

RECORD OF ORDINANCE

Ordinance No. 02-17

Date Passed FEBRUARY 14, 20 17

**ORDINANCE 02-17**

**AN ORDINANCE AUTHORIZING THE MAYOR TO CONTRACT FOR THE SERVICES OF A MAYOR'S COURT MAGISTRATE.**

WHEREAS, Section 1905.05 of the Ohio Revised Code, provides for the appointment, by the Mayor, of a Magistrate for the Lithopolis Mayor's Court; and

WHEREAS, the Mayor and Council deem it appropriate to provide an independent, neutral and detached Magistrate for the Village of Lithopolis Mayor's Court to assure the fair and efficient dispensing of justice to the citizens, thereby increasing public confidence in the Lithopolis Mayor's Court.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LITHOPOLIS, FAIRFIELD COUNTY, STATE OF OHIO;**

Section 1. That the Mayor is hereafter authorized to enter a new contract each year with a qualified Magistrate, appointed by the Mayor, to serve as Magistrate in the Lithopolis Mayor's Court.

Section 2. That the Mayor may contract to pay the Magistrate, upon such terms and conditions as the parties agree, provided the total amount of compensation shall not exceed during the budget year the amount of the annual appropriation approved by Council each year for such purpose.

Section 3. That the Magistrate shall at all times maintain all of the training and other statutory requirements of a Mayor's Court Magistrate appropriate to the needs of the Lithopolis Mayor's Court, and the contract shall so provide.

Section 4. That the Magistrate shall not be an employee of the Village, but shall at all times, and for all purposes, be an independent contractor, and the contract shall so provide.

Section 5. That either the Mayor or the Magistrate may provide for appropriate and qualified substitute coverage of the Magistrate position, pursuant to the terms of the Magistrate contract, whenever the appointed Magistrate is absent or unable to serve, and the contract shall so provide.

Section 6. That Ordinance 01-14 is hereby repealed.

Section 7. That this Ordinance shall take effect and be in full force at the earliest time permitted by law.

DATE PASSED: FEBRUARY 14, 2017

ATTESTED: [Signature]

SIGNED: [Signature]

CLERK

MAYOR

DATE: 2/27/17

DATE: 2/27/17

APPROVED AS TO FORM: [Signature]

VILLAGE SOLICITOR

## VILLAGE OF LITHOPOLIS 2017 MAGISTRATE AGREEMENT

This Village of Lithopolis Magistrate Agreement (the "Agreement") is made and entered into this \_\_\_\_ day of February, 2017 by and between **LAWRENCE G. STEPHENS**, a duly licensed Magistrate pursuant to the Rules of the Supreme Court of Ohio and the applicable sections of the Ohio Revised Code (hereinafter the "Magistrate"), and the **VILLAGE OF LITHOPOLIS**, an Ohio municipal corporation (hereinafter the "Village"). For valuable and mutual consideration received, the Magistrate and the Village hereby agree as follows:

1. **SCOPE, QUALIFICATIONS, AND CONSIDERATION.**

The Magistrate agrees to serve as Magistrate for each Session of the Lithopolis Mayor's Court (a "Session") and also fulfill such reasonable duties necessary for the effective function of the Court, including but not limited to probation hearings and other proceedings, the typical administrative tasks of a magistrate, and such other duties as are provided by law. A Session is defined generally as beginning at 5:30 pm each second and fourth Monday of each month and continuing until the adjudicatory matters of the Court are complete for that evening. No provision herein shall prevent the Village from changing the day or time of any Session. The Magistrate shall arrive and begin preparation for Court at least 15 minutes before the scheduled beginning of each Session.

The Magistrate shall at all times maintain all the requirements necessary to be a licensed attorney and certified magistrate, qualified to adjudicate all matters which could possibly be brought before a magistrate in a Mayor's Court in Ohio.

The Village shall compensate the Magistrate at a rate of Ninety-Five Dollars (\$95.00) per hour to be paid monthly, without invoice. Any Magistrate-related business conducted outside of a scheduled Session shall be compensated on the same terms and at the same rate, pursuant to an invoice submitted by the Magistrate and approved for payment by the Mayor. The total Magistrate compensation shall be accounted for annually with the issuance of an IRS 1099 form.

2. **TERM.**

The Magistrate shall provide non-exclusive magistrate services to the Village for one year, beginning with the first Session of 2017 and ending with the last Session of 2017. Renewal for any additional term shall be strictly contingent upon obtaining the approval of the then-serving Mayor prior to the beginning of each term.

Either Party may terminate this Agreement for any reason, or for no reason at all, upon written notification to the other Party at least 30 days prior to such termination. Upon termination, the Magistrate shall invoice the Village for that portion of the work completed, and the Village shall pay the invoiced amount according to the terms herein.

In each event of a conflict of interest or absence by the Magistrate, the Magistrate shall have a duty to designate as a substitute another attorney, properly licensed, certified and trained as a Mayor's Court magistrate, to preside over Mayor's Court Session(s) in the absence of the Magistrate. Such substitute Magistrate(s) shall be compensated by the

Village at the rate and upon the same terms as provided in this Agreement. No provision herein shall prevent the Village from contracting with other magistrates.

**3. EXPENSES.**

The Magistrate shall be responsible for all customary expenses incurred that constitute operating expenses while performing as a magistrate under this Agreement. The Magistrate shall be responsible for all expenses associated with maintaining the Magistrate's licensure including but limited to educational requirements. The Magistrate shall not be required to maintain malpractice insurance coverage.

**4. NO AGENCY.**

The Magistrate, in rendering performance under this Agreement, is acting, and shall act, solely as an independent contractor. In no way is the Magistrate to be construed as an employee of the Village in any respect.

**5. ENTIRE AGREEMENT.**

This Agreement constitutes the entire agreement of the Parties regarding the subject matter addressed herein. This Agreement supersedes all prior or contemporaneous agreements, whether oral or written, concerning this subject matter and it cannot be amended, changed or discharged except in a writing signed by both Parties. Each Party acknowledges that no promise, representation or warranty, other than those set forth herein has been made to induce the execution of this Agreement, and each Party acknowledges that it has not executed this Agreement in reliance on any promise, representation, or warranty not specifically contained herein.

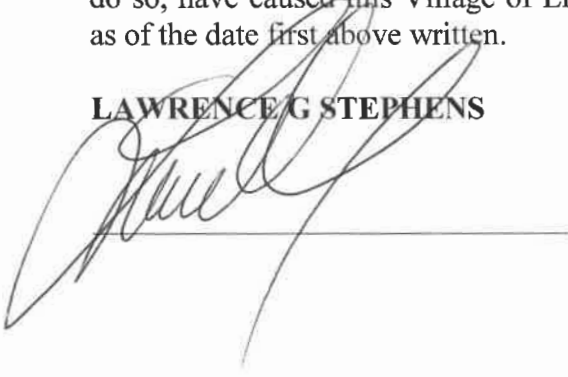
If any provision of this Agreement, in whole or in part, is held to be unenforceable or invalid for any reason, then provided the Agreement's essential consideration is not unreasonably impaired, such provision or portion thereof shall be modified or deleted in such a manner as to render this Agreement, legal and enforceable to the extent permitted under Ohio law.

**6. NO ASSIGNMENT.**

The Magistrate may not, without prior written consent of the Village, assign, transfer, subcontract, or sublicense this Agreement or any obligation hereunder. Any attempt to do so without prior written consent will be null and void.

IN WITNESS WHEREOF, the Parties hereto, representing they have authority to do so, have caused this Village of Lithopolis Magistrate Agreement to be duly executed as of the date first above written.

**LAWRENCE G STEPHENS**



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**VILLAGE OF LITHOPOLIS**



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By: Scott H. Gilliland

Its: Village Mayor