

Chapter 12

MUNICIPAL COURT*

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***Cross references**—General penalty for Code violations, § 1-5; motor vehicles and traffic, ch. 11; offenses and miscellaneous provisions, ch. 13.

State law references—Municipal courts, V.T.C.A., Government Code § 29.001 et seq.; procedure in municipal courts, Vernon's Ann. C.C.P. art. 45.01 et seq.

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Sec. 12-1. Judicial powers of city vested in court.

The judicial powers of the city shall be vested in a court to be known as the Municipal Court of Shepherd, Texas.

Sec. 12-2. Office of municipal court judge.

The office of municipal court judge shall be filled by appointment for a term of two years, which shall run concurrently with that of the mayor. He shall receive such compensation as the city council shall fix by ordinance or resolution. He shall obtain training as prescribed by the laws of the state and shall furnish such surety bond as may be required by the city council, the cost of both to be paid by the city. The municipal court judge shall perform duties as prescribed by the laws of the state.

(Ord. No. 182, §§ 2, 3, 5-24-1999)

Editor's note—Former § 12-2, which pertained to the appointment, general powers, duties and term of the municipal judge, was repealed by Ord. No. 140, adopted March 13, 1989; such former section contained no history note. Ord. No. 182, adopted May 24, 1999 reestablished § 12-2 as pertaining to general powers, duties and term of the municipal court judge.

Sec. 12-3. Clerk generally.

The city secretary or his deputy shall be clerk of the municipal court. It shall be the duty of the clerk of the court to take care of all records and attend court each day and to administer oaths, take affidavits, complaints, issue warrants and subpoenas, and any and all other process. He shall have the power to make certificates and affix the seal of the city thereto and generally do and perform any and all acts usual and necessary by clerks of municipal courts in issuing process of such courts and conducting the business thereof.

Sec. 12-4. Official courtroom.

The municipal court shall hold session in some place to be designated by the city council.

Sec. 12-5. Complaint.

Proceedings in the municipal court shall be commenced by complaint, which shall begin: "In the name and by authority of

the State of Texas;" and shall conclude: "Against the peace and dignity of the State;" and if the offense is only covered by an ordinance, it may also conclude: "Contrary to the said ordinance." The municipal judge shall charge the jury when requested in writing by the defendant or his attorney. Complaints before such court may be sworn to before any officer authorized to administer oaths or before the municipal judge, clerk of the court or his deputy, city secretary, city attorney or his deputy, each of whom, for that purpose, shall have power to administer oaths.

Sec. 12-6. Issuance and execution of process beyond county.

All processes issued from the municipal court to be executed beyond the jurisdiction of the county shall be issued and executed as is provided by the law for warrants or capias issued from the justices' courts in misdemeanor cases.

State law reference—Issuance of capias, Vernon's Ann. C.C.P. art. 23.04.

Sec. 12-7. Qualifications and summoning of jurors.

All jurors called for service in the municipal court shall be residents of the city and shall otherwise possess the same qualifications as jurors in the state courts, and they shall be summoned in the same manner as provided for in the justices' court.

Sec. 12-8. Jury fee assessed as costs.

(a) In each criminal action tried by a jury in the municipal court when the defendant is convicted, there shall be taxed in the bill of costs against him a jury fee of \$3.00.

(b) Where there are several defendants tried jointly, only one jury fee shall be taxed against them. Where there are several defendants and they are tried separately, a jury fee shall be taxed in each trial.

Sec. 12-9. Process fees.

On all process issued from the municipal court which is executed beyond the corporate limits of the city by some officer

other than a city officer, there shall be taxed and charged the same mileage and fees as allowed by law for process of similar character from justices' courts.

Sec. 12-10. Cash bond records and receipts.

(a) A permanent record shall be kept in the municipal court of all cash bonds. The receipt bonds shall be numbered in duplicate with the original sheet perforated. The defendant or person posting cash shall sign one of the bonds, making the carbon duplicate show the amount of cash posted. The officer taking the cash bond shall fill out and sign in the space provided on the bond

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a receipt of the money, stating the amount and by whom posted and giving a docket number. The original of this combination bond and receipt shall be delivered to the person posting the cash, and the duplicate shall remain in the bound volume, which shall be used by the court for a permanent record and shall be referred to by the judge in forfeiting the bond when the case is called for trial and the defendant fails to appear. The number and amount of this bond-receipt and the docket number shall be posted on the police blotter, which shall be a permanent record. The police department shall furnish a monthly cash report to the city secretary showing the name of the defendant, the docket number, the bond-receipt number, and the amount. Forfeitures or fines shall be entered on the court docket showing final disposition.

