

15. For possible action: Matters pertaining to the Municipal Court Judge:
 - A. Discussion and direction regarding the process for selecting a new Municipal Court Judge upon the retirement of Judge Victor Lee Miller
 - B. Appointment of an interim Municipal Court Judge upon the retirement of Judge Victor Lee Miller



BOULDER CITY
CITY COUNCIL

MAYOR
JOE HARDY

COUNCIL MEMBERS:
DENISE E. ASHURST
COKIE BOOTH
SHERRI JORGENSEN
STEVE WALTON



MEETING LOCATION:
CITY COUNCIL CHAMBER
401 CALIFORNIA AVENUE
BOULDER CITY, NV 89005

MAILING ADDRESS:
401 CALIFORNIA AVENUE
BOULDER CITY, NV 89005

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ACTING CITY MANAGER:
MICHAEL MAYS, AICP

CITY ATTORNEY:
BRITTANY LEE WALKER, ESQ

CITY CLERK:
TAMI MCKAY, MMC, CPO

COMMUNITY DEVELOPMENT DIRECTOR:
MICHAEL MAYS, AICP

PUBLIC WORKS DIRECTOR:
GARY POINDEXTER

UTILITIES DIRECTOR:
JOSEPH STUBITZ, PE

POLICE CHIEF:
TIM SHEA

ACTING FIRE CHIEF:
GREG CHESSER, CFO

FINANCE DIRECTOR:
CYNTHIA SNEED, CPA, CGFM

PARKS & RECREATION DIRECTOR:
JULIE CALLOWAY, CPRP

City Council Meeting

December 10, 2024

Item No. 15

Staff Report

TO: Mayor and City Council

FROM: Michael Mays, Acting City Manager

DATE: December 10, 2024

SUBJECT:

For possible action: Matters pertaining to the Municipal Court Judge:

A. Discussion and direction regarding the process for selecting a new Municipal Court Judge upon the retirement of Judge Victor Lee Miller

B. Appointment of an interim Municipal Court Judge upon the retirement of Judge Victor Lee Miller

Business Impact Statement:

This action will not have a significant economic impact on business and will not directly restrict the formation, operation, or expansion of a business.

Action Requested:

Discuss and provide direction regarding the process for selecting a new Municipal Court Judge upon the retirement of Judge Victor Lee Miller, and appoint an interim Municipal Court Judge effective upon the retirement of Judge Victor Lee Miller.

Overview:

- Judge Victor Lee Miller has provided notice of his retirement effective January 5, 2025.
- § 8.1 of the City of Boulder City Charter provides that the Municipal Judge shall be appointed. The City Charter's requirement that Boulder City appoint its Municipal Court Judge prevails over the general state law requirement to elect. *Laird v. State Pub. Emp. Ret. Bd.*, 98 Nev. 42, 45, 639 P.2d 1171, 1173 (1982)("[w]here a general and a special statute, each relating to the same subject, are in conflict and they cannot be read together, the special statute controls").
- NRS 5.020 also allows the City to provide that the Justice of the

Peace is the *ex officio* Municipal Court Judge.

- The historical pattern and practice of Boulder City is to appoint its Municipal Court Judge. Since its incorporation, and even after the enactment of NRS 5.020, Boulder City has only appointed its Municipal Court Judge; it has never provided that the Justice of the Peace shall serve as the *ex officio* Municipal Court Judge. Indeed, in each circumstance where the Boulder Justice Court Justice of the Peace was the same person as the Municipal Court Judge, the person was either sworn in as Justice of the Peace while already appointed to the position of Municipal Court Judge, or was appointed Municipal Court Judge years after being sworn in as Justice of the Peace.
- Because the pending retirement is January 5, 2025, and the process for replacement can take some time, the City Council should also appoint an interim Municipal Judge.

Background Information:

§ 8.1 of the City of Boulder City Charter provides that the Municipal Judge shall be appointed. The City Charter's requirement that Boulder City appoint its Municipal Court Judge prevails over the general state law requirement to elect. *Laird v. State Pub. Emp. Ret. Bd.*, 98 Nev. 42, 45, 639 P.2d 1171, 1173 (1982)("[w]here a general and a special statute, each relating to the same subject, are in conflict and they cannot be read together, the special statute controls"). NRS 5.020 also allows the City to provide that the Justice of the Peace is the *ex officio* Municipal Court Judge.

Since 1960, the City of Boulder City has selected its Municipal Judge through the appointment process as provided in the City Charter, it has never elected its Municipal Judge or provided that the Justice of the Peace is the *ex officio* Municipal Court Judge.

Since 1960, the following individuals have been appointed Boulder City Municipal Court Judge: FM Doolittle (1960-1965), Alvin Wartman (1965-1967), Cliff Segerblom (1967-1969), Delwin Potter (1969-1969), Cliff Segerblom (1969-1983), John (Jack) Quinn (1984), and Victor Miller (1984-present). During that same time period, the following individuals have been Justice of the Peace for the Boulder Township Justice Court, FM Doolittle (1963-1965), Cliff Segerblom (1965-1983), John (Jack) Quinn (1983-1994), Victor Miller (1994-Present). The same person who served as Justice of the Peace also served as Municipal Court Judge between 1967-1969; 1969-1983, and 1994-Present. In each circumstance where the Justice of the Peace was the same person as the Municipal Court Judge, the person was either chosen to be Justice of the Peace while already appointed to the position of Municipal Court Judge, as is the case with FM Doolittle and Victor Miller, or was appointed Municipal Court Judge years after being sworn in as Justice of the Peace as in the case with Jack Quinn, who only served as Municipal Court Judge for a few months. The Justice of the Peace and Municipal Court Judge were filled by different people between 1960 and 1963, and 1984-1994.

