

RESOLUTION NO. 3868

A RESOLUTION VESTING THE JUDICIAL POWER OF THE CITY IN THE MUNICIPAL COURT; CREATING DIVISIONS OF THE MUNICIPAL COURT, FULL- AND PART-TIME JUDGES, AND A PRESIDING JUDGE; DEFINING SELECTION PROCEDURES AND QUALIFICATIONS FOR MUNICIPAL COURT JUDGES; PROVIDING TERMS OF OFFICE FOR MUNICIPAL COURT JUDGES; PROVIDING FOR SUSPENSION, DISCIPLINE OR REMOVAL OF MUNICIPAL COURT JUDGES; PROVIDING COMPENSATION FOR MUNICIPAL COURT JUDGES; PROVIDING FOR JUDGES PRO TEMPORE; AND MANDATING ADHERENCE BY THE MUNICIPAL COURT JUDGES TO CITY POLICIES; AND RESCINDING RESOLUTION NO. 3827.

WHEREAS, the City of Overland Park, Kansas, by Charter Ordinance No. Fifty-Two has mandated that an ordinance or a resolution be passed which provides for the appointment and terms of Municipal Court Judges; and

WHEREAS, the City of Overland Park, Kansas, desires to otherwise provide for the operation of the Municipal Court.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. JUDICIAL POWER VESTED.

The judicial power of the City shall be vested in the Municipal Court.

SECTION 2. DIVISIONS OF COURT - FULL-TIME AND PART-TIME JUDGES.

There shall be three (3) divisions of the Municipal Court, to be known respectively as Divisions No. 1, 2 and 3. Each division shall be presided over by a designated and assigned Municipal Court Judge. Divisions No. 1 and No. 3 shall be presided over by a full-time judge. Division No. 2 shall be presided over by a part-time judge, provided the Governing Body, based on judicial staffing needs, may elect to not assign a judge to this division.

SECTION 3. PRESIDING JUDGE - DUTIES.

There shall be a Presiding Judge designated by the Governing Body. The Presiding Judge shall be responsible for the daily supervision, operation and administration of the court. The Presiding Judge shall prescribe and adopt rules of practice and procedure for the Municipal Court not inconsistent with this resolution or the laws of this State. In addition, the Presiding Judge shall schedule the dockets for the trial and disposition of matters before the court.

SECTION 4. PART-TIME JUDGES.

The part-time judge shall meet all of the qualifications of full-time judges. Unless otherwise authorized by the Governing Body, the part-time judge shall serve a minimum of 1,100 hours per year.

SECTION 5. SELECTION OF MUNICIPAL COURT JUDGES.

All full-time and part-time judges of the Municipal Court shall be selected and appointed by the Governing Body.

SECTION 6. JUDGES - SELECTION PROCEDURES.

All vacancies in the positions of full-time or part-time Municipal Court Judges shall be filled by using the following procedure:

- a. The Mayor shall authorize the publication of the notice of the vacancy, setting forth the qualifications the applicants must possess, a description of the position, the deadline for submitting letters of application to the Director of Human Resources.
- b. When the deadline for submitting of applications is past, the Mayor shall call a meeting of the Judicial Screening Committee to review all applications and narrow the field to not less than three (3) candidates or a number of candidates deemed necessary and appropriate to be interviewed.
- c. The Mayor and the Finance, Administration and Economic Development Committee shall serve as the Judicial Screening Committee. The Chief Human Resources Officer shall serve as an *ex-officio* member of the committee and shall provide technical support to the committee in the interviewing of potential candidates.
- d. The Chairman of the screening committee shall call a meeting to interview each selected candidate and shall make a recommendation to the Governing Body for such appointment.

SECTION 7. JUDGES - QUALIFICATIONS.

All persons appointed as Municipal Court Judge shall have the following qualifications:

- a. An attorney admitted to the practice of law in the state of Kansas (required by K.S.A. 12-4105).
- b. Be a citizen of the United States and a resident of the City of Overland Park, Kansas, during their term of office.

- c. Possess a minimum of five (5) years' experience in the active practice of law as a lawyer, judge of a court of record or any court in the state or as a full-time teacher of law in any accredited law school or any combination thereof.
- d. As a full-time judge, not practice law during their term of office as required by Rules of Judicial Conduct.
- e. As a part-time judge, make a sufficient time commitment to being a part-time Municipal Court Judge to ensure the efficient and proper operation of the court and not engage in the practice of law as a criminal defense attorney or prosecutor in any municipal court during their term of office.
- f. Possess high personal, moral and professional integrity befitting the position of Municipal Court Judge.

In addition to the above, the Presiding Judge shall have the following qualifications:

- a. Have educational and professional experience in supervision or administrative matters.
- b. Have demonstrated skills in working with employees, and other groups participating in the Municipal Court.
- c. Have leadership qualities necessary to enhance the public image and professional stature of the Municipal Court.

