

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
CITY ATTORNEY'S OFFICE**

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

THROUGH: Terry M. Brechtel, City Manager

COPIES: Yolanda Ledesma, City Clerk; File

SUBJECT: Ordinance Amending Section 20-5 of the City Code of San Antonio, relating to the term of office of municipal court judges.

DATE: December 18, 2003

SUMMARY AND RECOMMENDATIONS

This Ordinance amends Section 20-5 of the City Code of San Antonio to conform with Section 160 of the San Antonio City Charter, as recommended by the Municipal Court Subcommittee of the Quality of Life Committee for the City Council. This amendment will delete code language that is inconsistent with the charter, and remove the risk of confusion resulting from that conflict.

Staff recommends passage of this Ordinance.

BACKGROUND INFORMATION

Article XII, Section 160 of the City Charter provides as follows:

Sec. 160. Officers to hold over until their successors are appointed and qualified.

Whenever under the provisions of this Charter any officer of the city, judge or member of any board or commission is appointed for a fixed term, such officer, judge or member shall continue to hold office until his successor is appointed and qualified.

That language is straightforward and unqualified. The current language of Section 20-5, however, provides the following:

The term of office of municipal judges is two (2) years, beginning from the effective date of the ordinance that accomplishes the appointment or reappointment. However, in the event there is no reappointment or new

appointment prior to the end of a judges two-year term, the judge is authorized to continue in office as a holdover judge for up to ninety (90) days or until the effective date of an ordinance that establishes the appointment of a new judge or the reappointment of the sitting judge, whichever occurs first.

The second sentence of Section 20-5 purports to restrict the authorization of a municipal court judge to serve as a "holdover" judge after the expiration of the judge's fixed two-year term. To those who may not understand the relationship between the City Charter and the City Code, the code language as currently written could lead to the erroneous conclusion that a judge may not be authorized to continue in office for more than 90 days after the expiration of the judge's term. The Charter, of course, authorizes an indefinite holdover and continuation in office, until the judge's successor "is appointed and qualified."

The proposed ordinance amends Section 20-5 to delete the second sentence. As so amended, Section 20-5 will be consistent with the City Charter.

FISCAL IMPACT

There is no fiscal impact associated with this Ordinance.

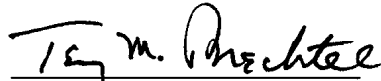
COORDINATION

The City Attorney's Office has coordinated this item with the City Clerk's.



ANDREW MARTIN
City Attorney

APPROVED:



TERRY M. BRECHTEL
City Manager