Judge Victor Lee Miller has provided notice of his retirement effective January 5th, 2025, and the City Council must discuss and provide direction on its preferred process for appointing a new Municipal Court Judge.

In 1984, the City held an application period and received 40 applications and held interviews with 8 applicants before selecting Victor Miller.

For vacancies in the district court, the Nevada Commission on Judicial Selection solicits and screens applicants, and presents a list of three nominees to the Governor, who appoints one to fill the vacancy until the next general election.

If the City Council wishes the Justice of the Peace to serve as the ex officio Municipal Court judge, the City would have to seek consent from Clark County, and the current Justice of the Peace.

Because Judge Miller is retiring by January 5, 2025, the City Council will also need to appoint an interim Municipal Court Judge. Attached is a list of pro tem Judges already approved by the City Council. Senior Judges are also eligible to serve as interim Municipal Court Judge. Rule 12 of the Nevada Supreme Court Rules provides that a Judge is eligible to serve as a Senior Judge for a Municipal Court only if they have served in *that* office for two (2) years. Such a Senior Judge may be invited for such a temporary assignment by the City Council. Pursuant to Rule 12(7) "Each senior justice of the peace or senior municipal judge assigned as provided in this rule has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified judge of the court to which the senior justice of the peace or senior municipal judge is assigned."

The Municipal courts are courts of limited jurisdiction. They handle violations of city ordinances, proceedings to abate a nuisance within a city, actions for collection of city taxes or assessments up to \$2,500, and similar matters. The Municipal Court judge also oversees and administers the Breaking the Cycle Recovery Court Program, a specialty court program that was created to provide intervention, treatment and rehabilitation to misdemeanor criminal offenders that suffer from alcohol or chemical dependency.

NRS 5.020(2) provides the qualifications for Municipal judges.

"A municipal judge must:

- (a) Be a citizen of the State;
- (b) Except as otherwise provided in the charter of a city organized under a special charter, have been a bona fide resident of the city for not less than 1 year next preceding his or her election;
- (c) Be a qualified elector in the city; and
- (d) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline."

Financial:

The current classification schedule lists the salary for the Municipal Court Judge - Part Time as \$65,198-\$121,828.

Boulder City Strategic Plan Goal:

Goal G. Continue to Maintain High Levels of Public Safety

Department Recommendation: Discuss and provide direction regarding the process for selecting a new Municipal Court Judge upon the retirement of Judge Victor Lee Miller, and appoint an interim Municipal Court Judge effective upon the retirement of Judge Victor Lee Miller.

Attachments:

- 1.Nevada Supreme Court Rules
- 2.Pro tem List
- 3.Relevant Law
4. Judge Miller's Notice of Retirement Letter

[Rev. 6/29/2024 2:30:39 PM--2023]

SUPREME COURT RULES



ADOPTED BY THE SUPREME COURT OF NEVADA

Effective October 15, 1965
and Including
Amendments Through January 3, 2024

HISTORICAL NOTE CONCERNING THE SUPPLEMENTAL RULES OF THE SUPREME COURT OF NEVADA

Inherent Rulemaking Power of the Supreme Court and Legislative Recognition Thereof

One of the inherent powers of the supreme court, existing independently of statute, is the right to control its order of business and to prescribe rules, not inconsistent with law, for its own government and the government of its officers.

Notwithstanding this inherent power of the supreme court, the rulemaking power has been, and now is, expressly conferred or recognized by statutory enactment.

In 1861 the territorial legislature enacted ch. 103, Laws of the Territory of Nevada 1861, entitled "An Act to regulate Proceedings in Civil Cases in the Courts of Justice of the Territory of Nevada," providing therein in section 574 that the territorial supreme court could make rules not inconsistent with the constitution and laws of the territory for its own government. The 1861 act was repealed by ch. 112, Statutes of Nevada 1869.

After Nevada became a state, the legislature in 1869 and again in 1913 authorized the supreme court to make rules for its own government and the government of its officers. See ch. 112, Statutes of Nevada 1869, and ch. 198, Statutes of Nevada 1913. Today, similar authorization is contained in [NRS 2.120](#).

the assignment. The expenses shall be paid upon presentation of an itemized statement of expenses, certified by the judge pro tempore to be correct.

7. **Oath.** Upon accepting an assignment, a judge pro tempore must take, subscribe and file with the clerk of the supreme court the following oath or affirmation:

“I,, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State notwithstanding, and that I will well and faithfully perform all the duties of the office of a judge pro tempore of the Nevada court system on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

8. **Discipline and removal.** By subscribing and filing such oath, a judge pro tempore is subject to discipline and loss of status as such for violation of the Nevada Code of Judicial Conduct as applicable to judges pro tempore. Notwithstanding Canon 4C(3) of the Nevada Code of Judicial Conduct, service as an officer, director, manager, or employee of a business shall not preclude recall as a judge pro tempore, but full disclosure of such activity shall in all cases be made a matter of record, and the participation of the justice or judge may in all cases be precluded by any party through a timely objection made before consideration of any contested matter.

[Added; effective October 12, 1977; amended effective January 18, 2005.]

Rule 12. Senior justices of the peace and municipal judges; designation; assignment; duties and powers; compensation and expenses; oath; discipline and removal.

