

ORDINANCE NO. 2018 - 01

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF SYLVESTER, GEORGIA TO PROVIDE FOR A SERVICE AGREEMENT AND MAXIMUM TERM OF OFFICE FOR THE MUNICIPAL COURT JUDGE; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the Charter of the City of Sylvester, Georgia created the Municipal Court of the City of Sylvester and provided that it shall be presided over by a chief judge and such other part-time, full-time or stand-by judges as shall be provided by ordinance; and

WHEREAS, O.C.G.A. §36-32-2 provides that any individual appointed as Municipal Court Judge shall serve a minimum of one year, and that such term must be memorialized in an agreement between the judge and the municipality, an ordinance or a charter amendment;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Sylvester as follows:

Section 1. Article II of Chapter 38 of The Code of Ordinances of the City of Sylvester is amended by repealing the existing Sec. 38-31 and replacing same with a new Sec. 38-31 reading as follow:

Sec. 38-31 – Maximum Term of Appointed Office for Municipal Court Judge; Service Agreements.

- (a) No person shall be qualified or eligible to serve as a judge of the municipal court unless he or she shall be in compliance with the requirements of state law on qualifications to serve in such office, including but not limited to compliance with all applicable training requirements.
- (b) All judges for the Municipal Court of the City of Sylvester shall be appointed by resolution of the city council that adopts or approves the Service Agreement with the judge. This Service Agreement shall include a term of service of no less than one year and no more than 1 years. The Service Agreement shall be approved by the city attorney as accurately describing the obligations of the judge and the independence of the Court, and it shall identify obligations of the judge and of the city for oversight and management of court staff and court service providers. Unless the judge has been removed from office in the middle of the term as described below, the Service Agreement shall renew automatically for a subsequent term unless the city council, by resolution, appoints a successor judge to serve at the expiration of the then-current term.

(c) The judge, or any judge pro tempore serving in the absence of the judge, is solely responsible for judicial decisions. Judicial decisions include, but are not limited to, establishment of a standard bail schedule, determination of bail in individual cases, determination of financial ability, conditions of probation, determination of liability, and determination of eligibility for indigent defense and for alternatives to monetary penalties including community service and penalty or fine reductions.

Furthermore, the Judge is responsible for the following:

- In coordination with the City Attorney, approving court forms and procedures necessary for the proper exercise of constitutional rights and other compliance with the law, and updating such forms and procedures as necessary.
- In coordination with the City Attorney, providing proper training of court staff and officials subject to the Judge's direction and control about court procedures and the use of approved court forms, and updating such training as necessary.
- Ensuring that court staff and officials subject to the Judge's direction and control use approved forms, follow approved procedures and comply with applicable provisions of the Code of Judicial Conduct, court rules, ordinances and statutes.
- Notifying the City Manager and City Attorney of additional resources necessary to ensure compliance with applicable laws and rules.
- Notifying the City Manager and City Attorney of service provider performance deficiencies.
- Reviewing quarterly reports and other communications of the Georgia Department of Community Supervision Misdemeanor Probation Oversight program and taking any actions the Judge deems necessary or appropriate.

(d) The municipal court judge may engage in the private practice of law; provided, however, a judge may not appear and represent a client before the Sylvester Municipal Court.

(e) The municipal court judge must provide the city manager and city attorney with a list of qualified individuals whom he may call upon to serve as judge pro tempore in the event that the municipal court judge may be absent from court.

(f) Before entering on duties of his or her office for the first time, an appointed judge shall take the following oath before an officer duly authorized to

administer oaths in this state:

'I swear (or affirm) that I will faithfully and impartially and without fear, favor, or affection discharge my duties as judge of the Municipal Court for the City of Sylvester, 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 Constitutions of the United States and of this state.'

The oath shall be entered upon the minutes of the city council, and the judge's name, contact information for business correspondence, and term of office shall be provided to the Administrative Office of the Courts.

- (g) A judge of the municipal court shall serve for the designated term in the Service Agreement but may be removed from the position, and the Service Agreement terminated during the term, by a two-thirds vote of the entire membership of the city council or upon action taken by the State Judicial Qualifications Commission for:
- a. Willful misconduct in office;
 - b. Willful and persistent failure to perform duties;
 - c. Habitual intemperance;
 - d. Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or
 - e. Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

SO ORDAINED, this 19th day of MARCH, 2018.

CITY OF SYLVESTER

By: _____

Mayor, William Yeara

Attest: _____

Clerk, Carolyn Williams

(SEAL)

1st reading: MARCH 19, 2018

2nd reading: WAIVED BY UNANIMOUS CONSENT