

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2025-04

**AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 38,
"MUNICIPAL COURT," OF THE CODE OF ORDINANCES OF
THE CITY OF KERRVILLE, TEXAS; TO CLARIFY VARIOUS
SECTIONS; ADD SECTIONS IN COMPLIANCE WITH STATE
LAW; AND TO REMOVE OBSOLETE LANGUAGE; ORDERING
PUBLICATION; AND PROVIDING OTHER MATTERS
RELATED TO THE SUBJECT**

WHEREAS, the City of Kerrville hosts a municipal court within its territorial and jurisdictional limits; and

WHEREAS, the City Council has decided to regulate the Municipal Court as codified in Chapter 38 "Courts," Article II "Municipal Court" of the City's Code of Ordinances ("Code"); and

WHEREAS, City Council desires to amend Chapter 38, Article II of the Code to clarify various sections, remove obsolete language, and to align the City's regulations with changes to state law;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. Chapter 38, Article II, of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the sections as follows:

**"CHAPTER 38 COURTS
ARTICLE II. MUNICIPAL COURT**

Sec. 38-31. Clerk.

- (a) *Office created; appointment.* There is hereby created and established the position of clerk of the municipal court (the "clerk"), which shall be filled by appointment by the city manager, as provided in ~~article 12, section 12.03 of~~ the city Charter.
- (b) ~~Docket form. The clerk of the municipal court shall keep a docket in which he shall enter the proceedings in each trial, which docket shall show:~~
 - (1) ~~The style of the action;~~
 - (2) ~~The nature of the offense charged;~~
 - (3) ~~The date the warrant was issued and the return made thereon;~~
 - (4) ~~The time when the examination of the trial was had and if a trial, whether it was by a jury or by the court;~~

- (5) The verdict of the jury, if any;
- (6) The judgment of the court;
- (7) Motion for new trial, if any, and the decision thereon;
- (8) If an appeal was taken; and
- (9) The time when, and the manner in which, the judgment was enforced.

- (eb) Clerk to receive and file. The clerk ~~of the municipal court~~ shall receive, prepare, and file all complaints.
- (d) *Issuance of warrants.* If the defendant named in a complaint filed in the municipal court of the city is not in the custody of an officer or other person authorized to make an arrest, a warrant shall be issued by the clerk of such court, directed to the chief of police or any police officer, commanding such chief of police or police officer to forthwith arrest the person named or described therein and to bring the person named or described therein before the judge of such court for a hearing upon such complaint.

Sec. 38.32. Deputy Clerk.

- a) The clerk, subject to approval of the City Manager, shall appoint such number of deputy municipal court clerks (the "deputy clerks") as may be necessary for the municipal court to properly perform its functions.
- b) The deputy clerks shall perform all the duties and have all the powers bestowed upon clerks of municipal courts by state law and this article. Any deputy clerk may act as the clerk and perform all acts incident to such office.

Sec. 38.33. Seal.

- a) The municipal court shall have a seal having engraved thereon a star of five (5) points in the center and words "Municipal Court in Kerrville, Texas" around the margin thereof with a five (5) pointed star placed between the beginning of the word "Municipal" and the end of the word "Texas," the impress of which shall be attached to all proceedings, except subpoenas, issued out of said court, and shall be used to authenticate the official acts of the clerk and of the Judge, where either is authorized or required to use the seal of the court.

Sec. 38-324. Court procedure.

- (a) *Generally.* The general provisions of Vernon's Texas Government Code pertaining to municipal courts, as they now exist or as they may hereafter be amended, shall govern the procedure, practice and administration of the municipal court in the city, and the city council may prescribe additional rules that are consistent with the law. The rules of practice and procedure as prescribed by state laws governing the processing of cases in municipal court shall govern the practice and procedure of the Kerrville Municipal Court.

(b) *Cases to be tried in open court.* All cases coming before the municipal court shall be tried and disposed of in open court, except as otherwise provided by law.

(c) *Complaint; form.* ~~Except as otherwise provided by law, all proceedings in the municipal court shall be commenced by a complain. The complaint shall substantially satisfy the following requisites:~~

- (1) ~~It must be in writing;~~
- (2) ~~It must commence "In the name and by the authority of the State of Texas";~~
- (3) ~~It must state the name of the accused, if known, or if unknown, must include a reasonable description of the accused;~~
- (4) ~~It must show that the accused has committed an offense against the law of this state, or state that the affiant has good reason to believe and does believe that the accused has committed an offense against the law of this state;~~
- (5) ~~It must state the date the offense was committed as definitely as the affiant is able to provide;~~
- (6) ~~It must bear the signature or mark of the affiant; and~~
- (7) ~~It must conclude with the words "Against the peace and dignity of the State" and, if the offense charged is an offense only under a municipal ordinance, it may also conclude with the words "contrary to such ordinance."~~

(d) *Commission of offense in the territorial limits of the city.* A complaint must allege that the offense was committed in the territorial limits of the city in which the complaint is made.