1. **Eligibility for recall.** The supreme court may recall a former justice of the peace or municipal judge to active service as a senior justice of the peace or senior municipal judge of the Nevada court system, provided that:

(a) He or she has served as a justice of the peace or municipal judge for at least two consecutive years; and

(b) He or she is eligible to retire or has retired under the provisions of the Nevada Revised Statutes; and

(c) He or she was not removed or retired for cause from that judicial office or defeated for retention in an election for that office.

2. **Application.** A former justice of the peace or municipal judge who meets the requirements of subsection 1 of this rule may apply to be commissioned as a senior justice of the peace or senior municipal judge by filing with the clerk of the supreme court a written application on a form approved by the supreme court. The approved application forms shall be available at the supreme court clerk's office.

3. **Investigation and approval.** The supreme court may refer an applicant to the administrative office of the courts or the commission on judicial selection for investigation into the background and qualifications of the applicant and for a recommendation as to whether the applicant should receive a commission as a senior justice of the peace or senior municipal judge. If the supreme court determines that the applicant remains physically and mentally capable of performing valuable judicial service on a continuing basis, and that the applicant's recall to active service will promote the effective administration of justice, a commission, duly executed and authenticated by the chief justice and clerk, shall thereupon issue under the seal of the supreme court.

4. **Extra-judicial employment.** A senior justice of the peace or senior municipal judge shall be treated for all purposes as if he or she is a part-time continuing judge pursuant to Section III of the Application portion of the Code of Judicial Conduct. However, such a senior justice of the peace or senior municipal court judge may not appear as counsel in a court in which that senior justice of the peace or senior municipal court judge regularly presides.

5. **Eligibility for assignment.** A senior justice of the peace is eligible for temporary assignment to any justice court in the State of Nevada and a senior municipal judge is eligible for temporary assignment to any municipal court in the State of Nevada, provided that the justice or judge previously served at least two years as a judge in that office and possesses the necessary experience for the case type over which he or she will preside.

6. **Temporary assignment.** The assignment of a senior justice of the peace or senior municipal judge shall become effective upon the invitation of a justice of the peace or municipal judge, or by the city council or county commission, of the jurisdiction to which the senior justice of the peace or senior municipal judge is to be assigned and acceptance by the senior justice of the peace or senior municipal judge.

7. **Duties and powers.** Each senior justice of the peace or senior municipal judge assigned as provided in this rule has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified judge of the court to which the senior justice of the peace or senior municipal judge is assigned. Without specific assignment, senior justices of the peace and senior municipal judges may perform routine ministerial acts, including the solemnization of marriages, subject to limitations in the jurisdiction in which they are performed, if any, and the administering of oaths, but shall not admit to bail any person accused of a crime.

8. **Compensation.** A senior justice of the peace or senior municipal judge assigned as provided in this rule shall receive as compensation for the time actually engaged in the performance of duties under the assignment an amount proportional to the gross monthly salary of the regularly elected and qualified judge of the court to which he or she is assigned, or a different amount if approved by the senior justice of the peace or senior municipal judge and provided by the court, the city council or county commission of the jurisdiction to which the senior justice of the peace or senior municipal judge is assigned. The compensation shall be paid by the jurisdiction in which service is performed upon the certificate of the senior justice of the peace or municipal judge that the services were performed for the number of days shown in the certificate. A senior justice of the peace or senior municipal judge assigned to a court located outside the county or city in which he or she regularly resides shall receive, in addition to daily compensation, traveling expenses and per diem as provided by law while attending court or transacting business under the assignment. The expenses shall be paid by the jurisdiction in which service is performed upon presentation of an itemized statement of the expenses, certified by the senior justice of the peace or senior municipal judge to be correct.

9. **Oath.** To accept a commission as a senior justice of the peace or senior municipal judge, a former justice of the peace or municipal judge must take, subscribe and file with the clerk of the supreme court, the following oath or affirmation:

“I,, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any State notwithstanding, and that I will well and faithfully perform all the duties of the office of a senior justice of the peace (or senior municipal judge) of the Nevada court system on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

10. **Discipline and removal.** The supreme court may for cause revoke the commission of any senior justice of the peace or senior municipal judge, either following notice and opportunity for hearing before the court, or after proceedings before the commission on judicial discipline.

[Added; effective January 26, 1997; amended effective March 14, 2022.]

Rule 13. Appointments to the Nevada Commission on Judicial Discipline.

1. **Definitions.** In this rule, unless the context requires otherwise:

(a) “Alternate” means any judge designated by the supreme court to act in place of a specific judicial member of the commission.

(b) “Commission” means the commission on judicial discipline.

(c) “Member” shall include such alternates who have been seated in any specific meeting, case, or proceeding.

2. **Appointment of judicial members.** Two judicial members shall be appointed by the court to serve four-year terms. The judicial members must be residents of different counties and may not be members of the commission on judicial selection.

3. **Appointment of alternates.**

(a) **General provisions.** A judicial member of the commission who cannot serve by reason of disqualification, resignation, inability to attend, or any other reason shall be replaced by his or her alternate. The court shall designate a permanent alternate for each judicial member of the commission. The alternate is appointed for the same term as the judicial member and shall be a resident of a different county than the other judicial member and alternate.

(b) **Proceedings against justices of the peace or municipal judges.** Consistent with [NRS 1.440\(2\)](#), the court shall designate two justices of the peace or municipal judges to sit on the commission for proceedings against a justice of the peace or municipal judge. Justices of the peace or municipal judges appointed under this rule shall be designated to sit for such proceedings in place of and to serve for the same terms as the regular members of the commission appointed by the court.

