

ORDINANCE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING MESA CITY CODE TITLE 2, CHAPTER 3 ENTITLED “JUDICIAL ADVISORY BOARD.”

WHEREAS, to encourage public confidence in the fairness of the Mesa Municipal Court (the “Court”) and the competency of its magistrates, the City Council, by Ordinance No. 3340, created a permanent Judicial Advisory Board to recommend to the City Council the best qualified persons to become magistrates and to evaluate the performance of, and advise City Council about retaining, appointed magistrates.

WHEREAS, in order to efficiently appoint the best qualified persons to the Court, the City Council desires to amend Mesa City Code Title 2, Chapter 3 to allow the City Council, under limited circumstances, to appoint based on merit qualified applicants to the Court who were previously investigated, evaluated, and recommended for appointment by the Judicial Advisory Board but who the City Council could not appoint at that time due to limited vacancies on the Court or other administrative constraints.

WHEREAS, the City Council finds it appropriate to amend Mesa City Code Title 2, Chapter 3 related to the appointment process for City Magistrates and to make other changes to Mesa City Code Title 2, Chapter 3, as set forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Mesa City Code Title 2, Chapter 3, Section 7 entitled “Board Meetings” is amended as follows (text written in **BOLD AND ALL CAPS** indicates new language and text written in ~~strike through~~ represents removed language):

2-3-7: BOARD MEETINGS

- (A) Promptly upon learning of a vacancy, anticipated vacancy, or the expiration of the existing term of a City Magistrate or **PRESIDING CITY MAGISTRATE** ~~upon learning that City Council elected to follow the appointment process for the Presiding City Magistrate of Subsection 2-3-8(B)(1)(b) or the reappointment process for the Presiding City Magistrate of Subsection 2-3-8(B)(2)(b),~~ the chairperson of the Board shall issue a call for a meeting of the Board, **EXCEPT WHEN THE CITY COUNCIL USES THE APPOINTMENT OR REAPPOINTMENT PROCESS OF SUBSECTION 2-3-8(A)(2), 2-3-8(C)(1)(A), OR 2-3-8(C)(2)(A).**
- (B) All Board meetings shall comply with the Arizona Open Meeting Act (A.R.S. § 38-431 et seq.) and Public Records Law (A.R.S. § 39-121 et seq.), as amended.

- (C) The City Clerk's Office and the Human Resources Department shall jointly act as secretary to the Board by preparing notices of meetings, minutes, sending information packets to members, and fulfilling all other clerical responsibilities of the Board.

SECTION 2. Mesa City Code Title 2, Chapter 3, Section 8 entitled "Appointment and Reappointment Process of City Magistrates, the Presiding City Magistrate, and Magistrates Pro Tem" is repealed in its entirety and replaced with a new Mesa City Code Title 2, Chapter 3, Section 8 as follows:

2-3-8: APPOINTMENT AND REAPPOINTMENT PROCESS OF CITY
MAGISTRATES, THE PRESIDING CITY MAGISTRATE, AND
MAGISTRATES PRO TEM

- (A) Appointment of City Magistrates. The City Council may appoint a City Magistrate based on merit by using either of the following processes and the City will notify the Board of which process will be used.
- (1) Except as provided in Subsection 2-3-8(A)(2), the appointment process for a City Magistrate is as follows:
- (a) The Board shall actively seek and encourage well-qualified individuals to apply to a City Magistrate vacancy. Through the City's Human Resources Department, the Board shall advertise notice to the public and licensed attorneys of a City Magistrate vacancy in a manner designed to provide reasonable notice of the opening but shall at least publish notice of the vacancy in a newspaper of general circulation once a week for two (2) successive weeks.
- (b) All applicants shall complete an application containing such information as the Board and the Human Resources Department deem necessary and appropriate to comply with the law and to provide relevant information about the ability of the applicant to perform an outstanding job as a City Magistrate. The Board may use as a guide the "Application for Nomination to Judicial Office" formulated under Rule 4 of the Arizona Supreme Court's Uniform Rules of Procedure for Commissions on Appellate and Trial Court Appointments.
- (c) Applicants shall be given a meaningful opportunity to supplement their applications with letters of recommendation.
- (d) The Board shall not limit its investigation of applicants to the applications and any letters of recommendation received but shall also conduct personal interviews and investigations into the

background, performance, and qualifications of the applicants. The Board shall personally interview at least six (6) applicants for initial appointment as a City Magistrate and may also hold public hearings related to the appointment of a City Magistrate as the Board deems necessary and appropriate.