(e) *Complaint to be sworn to.* A complaint may be sworn to before:

- (1) ~~The municipal judge;~~
- (2) ~~The clerk of the court or a deputy clerk;~~
- (3) ~~The city clerk;~~
- (4) ~~The city attorney or a deputy city attorney.~~

(f) *Pleading by defendant.* The complaint shall be read to the defendant, who shall plead thereto, and the plea shall be entered upon his docket by the municipal judge. All pleas must be made to such judge by the defendant or his legal representative, except as otherwise provided by law. Should the defendant plead guilty before such municipal court, the judge thereof shall thereupon enter the plea on the judge's docket and assess such fine and costs as may be authorized by law or by the ordinances of the city. If a plea of not guilty shall be entered to the complaint, a trial shall be had by jury, unless the defendant waives the right of trial by jury, in which case the municipal judge shall hear and determine the cause without a jury. Notwithstanding the provisions of this subsection, a defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the provisions of this subsection, mail

to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea to "guilty" or a plea of "nolo contendere" and a waiver of jury trial before the time the defendant is scheduled to appear in the court, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant by certified mail, return receipt requested, of the amount of any fine assessed in the case and, if requested by the defendant, the amount of an appeal bond that the court will approve. The defendant shall pay any fine assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice. In a misdemeanor case arising out of a moving traffic violation for which the maximum possible punishment is by fine only, payment of a fine, or an amount accepted by the court constitutes a finding of guilty in open court, as though a plea of nolo contendere had been entered by the defendant.

(g) *Judgments.* Judgment shall be rendered in the municipal court for dismissal or for a fine and costs as the facts may appear.

(h) *Reimbursement of expenses of jurors.* Each juror in the municipal court is entitled to receive as reimbursement for travel and other expenses an amount of \$6.00 as approved by City Council for each day or fraction of each day served as a juror. Each person responding to the process of the court, but who is excused by the court for any cause after his voir dire examination is entitled to receive as reimbursement for travel and other expenses an amount of \$6.00 as approved by City Council for each day or fraction of each day in attendance in court in response to the process. Such amount shall be paid by the city treasurer out of the city treasury upon the certificate of the clerk of the court, which certificate shall state the service, when rendered, by whom rendered, and the amount due therefor.

(i) *Jury fees to be taxed.* There shall be taxed against defendant convicted by a jury in the municipal court of the city, a jury fee in accordance with the provisions of state law pertaining to such fee as they now exist or, as they may hereafter be amended.

(j) *Fines and costs; payment to clerk.* All fines and costs assessed by the municipal court shall be paid to the clerk of the municipal court or some officer designated by him to receive the fines and costs, and the chief of police shall have the custody of all defendants against whom fines and costs have been assessed until such fines and costs are liquidated.

(k) *Fine or costs not paid.* When a fine or costs, or both, are not paid, unless a judgment for fine and costs by the municipal court is appealed from and an appeal bond approved and filed, the provisions of Vernon's Ann. C.C.P. arts. 43.03 and 43.09 and any other applicable laws shall apply; provided, for good

cause shown the municipal judge, in his discretion, may order a stay of judgment for a period not to exceed 30 days, in which event the defendant shall not be committed to the city jail until after the expiration of the time such judgment is held in abeyance.

- (l) *Release of prisoners.* Upon the liquidation of the fine and costs against any defendant under commitment by the municipal court, either by payment as provided in subsection (j) of this section or until defendant is discharged according to law or upon the certificate of the city physician directing immediate release of such person, it shall be the duty of the chief of police to discharge such person and make return of the commitment under which such person was held by him to the municipal court, and the chief of police shall make a proper record of such discharge on the record of commitments and prisoners. When any person has labored for a sufficient number of days, or is entitled to be released under any provision of the laws and ordinances of the city, except as provided in this subsection, it shall be the duty of the chief of police to discharge such person and make a proper record of such discharge on the record of commitments and prisoners.
- (m) *When prisoner dies or escapes.* If any prisoner committed to jail by the municipal court of the city dies or escapes before his discharge, the chief of police shall make his return to the court, showing that person has died or escaped and, if he has escaped, such return shall show that the escape was not caused by any negligence or connivance of such chief of police or any member of the police department whereupon the judge, if he accepts and approves such return, shall enter such facts on his docket, and the chief of police shall make record of the disposition of the prisoners on the record of commitments.
- (n) *Code of Criminal Procedure applicable.* Code of Criminal Procedure applicable. The provisions in regard to judgments, executions, and the collection of fines, as prescribed by Vernon's Texas Statutes, Code of Criminal Procedure, shall apply to the judgments, executions and collection of fines in the municipal court, the judge having in regard to such matters all the powers of justice of the peace.
- (o) Sec. 38-25. Establishment of municipal court technology fund; assessment of applicable fees; collection; use.
 - (a1) There is hereby created, and established, and maintained a municipal court technology fund, pursuant to ~~the applicable sections in~~ the Texas Code of Criminal Procedure.
 - (2) A municipal court technology fee in the amount of \$4.00 shall be assessed and collected from each defendant convicted of a misdemeanor offense in the municipal court as a cost of court. A person is considered "convicted" where a sentence is imposed on that person; the person is placed on community supervision, including deferred adjudication community supervision; or the court defers final disposition of the person's case.

