

CITY OF LAREDO CITY COUNCIL MEETING

A-2015-S-03
CITY COUNCIL CHAMBERS
1110 HOUSTON STREET
LAREDO, TEXAS 78040
MARCH 16, 2015
5:30 P.M.

SUPPLEMENTAL AGENDA

I. INTRODUCTORY ORDINANCE

1. Amending the City of Laredo Code of Ordinances by deleting all existing sections of Chapter 20 entitled "Municipal Court" and replacing with new sections; establishing regulations for the enforcement of the Municipal Code of Ordinances and other applicable codes and laws; establishing rules and procedures for the operation of the municipal court and setting the annual salary of the presiding Municipal Court Judge to \$135,000.00; providing authorization to collect civil fines and impose court costs and fees; providing authority to designated code enforcement officers, inspectors, animal control officers or licensed peace officers of the city to issue citations for the enforcement of the code of ordinances and other laws provided herein; providing authority for the issuance of inspection and abatement warrants incidental to the enforcement of any provision of the city code; providing a repealing clause providing a severability clause; providing a penalty clause; providing for publication; and declaring an effective date. **(AS AMENDED)**
(This item replaces agenda item No. 14 , Final Reading of Ordinance No. 2015-O-024)

ADJOURNMENT

This notice was posted at the Municipal Government Offices, 1110 Houston Street, Laredo, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, March 13, 2015 at 4:15 p.m.

Gustavo Guevara, Jr.
City Secretary

City Council-Supplemental Agenda

Meeting Date: 03/16/2015

Initiated By: Jesus Olivares, Interim City Manager

Initiated By: Judge Rosie Cuellar, Municipal Court Judge

Staff Source: Kristina Laurel Hale, First Assistant City Attorney

SUBJECT

Amending the City of Laredo Code of Ordinances by deleting all existing sections of Chapter 20 entitled "Municipal Court" and replacing with new sections; establishing regulations for the enforcement of the Municipal Code of Ordinances and other applicable codes and laws; establishing rules and procedures for the operation of the municipal court and setting the annual salary of the presiding Municipal Court Judge to \$135,000.00; providing authorization to collect civil fines and impose court costs and fees; providing authority to designated code enforcement officers, inspectors, animal control officers or licensed peace officers of the city to issue citations for the enforcement of the code of ordinances and other laws provided herein; providing authority for the issuance of inspection and abatement warrants incidental to the enforcement of any provision of the city code; providing a repealing clause providing a severability clause; providing a penalty clause; providing for publication; and declaring an effective date. **(AS AMENDED) (This item replaces agenda item No. 14 , Final Reading of Ordinance No. 2015-O-024)**

VENDOR INFORMATION FOR COMMITTEE AGENDA

The Municipal Court Judge's salary has been set by the Council at \$135,000.00 annually.

PREVIOUS COUNCIL ACTION

None.

BACKGROUND

This Introductory Ordinance replaces Final Reading 2015-O-024. Since the passage of the original Municipal Court Ordinance and subsequent amendments thereto, the City of Laredo Municipal Court has become a Court of Record thereby acquiring additional jurisdiction over certain civil and criminal matters. The provisions contained in the existing Municipal Court Ordinance are inconsistent with §5.02 of the City Charter and Chapter 30 of the Texas Government Code. As a result, these rules are unenforceable and require amendment in accordance with the applicable laws.

Additionally, the amendments purport to establish rules of court for attorneys and defendants in order to provide for the speedy, efficient and just resolution of disputes and prosecutions. Finally, these amendments shall afford non-peace officers with

authority to issue citations and to seek administrative or inspection warrants in an effort to improve and facilitate enforcement of the City Code.

COMMITTEE RECOMMENDATION

Not Applicable.

STAFF RECOMMENDATION

Staff recommends approval of this Municipal Court Ordinance as amended.

Fiscal Impact

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

Funding for Municipal Court judge is available in General Fund-Municipal Court department budget.

Attachments

Council Comm.

Intro Ord

COUNCIL COMMUNICATION

DATE: 03/16/15	SUBJECT: Introductory ordinance Amending the City of Laredo Code of Ordinances by deleting all existing sections of Chapter 20 entitled “Municipal Court” and replacing with new sections; establishing regulations for the enforcement of the Municipal Code of Ordinances and other applicable codes and laws; establishing rules and procedures for the operation of the municipal court and setting the annual salary of the presiding Municipal Court Judge to \$135,000.00; providing authorization to collect civil fines and impose court costs and fees; providing authority to designated code enforcement officers, inspectors, animal control officers or licensed peace officers of the city to issue citations for the enforcement of the code of ordinances and other laws provided herein; providing authority for the issuance of inspection and abatement warrants incidental to the enforcement of any provision of the city code; providing a repealing clause providing a severability clause; providing a penalty clause; providing for publication; and declaring an effective date.
INITIATED BY: Jesus Olivares Interim City Manager	STAFF SOURCE: Raul Casso City Attorney
PREVIOUS ACTION: None.	
BACKGROUND: Since the passage of the original Municipal Court Ordinance and subsequent amendments thereto, the City of Laredo Municipal Court has become a Court of Record thereby acquiring additional jurisdiction over certain civil and criminal matters. The provisions contained in the existing Municipal Court Ordinance are inconsistent with §5.02 of the City Charter and Chapter 30 of the Texas Government Code. As a result, these rules are unenforceable and require amendment in accordance with the applicable laws. Additionally, the amendments purport to establish rules of court for attorneys and defendants in order to provide for the speedy, efficient and just resolution of disputes and prosecutions. Finally, these amendments shall afford non-peace officers with authority to issue citations and to seek administrative or inspection warrants in an effort to improve and facilitate enforcement of the City Code.	
FINANCIAL: The Municipal Court Judge’s salary has been set by the Council at \$135,000.00 annually.	
RECOMMENDATION:	STAFF RECOMMENDATION: Staff recommends approval of this Municipal Court Ordinance as amended.

