

ORDINANCE NO. O20-22

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF WAYCROSS, GEORGIA, RELATING TO THE MUNICIPAL COURT; TO PROCLAIM THE EXISTENCE AND ESTABLISHMENT OF THE OFFICE OF PROSECUTING ATTORNEY OF THE MUNICIPAL COURT; TO OUTLINE THE DUTIES AS EXPRESSLY ALLOWED BY THE CONSTITUTION AND LAWS OF THE STATE GEORGIA; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; AND FOR OTHER PURPOSES.

WHEREAS, the City Commission desires to amend the Code of Ordinances of the City of Waycross to incorporate new laws relating to the establishment and maintenance of a municipal court, and principally the office of prosecuting attorney, as allowed by O.C.G.A. § 15-18-90 et seq. and which was enacted by the Georgia Legislature, being Ga. L. 2012, p.53 §4/SB 352; and

WHEREAS, the City of Waycross has, since at least 2003, contracted with Ware County to furnish municipal court services to the municipality as authorized by O.C.G.A § 15-7-80 et seq.; and

WHEREAS, the issue has been duly considered by the Commission of the City of Waycross, Georgia;

NOW THEREFORE, BE IT ORDAINED by the Commission of the City of Waycross, Georgia and it is hereby ordained by the authority of the same as follows:

SECTION 1. The City of Waycross Code of Ordinances, **Chapter 24 – MUNICIPAL COURT**, is hereby amended by adding a new article, to be numbered and named **ARTICLE III. – OFFICE OF MUNICIPAL COURT PROSECUTOR**, which shall include the following sections and language, and read as follows:

Article III. – Office of Municipal Court Prosecutor.

Sec. 24-43. - Findings and Intent.

This ordinance is adopted to address requirements made under Georgia law for the city to pass an ordinance creating the office of prosecuting attorney of the municipal court should the city choose to hire or have a prosecuting attorney of the municipal court. Under state law, in order to

have a municipal court prosecutor, the city must pass this ordinance and provide to the Prosecuting Attorneys' Council of the State of Georgia a copy of the same. The city is also required to submit the name of the person appointed to be the prosecuting attorney of the municipal court within thirty (30) days of such appointment in order to maintain the office of prosecuting attorney of the municipal court. It is therefore the intent of the city to comply with Georgia law, particularly Article 5, of Chapter 18, of Title 15 of the Official Code of Georgia, Annotated, and to enact this Article.

Sec. 24-44. - Establishment of Office.

The Office of Prosecuting Attorney of the Municipal Court is hereby established for the purpose of providing representation of the City of Waycross in matters pertaining to ordinance violations of the city and state offenses enforceable in the municipal court as allowed by Georgia law. The prosecuting attorney for the municipal court shall be a part time position.

Sec. 24-45. - Qualifications.

Any person appointed by the city commission as the prosecuting attorney for the Municipal Court of the City of Waycross shall be a member in good standing of the State Bar of Georgia and admitted to practice before the trial and appellate courts of this state. Nothing in this Article shall prevent the city commission from contracting with the county governing authority to furnish municipal court services to the city pursuant to O.C.G.A. § 15-7-80 et seq.; and nothing in this Article shall prevent the city commission from appointing the city attorney to be the prosecuting attorney for the municipal court, so long as all other requirements under the law are met.

Sec. 24-46. Oath.

The prosecuting attorney of the Municipal Court for the City of Waycross shall take and subscribe to the following oath:

“I swear (or affirm) that I will faithfully and impartially and without fear, favor, or affection discharge my duties as prosecuting attorney of the Municipal Court for the City of Waycross, Georgia, and will take only my lawful compensation. I do further swear (or affirm) that I am not the holder of any unaccounted for public money due this State, or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am prohibited from holding by the laws of the State of Georgia; and that I am otherwise qualified to hold said office, according to the Constitution and Laws of Georgia; and that I will support the Constitution of the United States, the Constitution and laws of the State of Georgia, and the Charter and Ordinances of the City of Waycross, so help me God.”

Sec. 24-47. - Term of Office.

The prosecuting attorney for the Municipal Court of the City of Waycross shall serve a term of office of one year, commencing January 1, 2021, with automatic renewal in January of each year thereafter, unless he or she is terminated by resolution of the city commission.

Sec. 24-48. - Jurisdiction, Duties, and Authority.

The Office of Prosecuting Attorney of the Municipal Court for the City of Waycross shall have the duty and authority to represent the city as defined by the city charter and by state law, particularly as described in Official Code of Georgia, Section 15-18-96.

Sec. 24-49. - Ratification.

This Article shall ratify all actions that have been taken by the person or persons acting in the positions of the Office of the Prosecuting Attorney for the Municipal Court to date as authorized by the city commission.

SECTION 2. This Ordinance shall take effect and be enforced from and after the date of its final approval after second reading by the Commission of the City of Waycross, Georgia.

SECTION 3. If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become part of the Code of the City of Waycross, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

SO ORDAINED, this 3rd day of November, 2020.

CITY OF WAYCROSS, GEORGIA

BY: + Michael Angelo James
MICHAEL-ANGELO JAMES, MAYOR

ATTEST:

Michelle Love

MICHELLE LOVE, CITY CLERK

READ 1ST TIME: 10/20/2020

READ 2ND TIME AND ADOPTED: 11/03/2020