(c) **Additional substitutions.** In the event that a judicial member and his or her alternate cannot serve in a specific meeting, case or proceeding by reason of disqualification, resignation, inability to attend, or any other reason, the court shall designate a judge or justice to act and vote in the place of the absent member.

4. **Vacancies.** If a vacancy occurs, the court shall fill the vacancy for the remainder of the judicial member or alternate’s unexpired term.

[Added; effective February 21, 2003.]

Rule 14. Bench-Bar Committee.

1. **Creation, purpose.** The supreme court shall appoint a bench-bar committee to provide a forum for ongoing study of the court’s rules and internal operating procedures, including:

(a) Proposing rule changes and commenting on changes received or proposed by the court,

(b) Providing comment on court processes and internal operating procedures, and

(c) Assisting the court with outreach programs to educate the bar and public on the court and its work, practices, and procedures.

2. **Composition.** The bench-bar committee shall be composed of the chief justice and associate justices of the supreme court, twenty practitioners, and one ex-officio member each from the law faculty of the National Judicial College and the William S. Boyd School of Law of the University of Nevada, Las Vegas. The supreme court shall appoint the attorney and law faculty members. The attorney members shall be selected in a manner that seeks both

RESOLUTION NO. 7604

RESOLUTION OF THE CITY COUNCIL OF BOULDER CITY, NEVADA, APPROVING THE UPDATED APPOINTMENT OF A PANEL OF JUDGES PRO TEMPORE TO PRESIDE IN THE BOULDER CITY MUNICIPAL COURT DURING THE ABSENCE OF MUNICIPAL COURT JUDGE VICTOR LEE MILLER PURSUANT TO NRS 5.023 AND 5.024

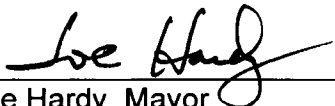
WHEREAS, NRS 5.023 provides for the appointment of municipal judges pro tempore from a panel of substitute municipal judges to preside in the Municipal Court during the absence of Municipal Court Judge Victor Lee Miller, and

WHEREAS, NRS 5.024 provides a senior Judge may serve temporarily in any municipal court in this State, regardless of whether he or she is a resident of the city in which the municipal court to which he or she is assigned is located. A listing of senior judges is found on the Nevada Supreme Court's Nevada Judiciary website, and

WHEREAS, in light of the Continuation of Operations Plan for the Municipal Court, a current panel of Judges pro tempore should be appointed; and

NOW, THEREFORE, BE IT RESOLVED that City Council approves Resolution No. 7604 and appoints a current panel of judges pro tempore consisting of Roger Harris, John Howard, Christopher R. Tilman, David R. Olsen, Dean W. Gronemeier, Michael P. Printy, David Stephens, Lanny D. Waite, Joseph R. Smith, Douglas Hedger, Judge Alicia A. Albritton, Judge Jeremy C. Cooley, Judge Rodney Burr, Judge Sam Bateman, Judge Stephen George, and Chief Judge David S. Gibson Sr. to sit in the absence of Municipal Court Judge Victor Lee Miller upon taking and subscribing to the official oath of office.

DATED and APPROVED this 28th day of March, 2023



Joe Hardy, Mayor

ATTEST:



Tami McKay, City Clerk
(Seal)

BOULDER CITY CHARTER

Section 8. Powers.

All powers of the City and the determination of all matters of policy shall be vested in the City Council. By way of illustration, and not by way of limitation, the Council shall have the power to:

1. By a concurring vote of not less than three of its members, appoint to and/or remove from office the following city officers: (a) the City Manager; (b) the City Attorney; (c) the City Clerk; and/or (d) the Municipal Judge; subject to these provisions: (Add. 3; Amd. 1; 5-2-1967)

A. The appointments shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.

B. Any City officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no City officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council. The Council shall not hold a closed meeting to consider terminating such officer or to consider the character, alleged misconduct, professional competence, or physical or mental health of such public officer. The public officer may be assisted by his or her own legal counsel at the hearing. Any action of the Council following such hearing shall be considered final and conclusive. Written notice of the meeting shall be given to such officer in the manner set forth in [NRS 241.033](#). (Add. 25; Amd. 2; 6-2-2009)

C. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and will appoint a qualified person as a permanent replacement officer as soon as practicable.

D. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage, or adoption, of a city officer, employee, or Council Member at the time of appointment. (Add. 15; Amd. 2; 6-4-1991)

2. Establish other administrative departments and distribute the work of divisions.

3. Adopt the budget of the City.

4. Inquire into the conduct of any office, department or agency of the City and make investigations as to municipal affairs. (1959 Charter)

5. Appoint the members of all boards, commissions, and committees for specific or indefinite terms as provided elsewhere in this Charter or in various resolutions or ordinances, with all such persons being removable from office only for cause, provided, however, that all persons so appointed must be and remain bona fide residents of the City during the tenure of each appointment. (Add. 15; Amd. 2; 6-4-1991)

6. Adopt plats. (1959 Charter)

7. Adopt and modify, from time to time, an official general map of the entire City, and one or more official maps of various portions of the City. (Add. 15; Amd. 2; 6-4-1991)

8. Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts, the density of populations and the location and use of buildings for trade, industry, business, residence or other purposes. (1959 Charter)

9. Provide for an annual auditing of the City's financial accounts and records by independent auditors. (Add. 15; Amd. 2; 6-4-1991)

10. (Repealed by Add. 15; Amd. 1; 6-5-1991)

11. Levy such taxes as are authorized by applicable laws. (Add. 15; Amd. 2; 6-4-1991)

12. (Repealed by Add. 15; Amd. 1; 6-5-1991)

13. Except as required by federal law or state statute, appoint no officer or employee of the City to any city board or commission, other than as an ex officio member. (Add. 2; Amd. 1; 5-4-1965; Amd. 2; 6-4-1991; Add. 24; Amd. 1; 6-3-2003)

14. (Add. 10; Amd. 6; 6-2-1981; Repealed by Add. 15; Amd. 1; 6-5-1991)

ARTICLE XII - Municipal Court

[122.](#) Municipal Court created; power.