INTRODUCTORY ORDINANCE

AMENDING THE CITY OF LAREDO CODE OF ORDINANCES BY DELETING ALL EXISTING SECTIONS OF CHAPTER 20 ENTITLED "MUNICIPAL COURT" AND REPLACING WITH NEW SECTIONS; ESTABLISHING REGULATIONS FOR THE ENFORCEMENT OF THE MUNICIPAL CODE OF ORDINANCES AND OTHER APPLICABLE CODES AND LAWS; ESTABLISHING RULES AND PROCEDURES FOR THE OPERATION OF THE MUNICIPAL COURT AND SETTING THE ANNUAL SALARY OF THE PRESIDING MUNICIPAL COURT JUDGE TO \$135,000.00; PROVIDING AUTHORIZATION TO COLLECT CIVIL FINES AND IMPOSE COURT COSTS AND FEES; PROVIDING AUTHORITY TO DESIGNATED CODE ENFORCEMENT OFFICERS, INSPECTORS, ANIMAL CONTROL OFFICERS OR LICENSED PEACE OFFICERS OF THE CITY TO ISSUE CITATIONS FOR THE ENFORCEMENT OF THE CODE OF ORDINANCES AND OTHER LAWS PROVIDED HEREIN; PROVIDING AUTHORITY FOR THE ISSUANCE OF INSPECTION AND ABATEMENT WARRANTS INCIDENTAL TO THE ENFORCEMENT OF ANY PROVISION OF THE CITY CODE; PROVIDING A REPEALING CLAUSE PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE. (AS AMENDED) (THIS ITEM REPLACES AGENDA ITEM NO. 14, FINAL READING OF ORDINANCE NO. 2015-O-024)

WHEREAS, the City of Laredo is a Home Rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has determined that these amendments are necessary to comply with Chapter 30 of the Texas Government Code pertaining to Municipal Courts of Record and the City Charter; and

WHEREAS, the City of Laredo seeks to adopt uniform rules for the Municipal Court rules in order to provide for the speedy, efficient and inexpensive resolution of disputes and prosecutions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

Section 1. Article II of Chapter 20 of the City of Laredo Code of Ordinances is hereby amended and shall be and read as follows:

ARTICLE I. ESTABLISHMENT OF THE COURT

Section 1.01 Creation

There is hereby created a municipal court of record in and for the City of Laredo Texas to be designated as the Laredo Municipal Court. Any reference hereinafter to the Court or Municipal Court shall be understood to mean the Laredo Municipal Court of Record. The court shall

possess all such powers and duties as now or hereafter may be prescribed by the laws of the State of Texas or City of Laredo Code of Ordinances relative to Municipal Courts.

Section 1.02 Jurisdiction

A. Jurisdiction of the court shall be as granted by the Charter and Ordinances of the City of Laredo, and any laws of this state that may now exist or may hereafter be passed by the legislature of this state, regulating or increasing the jurisdiction of the Municipal Courts in cities the size and grade of the City of Laredo. Such jurisdiction shall include exclusive original jurisdiction in all criminal cases occurring within the territorial limits of the City of Laredo that arise under the ordinances of the City of Laredo which are punishable by fine only not to exceed: Two Thousand Dollars and No Cents (\$2,000.00) in all cases arising under municipal ordinances that govern fire safety, zoning or public health and sanitation, including dumping of refuse; or Five Hundred Dollars and No Cents (\$500.00) in all other cases, and shall further include jurisdiction over cases arising in the extraterritorial jurisdiction of the City as provided by law. Such jurisdiction shall further include criminal cases arising under state law that occur within the territorial limits of the City of Laredo and which are punishable by fine only. An offense which is punishable by “fine only” is defined as an offense that is punishable by fine and such sanctions as authorized by statute not consisting of confinement in jail or imprisonment that are rehabilitative or remedial in nature. The court has jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction. The court has jurisdiction in appeals taken from a dangerous animal determination made by the Animal Control Supervisor.

B. The Municipal Court of Record shall have and exercise the jurisdiction which is conferred upon all Courts of Record by Chapter 30 of the Texas Government Code and other law.

C. In addition to the jurisdiction granted above in this article and in accordance with Section 30.00005 of the Texas Government Code, the Municipal Court of Record has concurrent jurisdiction with a District Court or a County Court at law under Subchapter B, Chapter 54, Texas Local Government Code, within the City of Laredo territorial limits and property owned by the City located in the City’s extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances.

Section 1.03 Seal

The City Council shall provide the Municipal Court with a seal to be attached to all papers, except subpoenas, issued out of the court and shall be used by each Municipal Judge or the Municipal Clerk to authenticate all official acts of the Clerk and the Judge.

ARTICLE II. PRESIDING MUNICIPAL COURT JUDGE

Section 2.01 Selection

There shall be one Presiding Municipal Court Judge who is elected at large by the qualified voters of the City of Laredo.

Section 2.02 Terms of Office

The Presiding Municipal Court Judge shall serve for a term of four years. The Municipal Court Judge may not serve more than two terms, except that he or she may serve the remainder of an unexpired term to which the Judge was elected or appointed and two additional terms.

Section 2.03 Qualifications

A. The Presiding Municipal Court Judge shall be a licensed attorney in good standing with the Texas State Bar, and have a minimum of two years experience in the practice of law in this State.

B. The Presiding Municipal Court Judge shall not hold other employment or engage in the private practice of law.

C. The Presiding Municipal Court Judge shall be a resident of the City of Laredo.

Section 2.04 Compensation

The Presiding Municipal Court Judge is entitled to an annual salary from the City in the amount of One Hundred and Thirty Five Thousand Dollars (\$135,000.00). This amount may not be diminished during the Judge's term of office and is independent of fines, fees or costs collected by the court.

Section 2.05 Duties and Authority

A. The Presiding Municipal Judge shall have all powers and duties assigned by the City Charter, City Ordinances, Chapter 29 and Chapter 30 of the Texas Government Code, and other applicable state law. In addition to the judicial and magisterial duties granted by State law, the Presiding Municipal Judge shall be responsible for the following administrative duties:

1) Formulating local judicial rules of practice and procedure, including prescribing such rules and procedures, not inconsistent with the law of the State and the ordinances of the City, as are necessary for the orderly processing and adjudication of cases in the municipal courts;

2) Assigning workload to an Associate Judges in the Presiding Municipal Court Judge's absence as required;

3) Performing other administrative duties as may be appropriate, within the limits of the Code of Criminal Procedure, the City Charter, City Ordinances or applicable State law.

B. The Presiding Municipal Court Judge is also a Magistrate for and has all authority of the judicial and magisterial duties conferred on him or her by State law.

C. The Presiding Municipal Court Judge shall take judicial notice of State law, the ordinances of the City and of the territorial limits of the City.

D. The Presiding Municipal Court Judge may grant writs of mandamus, attachments and other writs necessary to the enforcement of the jurisdiction of the court and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the court.

Section 2.06 Temporary Replacement; Vacancy

A. Associate Judges. The Presiding Municipal Court Judge shall recommend one Associate Municipal Court Judge and the City Manager shall recommend one Associate Municipal Court Judge, both of which must be confirmed by the affirmative vote of no less than five Council Members. The Presiding Municipal Court shall have the discretion to call upon an Associate Municipal Judge to serve in his or her temporary absent due to illness, family death, continuing legal or judicial education programs, or for any other reason. An Associate Municipal Court Judges shall be licensed to practice law in the State of Texas, and while serving, shall have the obligations and powers to discharge all the duties of a Presiding Municipal Court Judge.

B. Vacancy. If a vacancy occurs in the office of the Presiding Municipal Court Judge, the City Manager shall recommend, subject to the affirmative vote of no less than five City Council members, the appointment of a qualified person to fill this office for the remainder of the unexpired term.

