

Memo

To: Mayor and Council
From: ChaQuias M. Thornton, City Manager
cc:
Date: 01/03/2025
Re: Annual Appointments

Upon review of the Jonesboro charter, ordinances and Georgia statute, please see Administrative and Legal interpretation of the following:

I. Annual appointment of Directors

Charter Section 3.10(b) provides, "The *mayor* is hereby authorized and ***empowered to nominate for appointment and the City Council is hereby authorized and empowered to confirm the mayor's appointment annually, and for the term of one year***, unless sooner discharged or as otherwise provided by Georgia statute setting another term, ***directors of city departments, with the exception of the city manager, and the following officers***, who may or may not serve as directors of city departments: ***a chief of police and police officers, a building inspector, a code enforcement officer, a municipal court judge, a solicitor, and other officers that the city creates by ordinance.***" (*emphasis added*)

Based upon this Charter section, all department directors should be appointed annually, except the City Manager, Police Chief, Police Officers, Building Inspector, Code Enforcement Officer, Municipal Court Judge, Solicitor and other officers created by ordinance [i.e. Finance Officer]. These officers are (instead) subject to the terms of employment agreements (Manager, Judge, Solicitor) and/or personnel policies (Chief of Police, [Finance Officer]) but, are not subject to annual appointment by Council.

II. Appointment of Public Works Director and Community Development Director

Charter Section 3.10(b) indicates that an officer may or may not be a director. At the end of this charter section, "...officers that the City creates by ordinance" are excluded

from annual appointment. However, directors, that are not specifically excluded, are captured in the use of "directors of city departments."

Public Works is listed as a department in Ordinance Section 2-91 Departments Established. The duties of the Public Works Director are listed in Ordinance Section 54-2. The Community Development Director is defined in Ordinance Section 2-302 as "The director of the community development department, or his or her designee." Thus, both positions are deemed director, not officer, positions. Because neither position is specifically excluded from annual appointment in Charter Section 3.10(b), both positions fall within "directors of city departments" and are subject to annual appointment.

III. **Municipal Court Judge**

Below see, as cited, OCGA Section 36-32-2 Appointment of Municipal Court Judges

O.C.G.A. Chapter 32-MUNICIPAL COURTS, ARTICLE 1 – GENERAL PROVISIONS, Section 36-32-2 provides for the following:

(a) (1) Notwithstanding any other provision of this chapter or any general or local Act, the governing authority of each municipal corporation within this state having a municipal court, as provided by the Act incorporating the municipal corporation or any amendments thereto, is authorized to appoint a judge of such court. Any individual appointed as a judge under this Code section shall possess such qualifications as set forth in Code Section 36-32-1.1 and shall receive such compensation as shall be fixed by the governing authority of the municipal corporation. Notwithstanding the failure of the governing body of a municipal corporation to enter into a written agreement or enact an ordinance as provided for in this paragraph, **any individual appointed as a judge under this Code section shall serve for a minimum term of two years from the date of appointment as reflected in the minutes of the municipal corporation, unless such municipal corporation's charter provides for a longer term, and until a successor is appointed or if the judge is removed from office as provided in Code Section 36-32-2.1.** Such term shall be memorialized in a written agreement between such individual and the governing authority of the municipal corporation or in an ordinance or a charter. If such term is memorialized in a written agreement, such agreement shall not include any geographic limitation concerning a judge's eligibility to serve and shall not contain any provision that a judge serve in an at-will capacity.

Per **subsection (h) of OCGA Section 36-32-2.1**, the provisions of the state law expressly supersede local law (i.e. Charter, ordinance, policy). The state law requires a two (2) year minimum term for municipal court judges. The draft contract shared is from

January 1, 2025, to December 31, 2026, which complies with state law. Charter Section 4.11 Chief Judge; Associate Judge and Ordinance Section 30-2 Judge do not appear to be in conflict with state law. Thus, per local law, persons who meet the qualifications can be appointed as Chief Judge/Associate Judge by Mayor and Council and can be removed by four (4) votes (two-thirds) of members of the City Council. In addition to the four (4) votes indicated in local law, the process for removal of municipal court judges must comply with state law.

The Administration Office has contacted Municipal Court Judge Keith Wood regarding draft contract for review. The draft includes OCGA Section 36-32-2 Appointment of Municipal Court Judges and OCGA Section 36-32-2-1 Removal of Judge , and other terms of engagement. **I ask Mayor and Council to consider the contract between the City of Jonesboro and Kieth Wood for Municipal Court Judge as an item on its upcoming January 13th, 2025 Regular Session agenda of Mayor and Council.**

Thank you,

CMThornton