(b) A prisoner will be required to sign the cash bond-receipt described in subsection (a) of this section when posting cash for his appearance, and the amount shall be stated in the cash bond-receipt.

(c) The cash bond-receipt shall be formulated in such manner that the prisoner shall have entered a plea of guilty on failure to appear at the time set in the bond.

Sec. 12-11. Forfeiture of cash bond.

When a prisoner has made a cash bond and fails to appear at the time the case is set for trial in the municipal court, his name will be called, and if he or his representative fails to appear, the cash bond shall be forfeited by the judge by making a notation on the docket after hearing the evidence and satisfying himself that forfeiture of the bond is sufficient punishment for the offense for which the bond was given and that there need not be a capias warrant issued for the defendant's rearrest.

Sec. 12-12. Issuance of capias following forfeiture of bond.

Forfeiture of cash bonds shall operate as a fine except in instances where it appears to the municipal judge, after hearing evidence, that forfeiture of the bond is insufficient punishment, and then the judge shall order a capias warrant for the defendant's rearrest and trial.

Sec. 12-13. Monthly report of proceedings.

A monthly typewritten report shall be made by the city secretary to the city council giving an outline or summary of the proceedings had in the municipal court during the preceding month.

Sec. 12-14. Docket index.

A card index of the docket arranged alphabetically according to the names of the defendants shall be kept, showing a name, charge, docket number, date, and disposition, making it possible to ascertain readily whether or not a defendant is a previous offender.

Sec. 12-15. Establishment of municipal court building security fund.

(a) There is hereby created and established a municipal court building security fund (the "fund") pursuant to Article 102.017 of the Code of Criminal Procedure.

(b) The Municipal Court of the City of Shepherd, Texas (the "municipal court") is hereby authorized and required to assess a municipal court building security fee (the "fee") in the amount of \$3.00 against all defendants convicted in a trial of a misdemeanor offense by the municipal court. Each misdemeanor conviction shall be subject to a separate assessment of the fee.

(c) The municipal court clerk is hereby authorized and required to collect the fee and to pay same to the treasury of the City of Shepherd, Texas. All fees so collected and paid over to the treasury of the City of Shepherd, Texas, shall be segregated in the fund.

(d) The fund shall be used only for the purpose of financing the purchase of security devices and/or services for the building or buildings housing the municipal court of the City of Shepherd, Texas. "Security devices and/or services" shall include any and all items described in Article 102.017(d) of the Code of Criminal Procedure.

(e) The fund shall be administered by or under the direction of the City Council of the City of Shepherd, Texas. (Ord. No. 196, § 1, 10-9-2000)

Sec. 12-16. Municipal court technology fund.

(a) *Establishment.*

- (1) There is hereby created and established a municipal court technology fund, here-in-now known as the fund, pursuant to Article 102.0172 of the Code of Criminal Procedure.
- (2) The fund may be maintained in an interest bearing account and may be maintained in the general revenue account.

(b) *Amount of fee; assessment; collection.*

- (1) The fee shall be in the amount of \$4.00.
- (2) The fee shall be assessed and collected from the defendant upon conviction for a misdemeanor offense in the municipal court as a cost of court. A defendant is considered convicted if:
 - a. A sentence is imposed on the person;
 - b. The person is placed on community supervision, including deferred adjudication community supervision; or
 - c. The court defers final disposition of the person's case.
- (3) The fee shall be collected on conviction for an offense committed on or after February 1, 2000.
- (4) The clerk of the court shall collect the fee and pay the fee to the municipal treasurer or city secretary of the city, who shall deposit the fee into the municipal court technology fund.

(c) *Designated use of the fund; administration.*

- (1) The fund shall be used only to finance the purchase of technological enhancements for the municipal court of the city, including:
 - a. Computer systems;
 - b. Computer networks;
 - c. Computer hardware;
 - d. Computer software;
 - e. Imaging systems;
 - f. Electronic kiosks;
 - g. Electronic ticket writers; or
 - h. Docket management systems.
- (2) The fund shall be administered by or under the direction of the city council of the city.

(d) *Expiration and administration of fund.* In accordance with Article 102.0172 of the Code of Criminal Procedure, this section and the assessment and collection of the municipal court technology fee expires September 1, 2005. The purpose of the use of any funds remaining in the fund shall continue to be used and administered as required by this section and for that purpose this section remains in effect.

(Ord. No. 189, §§ 1—3, 7, 1-10-2000; Ord. No. 206, § 1, 10-8-2001)