ARTICLE III. COURT PERSONNEL

Section 3.01 Municipal Court Clerk

A. Appointment. There shall be appointed by the City Manager a Municipal Court Clerk with the status of a Department Director.

B. Powers. The Municipal Court Clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such court and conducting the business thereof.

C. Duties. The Clerk of the Municipal Court Clerk shall be responsible to maintain central docket records for all cases filed in the Municipal Court and maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts. The Clerk shall be the official in charge of the jury selection process in accordance with the plan of selection adopted by the Presiding Municipal Court Judge. The Clerk shall also perform in any other capacity necessary to issue process and conduct business of the Court.

D. Deputy Clerks. The Clerk of the Municipal Court shall appoint one or more Deputy Clerks. When the Municipal Court Clerk is incapacitated, absent, or otherwise unavailable to perform his or her official duties, the Deputy Clerks shall have the authority to perform the duties of the Clerk in the name of the Clerk.

Section 3.02 Court Reporter

A court reporter is not required to record testimony in a case unless the Judge or one of the parties requests a record. A party's request for a record must be in writing and filed with the court before trial. In lieu of providing a court reporter at trial, proceedings in a municipal court of record may be recorded by a good quality electronic recording device. The court reporter need not be present at trial to certify the statement of facts. The recording shall be kept and stored for the 20-day period beginning the day after the last day of the proceeding, trial, or denial of motion

for new trial, whichever occurs last. The proceedings that are appealed shall be transcribed from the recording by an official court reporter.

Section 3.03 Court Bailiffs

A. Appointment. The Chief of Police shall provide one or more police officers to serve as Bailiffs for the Municipal Court.

B. Direction. When functioning as a Court Bailiff, a police officer shall perform his duties under the direction and control of the Presiding Municipal Judge.

C. Duties. The principle duties of a Court Bailiff shall be as follows:

- 1) To preserve order and decorum while court is in session;
- 2) Provide security to the Municipal Court building;
- 3) Assemble and supervise witnesses and jurors;
- 4) Attend to the jury and inform the Judge about the needs and decisions of the jury;
- 5) Maintain custody of prisoners in the courtroom and arrange for their transportation to jail when requested by the Judge;
- 6) Serve process issued out of the court.

Section 3.04 Administrative Personnel

The City Manager shall have the discretion to provide the Presiding Municipal Court Judge with additional support staff when necessary for the proper operation of the court.

ARTICLE IV. LOCAL RULES OF THE MUNICIPAL COURT

Section 4.01 Authority and Application

A. Authority. Under the inherent power and duty of all Texas courts as codified in Section 21.001 of the Texas Government Code, the following Local Rules of the Municipal Court of the City of Laredo, Texas (hereinafter “*Local Rules*”) are promulgated and shall apply and govern any and all proceedings held within any Municipal Court of the City of Laredo. These rules are adopted for the purpose of securing uniformity in those proceedings and to promote justice.

B. Application. A copy of these *Local Rules* shall be available in the courtroom of the Laredo Municipal Court and on the City of Laredo website. The *Local Rules* apply to all court staff, attorneys and their staff members, Defendants, the City’s Prosecutor, witnesses and observers. Failure to comply with these rules may result in the imposition of sanctions, including contempt, by the Presiding Municipal Court Judge.

Section 4.02 Hours of Operation

The hours of operation of the Laredo Municipal Court shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday. Any exception to said hours shall be for City observed holidays or as determined by order of the Municipal Court Judge. The foregoing notwithstanding, the Presiding Municipal Court Judge shall have the authority to schedule the dockets of the court.

Section 4.03 Proceedings

A. Commencement. All proceedings in the court shall be commenced on a written complaint prepared by or under the direction of the City Attorney or an Assistant City Attorney, except when State law eliminates the need for a written complaint. When no written complaint is required, the proceeding shall commence upon the filing of the citation. The Clerk of the Municipal Court shall file the original complaint and the original of other papers in each case.

B. Records. The filed original papers constitute the records of the court. The Clerk of the Municipal shall keep a separate folder for each case and shall note on the outside of the folder:

- 1) The style of the case;
- 2) The nature of the charged offense;
- 3) The dates that the warrant was issued and returned;
- 4) The date the examination or trial was held;
- 5) Whether trial was held by jury or before a Judge;
- 6) Trial settings;
- 7) Any verdict of the jury;
- 8) Any judgment of the court;
- 9) Any motion for a new trial and the decision on the motion;
- 10) Whether an appeal was taken; and
- 11) The date and the manner in which the judgment and sentence were enforced.

Section 4.04 Jury

A. Structure. Each person charged with an offense is entitled to a trial by a jury of six persons unless the right is waived according to law.

B. Selection. The Presiding Municipal Court Judge shall adopt a plan for the selection of persons for jury service from the voter registration rolls of Webb County that must:

- 1) Require the compilation of jurors from the voter registration lists of all voting precincts within the City and the registry of permanently exempt persons residing in the City maintained by the county tax collector as prescribed by Section 62.108 of the Texas Government Code;
- 2) Require selection of jurors who are eligible to vote in the City and have the qualifications prescribed by Subchapter B, Chapter 62, of the Government Code of the State of Texas; and
- 3) Require the court to establish a fair, impartial and objective method of selecting persons for jury service.

C. Control. The Municipal Court Clerk shall be the official in charge of the selection process.

Section 4.05 Rules Governing Proceedings

All proceedings in the court shall be governed by the laws of the State of Texas. In those areas not specifically covered by the Texas Code of Criminal Procedure and elsewhere in the Texas laws or by local ordinance, the Presiding Municipal Court Judge may establish such court rules as are necessary to establish reasonable and consistent procedures for the operation of the court that are not inconsistent with general law.

Section 4.06 Dismissal of Cases

No complaint shall be dismissed except upon the recommendation of the prosecutor or order of a Judge, unless otherwise authorized by law..

Section 4.07 Prosecutions by City Attorney

All prosecutions in the Municipal Court shall be conducted by the City Attorney or any Assistant City Attorney.

Section 4.08 Courtroom Decorum

A. General Rules. Court is in session whenever the Judge is on the Bench. While the Court is in session, unless the Judge directs otherwise, the following conduct must be observed:

- 1) No loud noises. Any children brought into the Courtroom must be quiet or they must be removed from the Courtroom.
- 2) No eating or drinking in the Courtroom.
- 3) No standing in the Courtroom, except when addressing the Court or by direction of the Judge, or when necessitated by the business of the Court.
- 4) No gestures, facial expressions or sounds indicating approval or disapproval of a ruling by the Court or a comment on testimony of a witness.

5) All persons, whether lawyers, parties, witnesses, jurors, or spectators, conducting business, participating in trials, or otherwise attending proceedings in a courtroom of the Municipal Court of the City of Laredo, Texas, shall be dressed appropriately so as to maintain the dignity, integrity, decorum, seriousness and professional atmosphere of the Court and the administration of justice. As such, no inappropriate attire, including short shorts, tank tops, sleeveless shirts, jeans with holes or cut-outs, low pants with underwear showing or inappropriate “message” shirts, or sunglasses shall be allowed. No hats or head coverings including scarves, bandanas or do-rags shall be worn in the Courtroom, unless of a religious nature or for medical reasons.

