

ORDINANCE NO. 05- 07

**AN ORDINANCE PROVIDING FOR A PROSECUTOR AND FOR A SYSTEM OF INDIGENT DEFENSE IN THE MUNICIPAL COURT OF THE CITY OF FORT GAINES; PROVIDING THAT THE EXPENSE OF SAID SYSTEM BE PRORATED OVER ALL CRIMINAL CASES IN MUNICIPAL COURT, AND ALL BOND FORFEITURES, AND LEVIED AS COSTS IN ALL SUCH CASES AND BOND FORFEITURES; REPEALING ORDINANCES IN CONFLICT; AND FOR OTHER PURPOSES.**

**WHEREAS** the Constitution of the United States of America as construed by the United States Supreme Court requires that indigent defendants in certain criminal cases in all courts including municipal courts be provided with defense counsel at the expense of the government;

**WHEREAS** Article IV of the charter of the City of Fort Gaines authorizes the provision and funding of such a system for the municipal court of the City of Fort Gaines as hereinafter provided;

**NOW, THEREFORE, BE IT ORDAINED** by the mayor and council of the City of Fort Gaines, and it is hereby ordained by authority of same:

**Section 1.** There is hereby established for the municipal court of the City of Fort Gaines the office of Indigent Defense Counsel. Said position shall be filled each year by the mayor and council at their first regular official meeting of the calendar year, for a term of one year and until a successor has been appointed. All persons appointed to this position shall be members in good standing of the State Bar of Georgia, and shall be licensed and qualified to practice law in the State of Georgia. Should the mayor and council fail to appoint a successor, the incumbent shall continue to serve at the pleasure of the mayor and council, and until a successor is appointed. The compensation of such appointee shall be fixed by the mayor and council by agreement with the appointee.

**Section 2.** It shall be the duty of Indigent Defense Counsel to attend each session of the municipal court at which there will be arraignments and/or trials of cases involving the violation of city ordinances and/or state laws, and to represent and defend the accused person in all cases and/or arraignments where appointed and directed by the court to do so.

**Section 3.** There is hereby established for the municipal court of the City of Fort Gaines the office of Prosecutor. Said position shall be filled each year by the mayor and council at their first regular official meeting of the calendar year, for a term of one year, and until a successor has been appointed. All persons appointed to this position shall be members in good standing of the State Bar of Georgia, and shall be licensed and qualified to practice law in the State of Georgia. Should the mayor and council fail to appoint a successor, the incumbent shall continue to serve at the pleasure of the mayor and council, and

until a successor is appointed. The compensation of such appointee shall be fixed by the mayor and council by agreement with the appointee.

**Section 4.** It shall be the duty of the Prosecutor to attend each session of the municipal court at which there will be trials of cases involving the violation of city ordinances and/or state laws, and to prosecute the trial of said cases where directed by the court to do so.

**Section 5.** In every criminal proceeding in the municipal court, both at arraignments and at trial, in which imprisonment is provided by law as a possible punishment, where the accused is not otherwise represented by counsel, and where the judge determines that the accused is financially unable to employ counsel, the court shall appoint and direct Indigent Defense Counsel to represent such accused.

**Section 6.** At their first regular official meeting of each calendar year the mayor and council shall, by the method hereinafter set forth, establish a fee to be added as costs in every criminal case disposed of by the court, whether by trial or by plea, and in every bond forfeiture declared by the court, and it shall be the duty of the judge of the municipal court to add said costs in every case as above provided in addition to all other costs, fines, fees and forfeitures. The amount of said cost, to be fixed each year as above provided, shall be determined as follows: The total amounts paid to the Prosecutor and to Indigent Defense Counsel during the preceding calendar year shall be divided by the total number of all criminal cases processed by the court for the preceding calendar year, including trials, pleas, and bond forfeitures, and the result of that computation shall be the fee to be added as costs as hereinbefore provided during the ensuing calendar year.

**Section 7.** The provisions of this ordinance shall be codified, and shall be added to the official code of ordinances of the City of Fort Gaines, appropriately located and numbered. All ordinances in conflict herewith are repealed.

SO ORDAINED this 12 day of APRIL, 2005.

CITY OF FORT GAINES

By: 

Mayor, David Wetherby

Attest: 

Clerk, Marion Lindsey

(SEAL)

1<sup>st</sup> reading: 03-15-05

2<sup>nd</sup> reading: 04-12-05