SECTION 8. JUDGES - TERMS OF OFFICE.

- a. The term of office of all full-time and part-time Municipal Court Judges shall be for four (4) years. Prior to the end of the four-year term of office of each judge, the Governing Body shall determine whether to reappoint the judge or initiate the selection procedure for a replacement.
- b. No later than June of the year an incumbent judge's term expires, the Finance, Administration and Economic Development Committee shall initiate an evaluation process by which the Committee reviews the performance of that incumbent judge to determine whether he/she should be reappointed. The evaluation process shall include but not be limited to performance measures set forth in the National Trial Court Performance Standards. During the July Finance, Administration and Economic Development Committee meeting, the Committee shall make a recommendation to the City Council to either reappoint the incumbent judge or to initiate the selection process to replace him/her.
- c. The term of office of the incumbent Judge in each division of the Municipal Court expires as follows unless reappointed for another 4 year term as set out herein:

Division No. 1 - Keith R. Taylor September 1, 2014.
Division No. 2 - Vacant
Division No. 3 - Ryan B. Dixon, March 8, 2015.

SECTION 9. JUDGES - SUSPENSION, DISCIPLINE AND REMOVAL.

Judges of the Municipal Court shall be subject to discipline, suspension or removal as provided in the Rules of the Supreme Court relating to Judicial Conduct.

SECTION 10. JUDGES - COMPENSATION.

- a. The base compensation of the judges of the Municipal Court shall be fixed by the Governing Body and shall be included as a part of the City's overall pay plan. The Presiding Judge shall be paid in addition to the base compensation described herein, an additional sum per month to be fixed by the Governing Body, for performing administrative duties as outlined in Section 3 and Section 11 of this resolution, provided this additional compensation shall be subject to being increased pursuant to the procedures set forth in paragraph 10e, below.
- b. Full-time judges shall be eligible for all full-time City employee benefits.
- c. The part-time judge shall be eligible for KPERS, MEPP, life insurance, single coverage health insurance, single coverage dental insurance and pro-rated sick leave and vacation leave based on the number of hours worked. It shall be the responsibility of the Presiding Judge to account for and report hours worked by the part-time judge to the Human Resources Department according to the Payroll Reporting Schedule.
- d. The base compensation afforded the Judges of Divisions No. 1, 2 and 3 of the Municipal Court shall be reviewed each July by the Finance, Administration and Economic Development Committee, which shall make a recommendation to the City Council whether to adjust salaries, effective September 1.
- e. Should the Finance, Administration and Economic Development Committee determine during its annual review of the Municipal Court Judges compensation, that the Judges' salaries, to include the Presiding Judge's salary, should be adjusted, the salary of each judge shall be increased by an amount equal to the average salary increase percentage given to all full-time City employees covered by the City's salary band system as of the most recent annual review for those employees; provided, any such adjustment shall be subject to being modified based on the Committee's consideration of economic issues affecting the City's budget and operation, to include whether salary and hiring freezes might be in place at the time of the judges review.
- f. At the discretion of the Governing Body and upon a recommendation from the Finance, Administration and Economic Development Committee, Municipal

Court Judge(s) may receive a lump sum award for exemplary service on a particular and significant court project, event or activity. Such lump sum awards shall not be tied in any way to the judge's rulings in any or all cases, but is instead to be based on an identifiable court process or program improvement(s).

SECTION 11. JUDGES PRO-TEMPORE

- a. In the event a Municipal Court Judge is temporarily unable to preside due to absence, illness, or disqualification, the Presiding Judge, or in the Presiding Judge's absence, another Municipal Court Judge shall select an attorney(s) to act as Judge Pro-Tempore. The Presiding Judge may also utilize Judge Pro-Tempore in circumstances where additional dockets are necessary due to the numbers of pending cases before the court.
- b. The Presiding Judge shall maintain a list of no fewer than five (5) names of persons qualified to serve as a Municipal Judge. Judges Pro-Tempore must meet the requirements of regular municipal court judges with the exception of residency status and the practice of criminal law.
- c. The list of Pro-Tempore judges shall be reviewed by the Finance, Administration and Economic Development Committee each September.
- d. The Presiding Judge or designee shall designate the persons to be called from the list. Compensation shall be a maximum of \$120 per session as determined by the Presiding Judge.

SECTION 12. ADHERENCE TO CITY POLICIES.

It is the expectation of the Governing Body that the Presiding Judge shall insure Municipal Court adherence to the administrative, personnel, budget, and operational policies of the City in the conduct of the business of the court.

SECTION 13. RESCISSION.

Resolution No. 3827 is hereby rescinded.

ADOPTED AND PASSED by the Governing Body this 7th day of March, 2011.

Carl Gerlach, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

Michael R. Santos
City Attorney