6) No unattended children in the Courtroom.

7) No cellular telephone calls are to be made in the Courtroom. All phones shall be set to vibrate or turned off. Any device which rings or otherwise makes noise may be taken by the Bailiff or his designee and not returned until the conclusion of the court proceeding.

8) Absolutely no weapons shall be brought into the Courtroom, with the exception of those intended to be offered as evidence. The foregoing notwithstanding, Commissioned peace officers may bring weapons in the Courtroom. The Judge shall have the discretion to have any object removed from the Courtroom.

B. Defendants without Attorneys. Individuals who represent themselves in Municipal Court (Defendants Pro-Se) will be held to the same standards as attorneys when it comes to court decorum and sanction rules. Defendants Pro-Se should be prepared to present their cases in a proper manner. It is not the Court’s duty or responsibility to protect, instruct or educate any party on court procedures, evidence, rules or case presentment.

C. Conduct. Attorneys and Defendant Pro-Se appearing before the Municipal Court shall observe both the letter and the spirit of all Canons of Ethics and the Texas Disciplinary Rules of Professional Conduct, including those Canons concerning improper ex parte communication with the Judge and those dealing with discussion of cases with representatives of the media. In addition, the following rules of conduct shall be observed:

1) Attorneys shall advise their clients and witnesses of all the applicable *Local Rules* and shall ensure that their clients and witnesses follow and fully adhere to all such rules.

2) All male attorneys shall wear coats and ties inside the Courtroom or shall be excluded from the Courtroom by the Bailiff or his/her designee. Female attorneys shall wear appropriate professional attire inside the Courtroom.

3) All parties shall be prompt in arriving for Court and attending to Court business. Any attorney with a scheduling conflict preventing his or her arrival to the court must notify the Court at least 24 hours before the court setting.

4) Failure of an attorney representing a Defendant or Pro-Se Defendant to appear on time and as scheduled may result in a warrant being issued for the Defendant. In addition, any Attorney who fails to appear timely and as scheduled may be subject to sanctions including, but not limited to contempt.

5) During trial or any hearing, all objections, arguments and comments shall be directed to the Municipal Judge and not to Opposing Counsel or to a Pro-Se Defendant. Any objection that is raised during a hearing or trial must be supported by the legal basis for such objection.

6) During trial or any hearing, all participants in the proceedings shall address each other and members of the Jury, if any, without familiarity. The use of first names shall be avoided. While addressing the Court, Attorneys, and Pro-Se Defendants shall rise and remain standing at their position at the counsel table, unless directed otherwise by the Judge.

7) During trial or any hearing, Attorneys and Pro-Se Defendants shall not approach the Bench, except after requesting and receiving permission from the Municipal Judge, or as directed by the Municipal Judge.

Section 4.09 Media Recordings

The recording of court proceedings inside the courtroom is prohibited without the express permission of the Presiding Municipal Court Judge. Broadcast media wishing to film proceedings from outside the Courtroom must position equipment so as not to impede ingress or egress to or from the Courtroom.

Section 4.10 Notice

Notice of the date, time, location, and nature of each setting shall be given by the Court to a Pro-Se Defendant in person, by email, or by regular United States mail at the last known address provided to the Court by the Pro-Se Defendant. Notice of the date, time, location and nature of each setting shall be given by the Court to the Attorney for Defendant in person, by mail, or by email directed to the last known address of the Attorney. It is the responsibility of all persons with business before the Court to determine the date, and time of each setting and to update the Court of any changes of address, telephone number and email address of the Defendant or of Attorney(s) for the Defendant.

Section 4.11 Pleas

A. Notice of Appearance. No attorney shall be permitted to enter a plea for and on behalf of a Defendant unless the attorney has been designated as the Attorney of Record for the Defendant. An attorney must make file written notice with the Clerk of the Court to include the Defendant's name, docket numbers of all cases being handled by the attorney, and the attorney's name, address, email address, fax number, and telephone number. Letters of representation and notices of appearance that list the names of additional attorneys in a law firm, are all deemed attorneys of record for the case(s) identified in the letter of representation or notice of appearance.

B. Bond Requirements. For any Defendant with an active alias warrant, or if no warrant has been issued, on any case more than 60 days past the date of the issuance of the citation, the attorney or Pro-Se Defendant shall be required to post a cash or surety bond, before the warrant is lifted and a court date is set. No bond is required if the Defendant or his attorney pleads guilty. Attorneys and sureties posting bail bonds shall append to and make a part of their bail bonds the oath required by Article 17.13 of the Texas Code of Criminal Procedure. The Judge may, in his discretion, waive this requirement as authorized by Article 17.13. As authorized by Article 23.05

of the Texas Code of Criminal Procedure, if the Judge forfeits the bail of a Defendant, the Clerk shall immediately issue a warrant for the arrest of the Defendant, and when the Defendant is arrested, the Defendant shall be required to post a cash money in order to be released from custody and/or, if not arrested, to obtain the release of the warrant and obtain a new court date.

C. Form. All pleas shall be in writing, except for pleas entered in open court before a Municipal Judge. Written please must be filed either in person or by mail. The filing of a plea in person shall be at: the Laredo Municipal Court, 4610 Maher Ave, Laredo, Texas 78042. The filing of a plea by mail shall be at: P.O. Box 579, Laredo, Texas 78042. The date of the postmark shall be designated as the date of filing of any plea received by mail. A defendant who is not represented by an attorney must appear at all court settings of his/her case(s). Payment in full of the fine on a case pending in the Laredo Municipal Court shall constitute a guilty/no contest plea and a waiver of jury trial. No partial payments shall be accepted without a plea entered in person. A plea of not guilty by a Pro-Se Defendant will result in a trial setting. The Pro-Se Defendant shall inform the Court whether he/she desires a jury trial or a trial without a jury. Pleas of not guilty will require the Pro-Se Defendant to appear in person for a pre-trial hearing.

D. Special Needs. A Defendant requesting the services of an interpreter in any language must appear in person on their assigned court date and make their request in writing. Other requests for assistance from persons with disabilities should be made at the time the plea is entered.

Section 4.12 Motions

A. General Requirements

All Motions shall be in writing and filed with the Municipal Clerk with a courtesy copy sent to the Prosecutor or Defendant. The filing of a motion in person shall be at: the Laredo Municipal Court, 4610 Maher Ave, Laredo, Texas 78042. The filing of a motion by mail shall be at: P.O. Box 579, Laredo, Texas 78042. The date of the postmark shall be designated as the date of filing of any motion received by mail. Unless otherwise provided herein, Motions shall be filed no later than seven (7) days prior to the date of the pretrial hearing. Responses thereto, if any, shall be filed at least three (3) days prior to trial date. Service of a Motion or response shall be made pursuant to law. Each Motion or Response shall contain a certificate of service signed by the Movant or Respondent indicating that a copy of such Motion or Response has been served upon the opposing party, the manner and date of service.