(3) ~~Each misdemeanor conviction shall be subject to a separate assessment of this fee.~~

(b4) The clerk ~~of the court~~ shall collect the municipal court technology fee, which fee shall then be deposited into the municipal court technology fund.

(c5) ~~The City shall use and administer t~~~~The municipal court technology fund shall be used and administered~~ in accordance with state law.

(6) ~~Vernon's Ann. C.C.P. art. 102.0172, this subsection and the assessment and collection of the municipal court technology fee expire September 1, 2005. However, should the state legislature extend the provisions of Vernon's Ann. C.C.P. art. 102.0172 and the authority inherent thereto, this subsection shall remain in effect until such time as the article expires or is repealed by city council. If this subsection expires, any funds remaining in the municipal court technology fund shall continue to be used and administered as required by state law and this subsection (e).~~

(p) **Sec. 38.26. Establishment of m**~~Municipal court building security fund; assessment of applicable fees; collection; use.~~

(a1) There is hereby created, ~~and~~ established, ~~and maintained~~ a municipal court building security fund pursuant to ~~the applicable sections of~~ the Texas Code of Criminal Procedure.

(2) ~~A municipal court building security fee in an amount of \$3.00 shall be assessed and collected from each defendant convicted of a misdemeanor offense in the municipal court as a cost of court. A person is considered "convicted" where a sentence is imposed on that person; the person is placed on community supervision, including deferred adjudication community supervision; or the court defers final disposition of the person's case.~~

(3) ~~Each misdemeanor conviction shall be subject to a separate assessment of this fee.~~

(b4) The clerk ~~of the court~~ shall collect the municipal court building security fee, which fee shall then be deposited into the municipal court building security fund.

(c5) ~~The City shall use and administer t~~~~The municipal court building security fund shall be used and administered~~ in accordance with state law.

See. 38-33. Commutation of fines.

(a) ~~A person who, from age, disease, or other physical or mental disability, is unable to do manual labor shall not be required to work. Such person's inability to do such labor shall be shown by a preponderance of evidence and shall be adjudged by the municipal judge.~~

(b) When a defendant is convicted of a misdemeanor and his punishment is assessed at a pecuniary fine, if he is unable to pay the fine and costs adjudged against him, he may for such time as will satisfy the judgment be put to work in the county jail industries program, in the workhouse, or on the county farm, or public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county; or if there is not such county jail industries program, workhouse, farm, or improvements and maintenance projects, he shall be confined in jail for a sufficient length of time to discharge the full amount of fine and costs adjudged against him; rating such confinement at \$50.00 for each day and rating such labor at \$50.00 for each day; provided, however, that the defendant may pay the pecuniary fine assessed against him at any time while he is serving at work in the county jail industries program, in the workhouse, or on the county farm, or on the public improvements and maintenance projects of the county or a political subdivision located in whole or in part in the county, or while he is serving his jail sentence, and in such instances he shall be entitled to the credit he has earned under this subsection during the time that he has served and he shall only be required to pay his balance of the pecuniary fine assessed against him. A defendant who performs labor under this section during a day in which he is confined is entitled to both the credit for confinement and the credit for labor provided by this section."

SECTION TWO. The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein, to correct typographical errors, and to index, format, and number and letter paragraphs to the existing Code as appropriate.

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. It is officially found and determined that the meetings at which this Ordinance is passed were open to the public as required and that public notice of the time, place, and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

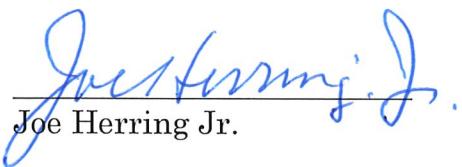
SECTION FIVE. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council declares that it would have passed this Ordinance and each section,

subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

PASSED AND APPROVED ON FIRST READING, this the 11 day of FEBRUARY A.D., 2025.

PASSED AND APPROVED ON SECOND READING, this the 25 day of FEBRUARY A.D., 2025.



Joe Herring Jr.

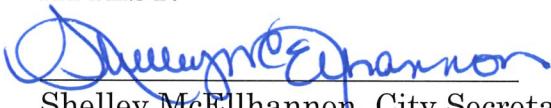
APPROVED AS TO FORM



William L. Tatsch

William L. Tatsch, Asst. City Attorney

ATTEST:



Shelley McEllhannon

Shelley McEllhannon, City Secretary