- (e) The Board is authorized to develop procedures and use such information it deems reasonable that are consistent with this Chapter to select City Magistrates on the basis of merit.
- (2) The City Council may appoint a qualified applicant to a City Magistrate vacancy from a previous list of the three (3) best qualified applicants recommended by the Board and submitted to the City Council (See Subsection 2-3-9(D)(1)), provided the City Council previously appointed an applicant from that same list within the last six (6) months.
- (B) Reappointment of City Magistrates. The reappointment process for a City Magistrate is as follows:
 - (1) Through the City's Human Resources Department, the Board shall advertise notice to the public and licensed attorneys of the potential reappointment of a City Magistrate in a manner designed to solicit public and professional comment and elicit constructive appraisals of the performance of the City Magistrate but shall at least publish notice of the potential reappointment in a newspaper of general circulation once a week for two (2) successive weeks.
 - (2) All City Magistrates seeking reappointment shall complete an application containing such information as the Board and the Human Resources Department deem necessary and appropriate to comply with the law and to provide relevant information about the ability of the applicant to perform an outstanding job as a City Magistrate. The Board may use as a guide all surveys, questionnaires, data forms, and reports, formulated under Rule 6 of the Arizona Supreme Court's Rules of Procedure for Judicial Performance Review in Arizona.
 - (3) City Magistrates seeking reappointment shall be given a meaningful opportunity to supplement their applications with letters of recommendation.
 - (4) The Board shall not limit its investigation of City Magistrates seeking reappointment to the applications and any letters of recommendation received but shall also conduct personal interviews and investigations into the background, performance, and qualifications of the City Magistrate seeking reappointment. The Board shall conduct at least one (1) public hearing soliciting public input concerning a City Magistrate seeking

reappointment and may hold additional public hearings related to the reappointment of a City Magistrate as the Board deems necessary and appropriate.

- (5) The Board is authorized to develop procedures and use such information it deems reasonable that are consistent with this Chapter to retain City Magistrates on the basis of merit.

(C) Appointment and Reappointment of the Presiding City Magistrate.

- (1) The City Council may appoint a Presiding City Magistrate based on merit by using either of the following processes and the City will notify the Board of which process will be used.

- (a) The City Council may appoint a current sitting City Magistrate to fill a vacancy of the position of Presiding City Magistrate. The City Council may use such procedures and information as it deems reasonable to select a Presiding City Magistrate which may include considering all surveys, questionnaires, data forms, and reports formulated under Rule 6 of the Arizona Supreme Court's Rules of Procedure for Judicial Performance Review in Arizona.

- (b) The City Council may determine that the appointment process for the Presiding City Magistrate will be the same as the process for City Magistrates set forth in Subsection 2-3-8(A)(1), except that Subsection 2-3-8(A)(2) is not applicable to the appointment process for the Presiding City Magistrate.

- (2) The City Council may make a reappointment decision regarding the Presiding City Magistrate by using either of the following processes.

- (a) The City Council may make a reappointment decision regarding the Presiding City Magistrate on the basis of merit. The City Council may use such procedures and information it deems necessary to make the reappointment decision, which may include any of the procedures of Subsection 2-3-8(B). If the City Council chooses this reappointment process, the City will notify the Board.

- (b) If the City Council does not choose the reappointment process under Subsection 2-3-8(C)(2)(a), the reappointment process for the Presiding City Magistrate will be the same as the process for City Magistrates set forth in Subsection 2-3-8(B).

(D) Appointment of Magistrates Pro Tem.

- (1) The Presiding City Magistrate, with approval from the City Manager, may appoint Magistrates Pro Tem on an as-needed basis, such as to fill in for City Magistrates who are unavailable or for temporary or part-time staffing of the Mesa Municipal Court.
- (2) The duration of the appointment of a Magistrate Pro Tem will be determined by the Presiding City Magistrate based on the needs of the Mesa Municipal Court.

SECTION 3. RECITALS. The above recitals are fully incorporated in this Ordinance by reference.

SECTION 4. EFFECTIVE DATE. The effective date of this Ordinance shall be thirty (30) days following adoption by the City Council.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA,
MARICOPA COUNTY, ARIZONA, this 5th day of July, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk