

## ORDINANCE 02-12

### AN ORDINANCE PROVIDING FOR THE EMPLOYMENT OF A MAYOR'S COURT MAGISTRATE AND DECLARING AN EMERGENCY.

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

WHEREAS, the United States Court of Appeals for the Sixth Circuit in the case of *DePiero vs. City of Macedonia, et al.*, 180 F. 3d 770 (1999), ruled that in certain circumstances, mayor's courts in the State of Ohio can violate the Constitutional right to due process of law. The basis for this ruling are the supposed conflicts of interest mayors have in attempting to serve as neutral and detached magistrates, while simultaneously serving as the chief conservators of the peace in a municipality and having responsibility for a municipality's fiscal health; and

WHEREAS, the Mayor and Council all deem it necessary to provide an independent, neutral and detached Magistrate for the Village of Lithopolis Mayor's Court to fairly and efficiently dispense justice to the citizens, increasing public confidence in the judicial system; NOW THEREFORE,

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LITHOPOLIS,  
FAIRFIELD COUNTY, OHIO THAT:**

#### **SECTION I – EMPLOYMENT OF MAGISTRATE:**

- (A) That a Magistrate shall be employed for the Village of Lithopolis Mayor's Court and such person so employed shall be known as the Village of Lithopolis Mayor's Court Magistrate. When the Magistrate is absent or unable to perform his duties, he or the Mayor may designate a substitute Magistrate pursuant to the terms of the contract which is Exhibit A.
- (B) In assessing the appointment of any Magistrate, the Mayor shall assess the Magistrate's performance/ability in the following areas: legal knowledge, proper judicial demeanor, and efficiency in the administration of justice. The Mayor may not consider any unconstitutional factors including, but not limited to: the size of any financial penalties the Magistrate may impose upon defendants and/or the frequency that the Magistrate rules in the Village's favor. During the term of his contract, the Magistrate may be removed by the Mayor only for misfeasance, malfeasance or nonfeasance in office and only following notice and an opportunity to be heard by the Magistrate.
- (C) The Council requires the Magistrate to attend, annually the Ohio Municipal League Mayor's Court training seminar or other appropriate education, which training fulfills the legal requirements for a Magistrate conducting Mayor's Court.

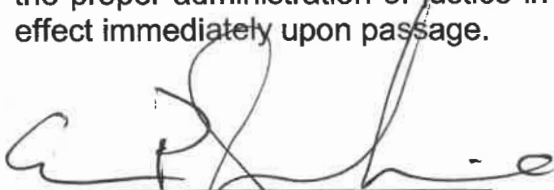
**SECTION II - DUTIES:** The Magistrate and any substitute shall be licensed as an Attorney at Law in the State of Ohio on active status with the Ohio Supreme Court and shall meet the other qualifications prescribed by law. The Magistrate shall serve as a judicial officer performing such services for the Village as are prescribed by law, including the Ohio Constitution, the Ohio Revised Code, the Codified Ordinances of the Village of Lithopolis, and other ordinances of the Village. The Magistrate shall have the

**SECTION III – COMPENSATION:**

- (A) The Mayor of the Village of Lithopolis is hereby and herewith, authorized and directed by Council to enter into a contract for the Mayor's Court Magistrate within the terms of this Ordinance.
- (B) That the compensation of the Mayor's Court Magistrate shall be as outlined in the contract, which is attached hereto as Exhibit A and incorporated in its entirety into this Ordinance.

**SECTION IV:** All prior ordinances and resolutions or any part thereof, which are inconsistent with this ordinance, including codified ordinances, are hereby repealed as to the inconsistent part or parts thereof and the remainder of said ordinance, ordinances, resolution or resolutions not inconsistent with this ordinance shall remain in full force and effect.

**SECTION V:** This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reasons that it is necessary for the operation of the Mayor's Court and the proper administration of justice in the Village; this ordinance to be in full force and effect immediately upon passage.

  
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Mayor Eric P. Sandine


11/10/12

ATTEST:

  
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Jacinta Seagraves, Fiscal Officer

SEAL

APPROVED AS TO FORM & CONTENT:

  
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Jon M. Browning, Esq., Solicitor