
  - (1) be a citizen of the United States; and
  - (2) be a resident of this state.
- (C) A person may not serve as municipal judge if the person is otherwise employed by the municipality. A municipal judge who accepts other employment with the municipality vacates the judicial office.
- (D) If a vacancy occurs in the office of municipal judge, the City Council shall adopt an ordinance or resolution appointing a qualified person to fill the office for the remainder of the unexpired term. If there is a vacancy in the office of municipal judge, the Mayor can and shall serve as municipal judge.
- (E) There may also be as many as three (3) alternate judges appointed by the City Council, subject to the same qualifications, who shall have all the powers and shall discharge all the duties of the municipal judge while serving as municipal judge. Each alternate judge shall be appointed for a term of two years. If the regular municipal judge is temporarily absent due to illness, family death, continued legal or

judicial education programs, or any other reason, he shall select one of the alternate judges to serve during his absence.

- (F) The municipal judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding on all parties to the proceeding.
- (G) The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the municipality.
- (H) The municipal judge is a magistrate and may issue administrative search warrants.
- (I) A municipal judge may be removed from office by the City Council at any time for incompetency, corruption, misconduct, or malfeasance.

**SECTION 7. WRIT POWER.** The judges of the municipal court may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the jurisdiction of the municipal court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the municipal court.

**SECTION 8. COURT RULES.** The Code of Criminal Procedure and the Texas Rules of Appellate Procedure govern the trial of cases before the municipal court. The court may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the court that are not inconsistent with law.

**SECTION 9. CLERK OF COURT.**

- (A) The municipal court clerk shall be appointed by ordinance or resolution of the City Council for a term of two (2) years and shall be entitled to a salary set by the City Council. A municipal court clerk may be removed from office by the City Commission at any time for incompetency, corruption, misconduct, or malfeasance.
- (B) The clerk of the municipal court may hire, direct and remove the personnel authorized in the City's annual budget for the clerk's office. The clerk or the clerk's deputies shall keep the records of the municipal court, 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. In addition, the clerk or the clerk's deputies shall maintain an index of all court judgments in the same manner as court clerks are required by law to prepare for criminal cases arising in county courts. The clerk shall perform the duties in accordance with statutes and ordinances of the City.

**SECTION 10. PRESERVING COURT RECORDS.** For the purpose of recording the proceedings and preserving a record in all cases tried before the municipal court, minutes of the proceedings of court shall be kept. The court clerk, deputy clerk, or court reporter may use written notes, transcribing equipment, video or audio recording equipment, or a combination of these methods to record the proceedings of the municipal court. The court clerk, deputy clerk, or court reporter shall keep the record for a twenty-(20) day period beginning the day after the last day of the court proceeding, trial or denial of motion for new trial, or until any appeal is final, whichever occurs last.

**SECTION 11. COURT FACILITIES AND SEAL.**

- (A) The City Council shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the City Council determines necessary for the proper operation of the municipal court.
- (B) The City Council shall provide the municipal court with a seal that contains the phrase "Municipal Court of the City of Rocksprings, Texas." The seal's use must conform to Article 45.012 of the Code of Criminal Procedure.

**SECTION 12. COMPLAINTS AND PLEADINGS.** Complaints and pleadings must substantially conform to the relevant provision of Chapters 27 and 45 of the Code of Criminal Procedure.

**SECTION 13. PROSECUTION.** Prosecution in the municipal court shall be conducted as provided by Article 45.201 of the Code of Criminal Procedure. All prosecutions in municipal court shall be conducted by the city attorney or by a deputy city attorney, as designated by the City Council.

**SECTION 14. JURY.**

- (A) A person who is brought before the municipal court and who is charged with an offense is entitled to be tried by a jury of six (6) persons. Trial by jury, including the summoning of jurors, must substantially conform to Chapter 45 of the Code of Criminal Procedure.
- (B) The court clerk shall supervise the selection of persons for jury service.

**SECTION 15. APPEAL FROM JUDGMENT OF CONVICTION IN MUNICIPAL COURT.**

- (A) A defendant has the right of appeal from a judgment or conviction. The State for Texas has the right to appeal as provided by Article 44.01 of the Code of Criminal Procedure.
- (B) All appeals shall be conducted pursuant to the Texas Code of Criminal Procedure.

**SECTION 16. FEES AND FINES.**

- (A) The municipal court clerk shall collect and administer all fees and fines authorized by state law and City ordinances. Fees and fines shall be in the amounts established by state law, the municipal court judge, and fee schedules adopted by the City Council, as may be amended.
- (B) A fine or penalty imposed in municipal court for violation of an ordinance of the City may not exceed five hundred dollars (\$500), unless the fine or penalty is for violation of a rule or ordinance or police regulation that governs fire safety, zoning or public health and sanitation, including dumping and refuse, in which case the fine or penalty may not exceed two thousand dollars (\$2,000).

**SECTION 17. CIVIL AND CRIMINAL PENALTIES.** The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this ordinance is hereby declared to be a nuisance.

**SECTION 18. CRIMINAL PROSECUTION.** Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500). Each day that a provision of this ordinance is violated shall constitute a separate offense. An offense under this ordinance is a misdemeanor.

**SECTION 19. CIVIL REMEDIES.** Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provision of this ordinance and to seek remedies as allowed by law, including but not limited to the following: (1) injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and (2) a civil penalty up to one thousand dollars (\$1,000) a day when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice of committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and (3) other available relief.

**SECTION 20. SEVERABILITY.** If any section, paragraph, sentence, clause, phrase or word of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have passed such remaining portions despite invalidity or unconstitutionality.

**SECTION 21. PROPER NOTICE AND MEETING.** It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required 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 Government Code. Notice was also provided as required by Chapter 52 of the Local Government Code.

**SECTION 22. EFFECTIVE DATE.** This ordinance shall be effective immediately upon its passage.

**PASSED AND APPROVED THIS 10<sup>TH</sup> DAY OF OCTOBER, 2016.**

**CITY OF ROCKSPRINGS, TEXAS**

  
Pauline Gonzales, Mayor

**ATTEST:**

  
Romana Bienek, City Clerk