B. Motions for Continuance

1) Form. Motions for Continuance must comply with the requirements of Article 29.08 of the Texas Code of Criminal Procedure and shall be in writing, sworn and filed with the Municipal Clerk at least two working days prior to the scheduled court date. In addition, said motions shall contain: (a) the Cause Number; (b) the name of the Defendant; (c) the date and time of the setting for which the continuance is sought; (d) the specific facts justifying the continuance. If the reason for the continuance is a conflict with a setting in another court, the Motion shall contain the Style and Cause Number of the other case, as well as the Court Number and time of the conflict; (e) an oath attesting to the truth of the matters contained in the Motion; and (f) a proposed order for the Judge to designate whether the motion is "Granted" or "Denied."

2) Deadline. Motions for Continuance require good cause shown and will not be granted for delay purposes. A Motion for Continuance shall be filed with the Court as soon as the Attorney for the Defendant, the Prosecutor or Pro-Se Defendant is aware of the necessity for seeking a continuance, but no later than two (2) days before the scheduled hearing or trial date.

3) Emergency Motion. Where the underlying facts (good cause) which form the basis for a Motion for Continuance were not discovered, and could not have been discovered through the exercise of due diligence prior to two days before the scheduled trial date, an Emergency Motion for Continuance may be filed, in writing or orally before the Court. Such Motion may be filed at any time prior to the respective Court proceeding and will be ruled on by the Judge at the call of the docket. The following factors will be considered in the determining whether a Motion for Continuance will be granted or denied: a) the specific nature of the conflict in scheduling; b) the age of the case; c) the number of previous continuances granted to each party; d) the timeliness of the filing of the Motion, including the date on which the scheduling conflict, if any, became known to the Movant; and e) any other matter relevant to the Motion.

4) Denied Motions. If a Defendant's Motion for Continuance is denied, in order for the Defendant to avoid a warrant, a bond in the amount set by the Court may be required to be posted, at the discretion of the Judge denying the Motion. It is the responsibility of the Pro-Se Defendant or the Counsel for Defendant to determine whether the Motion was granted or denied and to determine whether a bond is required. If a State's Motion for Continuance is denied, the case will proceed to trial, plea, or other disposition.

5) Vacation Letters. Attorneys shall file with the Clerk of the Court a vacation letter no less than 60 days prior to the anticipated date that the vacation is to begin. If the vacation letter is not filed at least 60 days prior to the vacation commencement date, the Attorney shall file Motions for Continuance in each case set during the vacation period for the Judge to consider.

C. Motions to Withdraw

Any Attorney who makes a written appearance on behalf of a Defendant shall be deemed the attorney of record for that Defendant until a written Motion to Withdraw is filed by that Attorney and is granted by the Court; or the case is disposed of by trial, plea, deferred disposition or attendance at a driver safety course, dismissal or substitution of counsel. A Motion to Withdraw as Counsel may be granted without a hearing only if the moving Attorney files a verified certificate stating the last known mailing address, telephone number, and email address of the Defendant and describes what efforts have been made to locate the Defendant. Additionally, Counsel may file along with the Motion to Withdraw a written consent to the withdrawal signed by the Defendant that acknowledges that the Defendant has been advised of all future court settings and sets forth the current mailing address, telephone number, and email address (if one exists) of the Defendant. Otherwise, a Motion to Withdraw must be presented to the Court at a hearing after notice to the Defendant and to all other parties.

D. Substitution of Counsel.

A Motion to Substitute Counsel shall be signed by the Attorney who currently represents the Defendant, as well as the Attorney who wishes to undertake representation of the Defendant. The Motion must include an affirmative statement that the Defendant has consented to the

substitution. If a Motion to Withdraw as Counsel for Defendant also contains a Motion to Substitute Counsel, a Notice of Appearance by another Attorney, and a written agreement by the Prosecution, the Attorney named in the Motion to Substitute will thereafter be considered by the court as Attorney of record for the Defendant.

E. Discovery. In addition to and not in limitation of the provisions of Article 39.14 of the Code of Criminal Procedures, all requests for discovery of audio and video recordings from the Laredo Police Department shall be deemed timely made if they are made in writing on or before the first appearance date of the Defendant whether in person or by his/her attorney of record. All other requests for discovery shall be deemed timely if they are made not less than 14 days prior to the date of the final trial setting.

Section 4.13 Open Court

Attorneys and Pro-Se Defendants may appear at the Court during the Court's hours of operation to dispose of cases with or without active warrants. Cases may be disposed of during the Court's hours of operation, when a Pro-Se Defendant wishes to enter a plea of guilty or no contest, present proof of compliance, request deferred disposition, defensive driving, or establish or reinstate a payment plan. The Municipal Court Judge has the discretion to require any case to be reset to permit the Prosecutor an opportunity to be heard on the case(s).

Section 4.14 Pre-Trial Hearings

Attorneys and Pro-Se Defendants must attend any scheduled Pre-Trial Hearing. The purpose of the Pre-Trial Hearing is to resolve the case prior to trial and to set for trial those cases that cannot be resolved. It is the responsibility of the Attorney of Record to advise his/her client of the terms of judgment entered against the client as a result of a plea agreement. No case will be set for a jury trial without an appearance by an attorney of record at the Pre-Trial. Once a case is set for jury trial, the Defendant's appearance at each subsequent setting shall be required until the case is finally disposed of by way of the entry of a final judgment.

Section 4.15 Trial Settings

A. Scheduling Order. Subject to the discretion of the Judge calling the docket, the order of cases actually proceeding to trial, whether bench trial or jury trial, shall be as follows: preferential settings, cases set according to age, oldest first, other circumstance as determined by the Court in the interest of justice. To receive a preferential setting, subject to the Judge's approval, a party must reside more than one hundred (100) miles outside the city limits of Laredo; have a condition, illness or injury that would necessitate an expedited disposition of the case; or have an outside witness who has appeared at least one prior trial setting without the case having been reached.

B. Defendants Must Attend Trial Dockets. Every Defendant shall be present at the call of every trial docket, unless his/her attorney has filed and been granted a Motion for Continuance. Every Pro-Se Defendant shall be present at the call of his/her trial docket, unless he/she has filed and been granted a Motion for Continuance. Once a case has been set for trial, whether by Judge or Jury, the Defendant shall be present at every setting of the case until the case is finally

disposed of by entry of a judgment. The Judge may issue a Failure to Appear Warrant for any Defendant who fails to appear at a trial docket without having been granted a continuance.