[123.](#) Municipal Judge: Bond.

[124.](#) Municipal Judge; appointment; salary. [Repealed.]

[125.](#) Powers of Municipal Court. [Repealed.]

[126.](#) Appeals to district court. [Repealed.]

Section 122. Municipal Court created; power.

There is hereby created and established in and for Boulder City, a municipal court, which is vested with the judicial power of the City for municipal purposes. (1959 Charter)

Section 123. Municipal Judge: Bond.

The Municipal Judge shall, before entering upon the discharge of his or her duties, make and execute to the City a good and sufficient bond in such sum and condition as the Council may prescribe. (Add. 10; Amd. 3; 6-2-1981; Add. 13; Amd. 4; 6-2-1987)

(A—Ch. 208, [Stats. 1985 p. 673](#))

Section 124. Municipal Judge; appointment; salary.

(Repealed by Add. 3; Amd. 1; 5-2-1967; see par. 8.1)

Section 125. Powers of Municipal Court. (Add. 13; Amd. 5; 6-2-1987)

(Repealed by Ch. 208, [Stats. 1985 p. 676](#))

Section 126. Appeals to district court. (Add. 13; Amd. 5; 6-2-1987)

(Repealed by Ch. 208, [Stats. 1985 p. 676](#))

GENERAL PROVISIONS

NRS 5.010 General requirements for court; designation as court of record.

There must be in each city a municipal court presided over by a municipal judge. The municipal court:

1. Except as otherwise provided in subsections 4 and 5 of [NRS 1.050](#), must be held at such place in the city within which it is established as the governing body of that city may by ordinance direct.

2. May by ordinance be designated as a court of record.

[35:19:1865; B § 940; BH § 2454; C § 2535; RL § 4855; NCL § 8397]—(NRS A [1983, 899; 1985, 671; 1991, 161; 2015, 980](#))

NRS 5.015 Recording of proceeding in municipal court designated as court of record. If a municipal court has been designated as a court of record pursuant to [NRS 5.010](#), any proceeding before a jury in the municipal court may be recorded by using sound recording equipment.

(Added to NRS by [2021, 1313](#))

NRS 5.020 Municipal judges: Election; term; oath; qualifications; justice of the peace as ex officio municipal judge.

1. Except as provided in subsection 3 and [NRS 266.405](#), each municipal judge must be chosen by the electors of the city within which the municipal court is established on a day to be fixed by the governing body of that city. The term of office of a municipal judge is the period fixed by:

- (a) An ordinance adopted by the city if the city is organized under general law; or
- (b) The charter of the city if the city is organized under a special charter.

↻ Before entering upon his or her duties, a municipal judge shall take the constitutional oath of office.

2. A municipal judge must:

(a) Be a citizen of the State;

(b) Except as otherwise provided in the charter of a city organized under a special charter, have been a bona fide resident of the city for not less than 1 year next preceding his or her election;

(c) Be a qualified elector in the city; and

(d) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline.

3. The governing body of a city, with the consent of the board of county commissioners and the justice of the peace, may provide that a justice of the peace of the township in which the city is located is ex officio the municipal judge of the city.

4. For the purposes of this section, a person shall not be ineligible to be a candidate for the office of municipal judge if a decision to remove or retire the person from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

[36:19:1865; B § 941; BH § 2454; C § 2536; RL § 4856; NCL § 8398]—(NRS A [1983, 899; 1985, 671; 1999, 95, 1183](#))

NRS 5.021 Chief municipal judge of certain municipal courts: Selection; duties.

1. The municipal judges of each municipal court having more than one municipal judge shall choose from among those municipal judges a chief municipal judge who is to be the presiding judge of that court.

2. The chief municipal judge shall:

(a) Assign cases to each judge in the municipal court;

(b) Prescribe the hours of court;

(c) Adopt such other rules as are necessary for the orderly conduct of court business; and

(d) Perform all other duties of the chief municipal judge or of the presiding judge of a municipal court that are set forth in this chapter and any other provision of NRS.

(Added to NRS by [2017, 274](#); A [2023, 2606](#))

NRS 5.023 Municipal judges pro tempore.

1. The governing body of the city shall select a number of persons it determines appropriate to comprise a panel of substitute municipal judges. The persons selected must not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline and must be:

(a) Members in good standing of the State Bar of Nevada;

(b) Adult residents of the city; or

(c) Justices of the peace of the county.

2. Whenever a municipal judge is disqualified from acting in a case pending in the municipal court or is unable to perform his or her duties because of his or her temporary sickness or absence, the municipal judge shall, if necessary, appoint a person from the panel of substitute municipal judges to act in his or her place.

3. A person so appointed must take and subscribe to the official oath before acting as a municipal judge pro tempore. While acting in that capacity, the municipal judge pro tempore is entitled to receive a per diem salary set by the governing body. The annual sum expended for salaries of municipal judges pro tempore must not exceed the amount budgeted for that expense by the governing body.

4. If an appointment of a municipal judge pro tempore becomes necessary and the municipal judge fails or is unable to make the appointment, the mayor shall make the appointment from the panel of substitute municipal judges.

5. For the purposes of this section, a person shall not be ineligible to be a candidate for the office of municipal judge pro tempore if a decision to remove or retire the person from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

(Added to NRS by [1981, 1639](#); A [1983, 899](#); [1999, 95](#))

NRS 5.024 Senior municipal judges.

1. Notwithstanding any other provision of law or city charter, a senior municipal judge who serves in that capacity or a senior justice of the peace who serves in that capacity and who formerly served as a municipal judge may serve temporarily in any municipal court in this State, regardless of whether he or she is a resident of the city in which the municipal court to which he or she is assigned is located.

2. As used in this section:

(a) “Senior justice of the peace” means a former justice of the peace who has received a commission from the Supreme Court to serve as a senior justice of the peace pursuant to the rules prescribed by the Supreme Court.

(b) “Senior municipal judge” means a former judge of a municipal court who has received a commission from the Supreme Court to serve as a senior municipal judge pursuant to the rules prescribed by the Supreme Court.

(Added to NRS by [2005, 105](#))

NRS 5.0245 Appointment of referee or hearing master for civil infraction hearing.

1. A municipal court may appoint a referee or hearing master to take testimony and recommend orders and a judgment in any action to determine whether a person has committed a civil infraction punishable pursuant to [NRS 484A.703](#) to [484A.705](#), inclusive.

2. The referee or hearing master:

(a) Shall take testimony;

(b) Shall make findings of fact, conclusions of law and recommendations for an order or judgment;

(c) May, subject to confirmation by the court, enter an order or judgment; and

(d) Has any other power or duty contained in the order of reference issued by the court.

3. The findings of fact, conclusions of law and recommendations of the referee or hearing master must be furnished to each party or his or her attorney at the conclusion of the proceeding or as soon thereafter as possible. Within 5 days after receipt of the findings of fact, conclusions of law and recommendations, a party may file a written objection. If no objection is filed, the court shall accept the findings, unless clearly erroneous, and the judgment may be entered thereon. If an objection is filed within the 5-day period, the court shall review the matter by trial de novo, except that if all of the parties so stipulate, the review must be confined to the record.

(Added to NRS by [2021, 3348](#))

NRS 5.025 Courses of instruction for municipal judges; payment of costs.

1. The Court Administrator shall, at the direction of the Chief Justice of the Supreme Court, arrange for the giving of instruction, at the National Judicial College in Reno, Nevada, or elsewhere:

(a) In court procedure, recordkeeping and the elements of substantive law appropriate to a municipal court, to each municipal judge who is first elected or appointed to office after July 1, 1971, and to other such judges who so desire and who can be accommodated, between each election designated for the election of such judges and the date of entering office.

(b) In statutory amendments and other developments in the law appropriate to a municipal court, to all such judges at convenient intervals.

2. Each city shall pay to the Supreme Court the city's pro rata share of the costs of such instruction as budgeted for pursuant to the Local Government Budget and Finance Act.

3. The Supreme Court shall deposit with the State Treasurer, for credit to the appropriate account of the Supreme Court, all money received pursuant to subsection 2.

(Added to NRS by [1971, 838](#); A [1975, 1025](#); [1977, 362](#); [1981, 253](#); [1983, 109, 900](#); [2001, 1819](#))

NRS 5.026 Attendance required at courses of instruction; penalty for unexcused absence; exception.

1. Each municipal judge who is first elected or appointed to office after July 1, 1971, shall attend the instruction provided pursuant to [NRS 5.025](#), on the first occasion when such instruction is offered after the election or appointment of the municipal judge, unless excused by written order of a judge of the district court in and for the county where the city is situated, which must be filed with the Court Administrator. Such an order is final for all purposes.

2. If a municipal judge fails to attend such instruction without securing a written order pursuant to subsection 1, the municipal judge forfeits his or her office unless the Commission on Judicial Discipline finds pursuant to [NRS 1.4654](#) that there was a reasonable excuse for the failure to attend such instruction.

(Added to NRS by [1971, 838](#); A [1977, 363](#); [1983, 900](#); [2017, 341](#))

NRS 5.030 Compensation of municipal judges. Each municipal judge is entitled to receive compensation as fixed by the charter of the city or, if not fixed by a charter, by the governing body of the city, to be paid by the city. That compensation must not be diminished during the period for which the judge is elected. The compensation may be increased during that period if so provided in the charter of the city.

[37:19:1865; B § 942; BH § 2456; C § 2537; RL § 4857; NCL § 8399]—(NRS A [1983, 900](#); [1989, 283](#))

NRS 5.040 Municipal judges: Power to take and certify acknowledgments. Municipal judges, within their respective cities, may take and certify:

1. The acknowledgment of conveyances and the satisfaction of a judgment of any court.
2. An affidavit to be used in any court of justice in this state.

[Part 63:19:1865; B § 968; BH § 2482; C § 2563; RL § 4883; NCL § 8425]—(NRS A [1983, 900](#))

NRS 5.045 Report of certain statistical information to be submitted to Court Administrator. In the time and manner prescribed by the Supreme Court, the municipal judge of a city or, if there is more than one municipal judge for a city, a municipal judge designated by mutual consent of the other municipal judges of that city, shall submit to the Court Administrator a written report of the statistical information required pursuant to the uniform system for collecting and compiling statistical information regarding the State Court System which is prescribed by the Supreme Court.

(Added to NRS by [1999, 707](#); A [2015, 2554](#))

NRS 5.050 Jurisdiction.

1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To determine whether a person has committed a civil infraction punishable pursuant to [NRS 484A.703](#) to [484A.705](#), inclusive.

(c) To prevent or abate a nuisance within the limits of their respective cities.

2. Except as otherwise provided in subsection 2 of [NRS 173.115](#), the municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. A municipal court may, upon approval of the district court, transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established:

(a) By the district court pursuant to:

(1) [NRS 176A.250](#), if the municipal court:

(I) Has not established its own program pursuant to that section; or

(II) Determines that the transfer is appropriate and necessary; or

(2) [NRS 176A.280](#), if the municipal court has not established its own program pursuant to that section; or

(b) Pursuant to [NRS 433A.335](#), if the offender is eligible to receive assisted outpatient treatment pursuant to that section.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to [NRS 441A.195](#).

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

5. The municipal courts may hold a jury trial for any matter:

(a) Within the jurisdiction of the municipal court; and

(b) Required by the United States Constitution, the Nevada Constitution or statute.

6. A municipal judge may, pursuant to an interlocal agreement, conduct a pretrial release hearing in a justice court.

[33:19:1865; B § 938; BH § 2452; C § 2533; RL § 4853; NCL § 8395] + [34:19:1865; B § 939; BH § 2453; C § 2534; RL § 4854; NCL § 8396]—(NRS A [1959, 853](#); [1981, 652](#), [1928](#); [1985, 129, 671](#); [1991, 454](#); [2001 Special Session, 258](#); [2009, 111](#); [2013, 599](#); [2017, 1242, 3025](#); [2021, 1313, 3348](#); [2023, 1744, 1798, 2509](#))

NRS 5.0503 Transfer of original jurisdiction of criminal case to justice court or another municipal court.

1. A municipal court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to a justice court or another municipal court if:

(a) The case involves criminal conduct that occurred outside the limits of the city where the court is located and the defendant has appeared before a magistrate pursuant to [NRS 171.178](#);

(b) Such a transfer is necessary to promote access to justice for the defendant and the municipal court has noted its findings concerning that issue in the record; or

(c) The defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to [NRS 176A.230](#), [176A.250](#) or [176A.280](#), or to access other services located elsewhere in this State.

2. A municipal court may not issue an order for the transfer of a case pursuant to paragraph (b) or (c) of subsection 1 until a plea agreement has been reached or the final disposition of the case, whichever occurs first.

3. An order issued by a municipal court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the justice court or municipal court to which the case was transferred. If a justice court or municipal court refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the municipal court which sought the transfer.

(Added to NRS by [2017, 297](#); A [2019, 4416](#))

NRS 5.0505 Transfer of original jurisdiction of criminal case to district court.

1. A municipal court may, on its own motion, transfer original jurisdiction of a criminal case filed with that court to a district court in this State if the defendant agrees to participate in a program of treatment, including, without limitation, a program of treatment made available pursuant to [NRS 176A.230](#), [176A.250](#) or [176A.280](#), or to access other services located elsewhere in this State.

2. A municipal court may not issue an order transferring a case pursuant to this section before a plea agreement has been reached or the disposition of the case, whichever occurs first.

3. An order issued by a municipal court which transfers a case pursuant to this section becomes effective after a notice of acceptance is returned by the district court to which the case was transferred. If a district court refuses to accept the transfer of a case pursuant to subsection 1, the case must be returned to the municipal court which sought the transfer.

(Added to NRS by [2017, 298](#); A [2019, 4417](#))

NRS 5.052 Administration of program of supervision for persons with suspended sentences or persons sentenced to residential confinement.

1. If the city in which a municipal court is situated has a department of alternative sentencing, the chief of that department shall administer a program of supervision for persons whose sentences have been suspended pursuant to [NRS 5.055](#) or who are sentenced to a term of residential confinement pursuant to [NRS 5.076](#).

2. If the city in which the municipal court is situated does not have a department of alternative sentencing and:

(a) The county in which the municipal court is situated has a department of alternative sentencing, the chief of the department of alternative sentencing of the county shall administer the program of supervision.

(b) The county in which the municipal court is situated does not have a department of alternative sentencing, the municipal court may contract with a qualified person to administer the program of supervision.

(Added to NRS by [1987, 2232](#); A [1995, 873](#); [2009, 2259](#))

NRS 5.055 Suspension of sentence; conditions of suspension; reduction of sentence; arrest for violation of condition of suspension.

1. Except as otherwise provided in subsections 2 and 3, [NRS 211A.127](#) or another specific statute, or unless the suspension of a sentence is expressly forbidden, a municipal judge may suspend, for not more than 2 years, the sentence or a portion thereof of a person convicted of a misdemeanor. If the circumstances warrant, the municipal judge may order as a condition of suspension, without limitation, that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct, or comply with any other condition, deemed appropriate by the municipal judge;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using any controlled substance or alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to [NRS 33.018](#), the municipal judge may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for alcohol or drug use disorder, or both, which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to [NRS 439.258](#); or

(c) The programs set forth in paragraphs (a) and (b),

and that the person comply with any other condition of suspension ordered by the municipal judge.

