

Ordinance #112

AN ORDINANCE TO AMEND ORDINANCE #106 WHICH PROVIDES FOR THE ELECTION CITY JUDGES FOR THE TOWN OF ASHLAND CITY AND RELATED PROVISIONS

Whereas, the Supreme Court of the State of Tennessee in the case of The State of Tennessee, by and through the Town of South Carthage, Tennessee v. Barrett, filed September 28, 1992, decreed that judges of municipal courts which exercise jurisdiction over violations of the laws of the state of Tennessee must be elected and have the qualifications established by Article V, Section 4 of the Tennessee Constitution; and

Whereas, the General Assembly of the state of Tennessee on April 12, 1993, passed Public Act April 12, 1993, Chapter 115, which is now effective; and

Whereas, the Town of Ashland City desires to enact an ordinance to comply with the law of the state of Tennessee relative to the judges of its municipal court, who shall exercise the jurisdiction as provided herein, and related matters.

Now, Therefore, be it ordained by the board of mayor and aldermen of the Town of Ashland City follows:

Section 1. Prior Charter Provisions. Those sections of Article XI of the charter of the Town of Ashland City give to the Judicial Department of the city which are inconsistent with the provisions of this ordinance hereby declared to be ineffective due either to this unconstitutionality as decreed by the Supreme Court of Tennessee in the case of The State of Tennessee, by and through the Town of South Carthage, Tennessee v. Chester Barrett, as filed September 28, 1992, or their supersession by this ordinance.

Section 2. Judicial Department. In accordance with public act of the General Assembly of the State of Tennessee, Chapter #115, April 12, 1993, the Judicial Department of the city shall be established and administered in the following manner:

a) Number of Judges. The board of mayor and aldermen shall establish from time to time, the ordinance, the number of persons who shall serve as city judge(s). By this ordinance such number established as one.

b) Qualifications and Term. All persons serving as city judge shall meet the qualifications established by Article VI, Section 4 of the Tennessee Constitution, to-wit; they shall be 30 years of age, shall before their election have been a resident of the state

of Tennessee for five years and of the city for one year, and shall be elected by the qualified voters of the city for a term of service of eight years. (i) except for certain instances in which a person(s) may be appointed as city judge(s) for a term which shall expire after the applicable regular August general election, and (ii) except for any initial term of elected service which shall be shorter, all as provided hereinafter.

c) Jurisdiction and Powers. The jurisdiction of the city judge(s) shall extend to the trial of all offenses against the ordinances of the city and concurrently with the Court of General Sessions of Cheatham County, Tennessee, for violation of the criminal laws of the state. Costs in trials of offenses against the ordinances of the city shall be provided by ordinance. Costs in other matters shall be as established under general laws of the state of Tennessee. The city judge(s) shall have the power to levy fines, penalties and costs, pursue all necessary process, to administer oaths, and to maintain order, including the power to punish and contempt by fine of confinement not exceeding the limits provided by general laws.

d) Bail. The bail of persons arrested and awaiting trials and persons appealing the decisions of a city offense shall be fixed by the city judge and upon such security as in his discretion he deems necessary as otherwise may be provided by ordinance of general law.

e) Separation of Powers. The city judge(s) shall be the exclusive judge of the law and facts in every case before him and no official or employee of the city shall attempt to influence his decision except through pertinent facts presented in court.

f) Popular Election of Judge(s). The popular election of the city judge(s) is hereby chosen as an alternative to the present method of selecting the city judge(s) as set out in this charter of the city, and all city judges shall be popularly elected, subject to the provisions for initial appointments as provided for herein and appointments to fill any vacancy.

g) Term; Election Procedure. The term of office of a city judge shall be eight years, except for any initial term that may be shorter as provided herein. Upon this ordinance becoming effective, the board may appoint a qualified person(s) to serve in the position of city judge(s) until the next regular August general election. The first city judge(s) popularly elected pursuant to this ordinance and state law shall be elected at the next regular August general election that takes place at least 30 days after this ordinance becomes effective. The person(s) elected at the aforesaid election shall serve only until replaced by a successor to be chosen at the next regular judicial election held in accordance with Article VII, Section 5 of the Tennessee Constitution. All subsequent elections for city judge pursuant to this ordinance and general laws shall be held in accordance with article VII, section 5 of the Tennessee Constitution.

h) Vacancy. A vacancy in the office of city judge shall be filled by appointment by the board. The person appointed, however, may serve only until the next regular August general election. At such election, a person shall be elected to serve any unexpired term if the full term of his successor is not to be filled at such election. In the temporary absence or inability of a city judge, the board shall appoint a qualified person to serve until the judge returns.

i) Compensation. The salary and any other benefits relating to the office of all city judges shall be established by the board by ordinance prior to the commencement of the term of office and shall not be increased nor diminished during such term. The salary for the office city judge is hereby fixed at \$500 per month. The salary shall be paid monthly from the general fund of the city.

j) Records; Docket; City Clerk. The city does not elect, as permitted by the laws of the state of Tennessee, to require the city court clerk to be elected. The city administrator shall have the duty of maintaining all records of the city court in accordance with applicable laws. The city administrator may employ on behalf of the city a person to assist him in this function and such person shall be designed as city court clerk. The board shall require the proper maintenance of the docket of the city court and other records of the court. Subject to general law and the authority of the city judge(s), the board shall fix the regular time for holding court.

3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or application, and to that end the provisions of this ordinance are declared to be severable.

Be It Further Ordained, that this ordinance shall become effective immediately upon passage, the public welfare requiring it.

First reading: 9-13-94

Second reading: 10-11-94

Mayor Mary Grey Jenkins

Attest Demetria Cheal