Section 4.16 Juvenile Proceedings and Minors

A. Juvenile Defined. A juvenile is a Defendant who is at least 10 years of age and is younger than 17 years of age.

B. Entering a Plea. A juvenile must enter his/her plea in open court with a parent or guardian present.

C. Notice of Current Address. The parents and the juvenile have a continuing obligation to give written notice of their current address and any change of address.

D. Minor in Possession and other Alcoholic Beverage Code Violations. A minor (anyone under the age of 21 years at the time of the alleged violation) may only enter a plea to an Alcohol Beverage Code violation in open court.

Section 4.17 Post Trial Proceedings

A. Inability to Pay Fine. If a Defendant does not appeal the Court's decision, but claims indigency, the Defendant may request an indigency hearing. At that hearing Defendant shall be required to show cause why he/she cannot discharge the fine by making payments or performing community service hours, if available, in lieu of payment.

B. Indigency upon Appeal. If a Defendant is indigent and unable to pay either the Appeal Bond or to pay for the transcript, he/she may file an Affidavit of Indigency with the Court and file a Motion to Waive Costs. Such Affidavit of Indigency and/or Motion to Waive Costs must be filed within the ten (10) day statutory period to file an appeal Bond. A hearing on the Motion to Waive Costs shall then be scheduled by the Municipal Judge who entered the Order being appealed, unless that Judge is not available.

ARTICLE V. APPEALS

Section 5.01 Right of Appeal & Perfection

A. Right to Appeal. A Defendant has the right of appeal from a judgment or conviction in a Municipal Court of Record. The County Criminal Courts of Webb County have jurisdiction of appeals from the Municipal Court. The state has the right to appeal as provided by Article 44.01, Code of Criminal Procedure.

B. Standard of Review. The Appellate Court shall determine each appeal from a Municipal Court conviction and each appeal from the state on the basis of the errors that are set forth in the appellant's motion for new trial and that are presented in the clerk's record and reporter's record of facts prepared from the proceedings leading to the conviction or appeal. An appeal from the Municipal Court shall not be by trial de novo.

C. Perfecting an Appeal.

1) Motion for New Trial. To preserve the right to an appeal, the appellant must file a written motion for new trial with the Municipal Clerk no later than the tenth (10th) day after the date on which judgment is rendered. The motion must set forth the points of error of which the appellant complains. The motion may be amended by leave of court at any time before action on the motion is taken, but not later than the twentieth (20th) day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed ninety (90) days from the original filing deadline. If the court does not act on the motion before the expiration of the thirty (30) days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

2) Notice of Appeal. To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the Defendant must file written notice of the appeal and with the court not later than the tenth (10th) day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed ninety (90) days from the original filing deadline.

Section 5.02 Appeal Bond

A. Timing. If the Defendant is not in custody, the Defendant may not take an appeal until the Defendant files an appeal bond with the Municipal Court. The bond must be approved by the court and must be filed not later than the tenth (10th) day after the date on which the motion for new trial is overruled. If the Defendant is in custody, the Defendant shall be committed to jail unless the Defendant posts the appeal bond.

B. Amount. The appeal bond must be in the amount of One Hundred Dollars and No Cents (\$100.00) or double the amount of the fines and costs adjudged against the Defendant, whichever is greater. The bond must state that the Defendant was convicted in the case and has appealed, and it must be conditioned on the Defendant's immediate and daily personal appearance in the court to which the appeal is taken.

Section 5.03 Record on Appeal

The record on appeal must substantially conform to the provisions relating to the preparation of a record on appeal in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Section 5.04 Clerk's Record

The clerk's record must substantially conform to the provisions relating to the preparation of a clerk's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Section 5.05 Bills of Exception

Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Section 5.06 Reporter's Record

A reporter's record included in the record on appeal must substantially conform to the provisions relating to the preparation of a reporter's record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Section 5.07 Completion, Approval and Transfer of Record

A. Completion. Not later than the sixtieth (60th) day after the date on which the notice of appeal is given or filed, the parties must file with the Municipal Clerk:

1. The reporter's record;
2. A written description of material to be included in the clerk's record; and
3. Any material to be included in the clerk's record not in the custody of the Municipal Clerk.

B. Approval. On completion of the record, the Municipal Judge shall approve the record in the manner provided for record completion, approval and notification in the court of appeals.

C. Transfer of Record. After the court approves the record, the Municipal Clerk shall promptly send it to the appellate court clerk for filing. The appellate court clerk shall notify the Defendant and the prosecuting attorney that the record has been filed.

Section 5.08 Brief on Appeal

An appellant's brief on appeal from the Municipal Court must present points of error in the manner required by law for a brief on appeal to the court of appeals. The appellant must file the brief with the appellate court clerk not later than the fifteenth (15th) day after the date on which the clerk's record and reporter's record are filed with that clerk. The appellant or the appellant's attorney must certify that the brief has been properly mailed to the appellee. The appellee must file the appellee's brief with the appellate court clerk not later than the fifteenth (15th) day after the date on which the Defendant's brief is filed. Each party, on filing the party's brief with the appellate court clerk, shall deliver a copy of the brief to the opposing party and to the Presiding Municipal Court Judge.

Section 5.09 Disposition on Appeal

A. Decision. According to the law and the nature of the case, the appellate court may take one of the following actions:

- 1) Affirm the judgment of the Municipal Court;
- 2) Reverse and remand for a new trial;
- 3) Reverse and dismiss the case; or
- 4) Reform and correct the judgment.

B. Presumptions. Unless the matter was made an issue in the trial court or it affirmatively appears to the contrary from the clerk's record or reporter's record, the appellate court shall presume that:

- 1) Venue was proven in the trial court;
- 2) The jury, if any, was properly impaneled and sworn;
- 3) The Defendant was arraigned and pleaded to the complaint; and
- 4) The Municipal Judge certified the charge before it was read to the jury.

C. Opinion. In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. The court shall set forth the reasons for its decision. The appellate court clerk shall mail copies of the decision to the parties and to the Municipal Judge as soon as the decision is rendered.

Section 5.10 Certificate of Appellate Proceedings

When the judgment of the appellate court becomes final, the clerk of that court shall certify the proceedings and the judgment and shall mail the certificate to the Municipal Clerk. The Municipal Clerk shall file the certificate with the papers in the case and note the certificate on the case docket. If the Municipal Court judgment is affirmed, further action to enforce the judgment is not necessary except to: (1) Forfeit the bond of the Defendant; (2) Issue a writ of *habeas corpus* for the Defendant; or (3) Issue an execution against the Defendant's property.

Section 5.11 Effect of Order of New Trial

If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the Municipal Court.

ARTICLE VI. ADMINISTRATION OF THE COURT

Section 6.01 Collection and Disbursement of Funds

The Municipal Clerk shall establish formal procedures for the collection and disbursement of funds in accordance with policies established by the City Manager so that all fines, fees, costs and monies collected and disbursed may be accounted for properly. All fines shall be paid into the City Treasury.