3. Except as otherwise provided in this subsection, if a customer of a prostitute is convicted of a misdemeanor that constitutes solicitation for prostitution pursuant

to [NRS 201.354](#) or paragraph (b) of subsection 1 of [NRS 207.030](#), the municipal judge may suspend the sentence for not more than 2 years upon the condition that the person:

(a) Actively participate in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services; and

(b) Comply with any other condition of suspension ordered by the municipal judge.

↯ The municipal judge may not suspend the sentence of a person pursuant to this subsection if the person has previously participated in a program for the treatment of persons who solicit prostitution which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

4. The municipal judge may order reports from a person whose sentence is suspended at such times as the municipal judge deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the municipal judge, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

5. The municipal judge may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

(Added to NRS by [1987, 1135](#); A [1989, 199](#); [1997, 34, 1477, 1806](#); [1999, 486, 1382, 1877](#); [2001, 87, 429](#); [2001 Special Session, 122](#); [2005, 66](#); [2017, 1651, 2450](#); [2019, 4417](#); [2021, 3124](#))

NRS 5.057 Determination if defendant is a veteran or member of military; alternative program of treatment.

1. As soon as possible after a defendant is arrested or cited, the municipal judge shall attempt to determine whether the defendant is a veteran or a member of the military and, if so, whether the defendant meets the qualifications of subsection 1 of [NRS 176A.280](#). Before accepting a plea from a defendant or proceeding to trial, the municipal judge shall:

(a) Address the defendant personally and ask the defendant if he or she is a veteran or a member of the military; and

(b) Determine whether the defendant meets the qualifications of subsection 1 of [NRS 176A.280](#).

2. If the defendant meets the qualifications of subsection 1 of [NRS 176A.280](#), the municipal court may, if the municipal court has not established a program pursuant to [NRS 176A.280](#) and, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to [NRS 176A.280](#); or

(b) If a program of treatment established pursuant to [NRS 176A.280](#) is not available for the defendant, a program of treatment established pursuant to [NRS 176A.230](#) or [176A.250](#).

3. As used in this section:

(a) “Member of the military” has the meaning ascribed to it in [NRS 176A.043](#).

(b) “Veteran” has the meaning ascribed to it in [NRS 176A.090](#).

(Added to NRS by [2009, 111](#); A [2017, 3026](#); [2019, 4418](#))

NRS 5.060 Process, writs and warrants.

1. Municipal judges and municipal courts may issue all legal process, writs and warrants necessary and proper to the complete exercise of their powers.

2. All warrants issued by the municipal court must run to any sheriff or constable of the county, the marshal or any police officer of the city, or a marshal or park ranger who is part of a unit of specialized law enforcement established pursuant to [NRS 280.125](#).

3. Any constable or sheriff may serve any process or make any arrest authorized to be made by any officer of a city.

[39:19:1865; B § 944; BH § 2458; C § 2539; RL § 4859; NCL § 8401]—(NRS A [1983, 901](#); [1985, 672](#); [1995, 159](#))

NRS 5.065 Use of facsimile signature: Conditions and restrictions.

1. Each municipal judge may use a facsimile signature produced through a mechanical device in place of his or her handwritten signature whenever the necessity arises and upon approval of the Supreme Court, subject to the following conditions:

(a) That the mechanical device must be of such a nature that the facsimile signature may be removed from the mechanical device and kept in a separate secure place.

(b) That the use of the facsimile signature may be made only under the direction and supervision of the municipal judge whose signature it represents.

(c) That the entire mechanical device must at all times be kept in a vault, securely locked, when not in use, to prevent any misuse of the device.

2. No facsimile signature produced through a mechanical device authorized by the provisions of this section may be combined with the signature of another officer.

(Added to NRS by [1989, 999](#))

NRS 5.070 Municipal courts always open. There shall be no terms in municipal courts. These courts shall always be open.

[40:19:1865; B § 945; BH § 2459; C § 2540; RL § 4860; NCL § 8402]

NRS 5.073 Conformity of practice and proceedings to those of justice courts; exception; imposition and collection of fees.

1. The practice and proceedings in the municipal court must conform, as nearly as practicable, to the practice and proceedings of justice courts in similar cases. An appeal perfected transfers the action to the district court for trial anew, unless the municipal court is designated as a court of record as provided in [NRS 5.010](#). The municipal court must be treated and considered as a justice court whenever the proceedings thereof are called into question.

2. Each municipal judge shall charge and collect such fees prescribed in [NRS 4.060](#) that are within the jurisdictional limits of the municipal court.



Boulder City Municipal Court

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BOULDER CITY, NV 89005
INFORMATION: (702) 293-9278
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WWW.BCNV.ORG

December 1, 2024

Re: Retirement

Dear Mayor Joe Hardy:

It has been my great honor and pleasure to have served the residents of Boulder City as Municipal Judge for the past 40 Years. I am writing to inform you of my upcoming retirement effective January 5, 2025.

As it has been four decades since the City Council has appointed a Municipal Judge, it may take some time to develop the appointment process. Therefore, I wanted to let you know that I would be available beginning January 7, 2025, to serve as Acting Municipal Judge (as senior judge) until the appointment of the new Municipal Judge.

Very truly yours,

Judge Victor Lee Miller, Esq,
Municipal Judge, City of Boulder City
vmiller@bcnv.org
(702) 824-8783 (personal cell)

CC: Mayor pro tem Sherri Jorgensen
Councilwoman Cokie Booth
Councilman Matt Fox
Councilman Steve Walton
Councilwomen elect Denise Ashurst
City Attorney Brittany Walker
Acting City Manager Michael Mayes
City Clerk Tami McKay