Section 6.02 Issuance of Citations

A. Authority. Enforcement of the City of Laredo Code of Ordinances and any and all applicable codes and ordinances within the City of Laredo and the State of Texas shall be the responsibility of any designated Licensed Peace Officer, Code Enforcement Officer or Inspector of the City. Any officer designated by this section has the authority to issue citations compelling the appearance of a defendant for violations of city ordinances.

B. Method. If the person being cited is not present, the person designated hereunder may send the citation to the alleged offender by certified mail, return receipt requested. If a person who receives a citation by personal service or as provided under this subsection fails to appear on the return date of the citation, the court may issue a warrant for the person's arrest for the violation described in the citation.

C. Interference. It shall be unlawful for any person to interfere with any Licensed Peace Officer, Code Enforcement Officer or Inspector or in the performance of his duties under this section and to enforce the ordinances of the City of Laredo, Texas.

Section 6.03 Mandatory Fees

Court costs or fees are authorized to be imposed and collected in accordance with the provisions of state law, and the maximum fees therein expressed are authorized to be imposed.

Section 6.04 Warrant Fees

Warrant fees are hereby authorized to be imposed and collected in accordance with the provisions of Article 45.06, Texas Code of Criminal Procedure, and the maximum fees therein expressed are authorized to be imposed.

Section 6.05 Special Expenses Fees

Special Expense Fees for services performed in cases in which the laws of this State require that the case be dismissed because of actions by or on behalf of the Defendant which were subsequent to the date of the alleged offense are hereby authorized to be imposed and collected in accordance with the provisions of Article 45.06, Texas Code of Criminal Procedure.

Section 6.06 Municipal Court Security Fund

A. Fund Created. There is hereby created a Municipal Court Building Security Fund. This fund shall be administered under the direction of the governing body of the City of Laredo.

B. Fee Assessed. All Defendants convicted for a misdemeanor offense in Municipal Court shall pay a three dollar (\$3.00) security fee as a cost of court. A person is considered convicted for purposes of this ordinance if a sentence is imposed on the person, the person receives community supervision, including deferred adjudication, or the court defers final disposition of the person's case. The security fee shall be collected by the Court Clerk for deposit in the Municipal Court Building Security Fund.

C. Fund Purposes. The Municipal Court Building Security Fund may be used only to finance items when used for the purpose of providing security services for any buildings housing the municipal court of the City of Laredo, including:

- 1) The purchase or repair of x-ray machines and conveying systems;
- 2) Hand-held metal detectors;

- 3) Walk-through metal detectors;
- 4) Identification cards and systems;
- 5) Electronic locking and surveillance equipment;
- 6) Bailiffs, deputy sheriffs, deputy constables or contract security personnel during times when they are providing appropriate security services;
- 7) Signage;
- 8) Confiscated weapon inventory and tracking systems;
- 9) Locks, chains, alarms, or similar security devices;
- 10) The purchase or repair of bulletproof glass;
- 11) Continuing education on security issues for court personnel and security personnel; and
- 12) Any other item or service permitted by law.

Section 6.07 Municipal Court Technology Fund

A. Fund Created. There is hereby created a municipal court technology fund in accordance with Subchapter A, Chapter 102, Code of Criminal Procedure, Article 102.0172. This fund shall be administered under the direction of the governing body of the City of Laredo.

B. Fee Assessed. All Defendants convicted in municipal court, for a misdemeanor offense committed on or after September 1, 1999, shall be required to pay a four dollar (\$4) technology fee as a cost of court. A person is considered convicted for purposes of this ordinance if a sentence is imposed on the person, the person is placed on community supervision, including deferred adjudication community supervision, or the court defers final disposition of the person's case. The Municipal Court Clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.

C. Fund Purposes. The Municipal Court Technology Fund may be used only to finance the purchase of or to maintain technological enhancements for the Municipal Court of the City of Laredo, including:

- 1) Computer Systems;
- 2) Computer Networks;
- 3) Computer Hardware;
- 4) Computer Software;
- 5) Imaging Systems;
- 6) Electronic Kiosks;
- 7) Electronic Ticket Writers;
- 8) Docket Management Systems; and
- 9) Any other Item or Service Permitted by Law.

Section 6.08 Juvenile Case Manager Fund

A. Fund Created: There is hereby created a Municipal Court Juvenile Case Manager fund, in accordance with Subchapter A, Chapter 102 of the Texas Code of Criminal Procedure, Article 102.0174. This fund shall be administered under the direction of the governing body of the City of Laredo.

B. Fee Assessed: All Defendants convicted for a misdemeanor offense in Municipal Court shall pay a two dollar (\$2.00) Juvenile Case Manager Fee as a cost of court. The Presiding Municipal Court Judge is authorized to waive the fee in cases of financial hardship. A Defendant is considered convicted for purposes of this Ordinance if a sentence is imposed on Defendant or Defendant receives deferred disposition, including deferred proceedings under Article 45.052 or 45.053 of the Texas Code of Criminal Procedure. The Juvenile Case Manager Fee shall be collected by the Municipal Clerk for deposit in the municipal court juvenile case manager fund.

C. Fund Purposes: The Juvenile Case Manager Fund may be used only to finance the salary and benefits of any Juvenile Case Manager employed under Article 45.056 of the Texas Code of Criminal Procedure.

Section 6.09 School Crossing Guard Program Court Cost

A. Court Cost Created: There is hereby created a court cost, in accordance with Subchapter A, Chapter 102 of the Texas Code of Criminal Procedure, Article 102.014(b).

B. Fee Assessed: A one (\$1) dollar court cost shall be assessed on each violation of an ordinance, regulation, or order regulating parking, stopping, or standing as allowed by Section 542.202, Texas Transportation Code, or Chapter 682, Texas Transportation Code.

ARTICLE VII INSPECTION AND ABATEMENT WARRANTS

Section 7.01 Definitions

For the purposes of this article, the following words have the meanings hereinafter designated:

A. Abatement Warrant. A written order, issued by a magistrate and directed to any inspector, as defined in this section, commanding him to enter specific premises for the purpose of abating or causing the abatement of a specific violation or violations of any City ordinance or other law that provides for such abatement by the City.

B. Inspection Warrant. A written order, issued by a Magistrate and directed to any inspector, as defined in this section, commanding him to inspect specific premises to determine the presence of a violation or violations of any City ordinance or other law that provides for such inspections to be conducted by City inspectors and, when the inspector is also a peace officer, the Code of the City of Laredo, laws of the State of Texas and the United States.

C. Inspection and Abatement Warrant. A written order, issued by a Magistrate and directed to any inspector, as defined in this section, commanding him to inspect specific premises to

determine the presence of a violation or violations of any City ordinance or other law that provides for such inspections to be conducted by City inspectors, and if such violation or violations are found to exist, commanding him to abate or cause the abatement of said violation or violations of any City ordinance or other law that provides for such abatement by the City.

D. Inspector. Any peace officer of the State of Texas or any designated inspector for any department of the City of Laredo, Texas, which is charged with code enforcement or enforcement of any provision of the Code of the City of Laredo or state or federal laws.

Section 7.02 Warrants Authorized

Except as provided in Section 7.03, inspectors are hereby authorized to seek and obtain Inspection, Abatement, and Inspection and Abatement Warrants from a Magistrate before making any inspection or abatement action incidental to the enforcement of any provision of the Code of the City of Laredo or other law that provides for such inspection and/or abatement by City inspectors and, when the inspector is also a peace officer, incidental to the enforcement of the Code of the City of Laredo, laws of the State of Texas and the United States. A Magistrate is hereby authorized to issue such warrants subject to the requirements of this chapter.

Section 7.03 Warrants Not Required

Inspection and Abatement Warrants shall not be required under the following circumstances:

A. Consent. When permission to inspect or enter the premises for abatement purposes has been granted by someone apparently having charge or control of those premises; for the purpose of this subsection, permission to inspect or enter the premises for abatement purposes may be granted either verbally, in writing or by some other action indicating consent; or

B. Imminent Danger. When there exists an imminent danger or peril to human life, limb or property, and any delays resulting from the application for a warrant would materially increase the likelihood of loss from such danger or peril; or

C. Public Areas. When the inspection and/or abatement can be executed in areas held open to the general public; or

D. Business. When the inspection or entry for abatement purposes is of a business recognized by law as being a traditionally licensed and regulated enterprise for which no reasonable expectation of privacy exists.

Section 7.04 Requirements for Issuance of Inspection Warrant

A. Probable Cause. No Inspection Warrant shall be issued except upon citation to specific laws requiring or permitting inspections, or on the presentation of evidence of probable cause to believe that a violation or violations of the Code of the City of Laredo, or state or federal statutes providing for such inspections to be made by City inspectors are present in the premises sought to be inspected. In determining probable cause, the magistrate is not limited to evidence of specific knowledge, but may consider any of the following:

- 1) The age and general condition of the premises;
- 2) Previous violations or hazards found present in the premises;
- 3) The type of premises;
- 4) The purposes for which the premises are used; and
- 5) The presence of hazards or violations in, and the general condition of, premises near the premises sought to be inspected.

B. Affidavit. A sworn affidavit setting forth substantial facts to-ward establishing probable cause or the statutory basis for inspection shall be filed in every instance in which an Inspection Warrant is requested.

Section 7.05 Inspection Warrant Formalities

An Inspection Warrant issued pursuant to this chapter is sufficient if states: That it run in the name of "The State of Texas"; That it identify, as near as may be, those premises to be inspected; That it commands an inspector to inspect forthwith the premises described; and That it be dated and signed by the magistrate.

Section 7.06 Requirements for Issuance of Abatement Warrant

No Abatement Warrant shall be issued except upon the presentation of a sworn statement by an inspector indicating direct personal knowledge of the existence of a specific violation of law in or at the premises sought to be entered. The sworn statement must specify the type of violation, what provision of law is violated, when it was observed by the inspector and under what circumstances and where on the premises the violation was observed. No Abatement Warrant shall be issued unless the inspector seeking it has personal knowledge of the violation specified in the sworn statement.

Section 7.07 Abatement Warrant Formalities

An Abatement Warrant issued pursuant to this chapter is sufficient if it contains the following: That it run in the name of "The State of Texas"; That it identify with specificity the violation to be abated; That it identify with specificity the law violated: That it identify, as near as may be, those premises or that portion of those premises where the violation to be abated exists; That it command an inspector forthwith to abate or cause to be abated the listed violation at the specified location; and That it be dated and signed by the magistrate.

Section 7.08 Inspection and Abatement Warrants

Upon presentation to a magistrate by an inspector of facts sufficient to constitute probable cause to believe that a violation exists which requires immediate abatement because it presents an imminent danger or threat to human life or health, an Inspection and Abatement Warrant may be issued by the magistrate. All of the requirements for issuance of both an Inspection Warrant and

an Abatement Warrant must be met for the issuance of an Inspection and Abatement Warrant, except that the inspector's sworn statement is not required to reflect the inspector's personal knowledge of the existence of the violation to be abated where sufficient facts are presented to constitute probable cause to believe that the violation exists. An Inspection and Abatement Warrant issued pursuant to this chapter shall be sufficient if it contains all of the formalities for issuance of both an Inspection Warrant and an Abatement Warrant.

Section 7.09 Execution of Warrants

An inspector to whom an Inspection, Abatement, or Inspection and Abatement Warrant is delivered shall execute it without delay and forthwith return it to the proper magistrate. It may be executed within three (3) days from the time of its issuance, and shall be executed within a shorter period if so directed in the warrant by the magistrate. The inspector shall, upon going to the place ordered to be inspected or entered in order to have a violation abated, give notice of his purpose to the person who has charge of or is a resident of the place or who has possession of the property described in the warrant. If such persons cannot be found, upon execution of the warrant, a copy of said warrant shall be affixed to the front door of the building or premises inspected or where abatement has occurred.

Section 7.10 Days Allowed for Warrant to Run

The time allowed for the execution of an Inspection, Abatement, or Inspection and Abatement Warrant shall be three (3) whole days, exclusive of the day of its issuance and of the day of its execution. The magistrate issuing a warrant under the provisions of this article shall endorse on such warrant the date and hour of the issuance of the same.

Section 7.11 How Return is Made

Upon returning the Inspection, Abatement, or Inspection and Abatement Warrant, the inspector shall state on the back of the same, or on some paper attached to it, the manner in which it has been executed and shall likewise deliver to the magistrate a copy of any report and inventory resulting from any inspection or abatement.

Section 7.12 Power of Inspector Executing Warrant

The execution of a warrant issued pursuant to this article shall not include any authority to make arrests or to seize tangible goods of a violation.

Section 7.13 Records to be Kept

The Magistrate shall keep a record of all proceedings had before him in the cases of Inspection, Abatement, and Inspection and Abatement Warrants as part of the official records of his court.

Section 7.14 Conflicts

No provision of this article is intended to conflict with any State or Federal law, and the powers and rights granted herein are in addition to any rights granted by State or Federal law.

Section 2. This ordinance shall be cumulative of all provisions of ordinances of the City of Laredo Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. The City Secretary of the City of Laredo is hereby directed to publish the proposed Ordinance as required by Section 2.09 of the Charter of the City of Laredo.

Section 5. This Ordinance shall become effective from and after its adoption and publication required by the City Charter and by state law.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS THE
_____ DAY OF _____, 2015.

PETE SAENZ
MAYOR

ATTEST:

GUSTAVO GUEVARA, JR.
CITY SECRETARY

APPROVED AS TO FORM:

RAUL CASSO
CITY ATTORNEY

BY: KRISTINA K. LAUREL HALE
FIRST ASSISTANT CITY ATTORNEY