

CHAPTER 35: MUNICIPAL COURT

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§ 35.01 VIOLATIONS; TO BE HEARD BY ASSOCIATE CIRCUIT JUDGE.

The city hereby elects to have all violations of its municipal ordinances heard and determined by an Associate Circuit Judge of the County Circuit Court.
(Prior Code, § 125.010)

§ 35.02 MUNICIPAL DIVISION; CIRCUIT COURT.

The Division of the County Circuit Court which hears and determines violations of the ordinances of the city shall be known as the "Municipal Division of the Circuit Court of Cooper County, Missouri". (Prior Code, § 125.020)

§ 35.03 RULES GOVERNING PROCEDURE AND PRACTICE IN THE MUNICIPAL COURT.

The rules governing the procedure and practice in the Municipal Court shall be those established and promulgated by the State Supreme Court and such subsequent rules as the Supreme Court shall from time to time establish and promulgate; and any provision in these ordinances which shall be in conflict with such rules is hereby repealed. (Prior Code, § 125.025)

§ 35.04 TRAFFIC VIOLATIONS BUREAU; DUTIES; COURT COSTS.

(A) The Judge may establish a Traffic Violations Bureau in the city, and shall establish such a Bureau when a request therefor is made by the Board of Aldermen.

(B) The Traffic Violations Bureau shall operate under the supervision of the Circuit Court, and the Associate Circuit Judge hearing and determining violations of the ordinances of the city, and shall be operated in accordance with the rules of the Supreme Court and the rules of the Circuit Court.

(C) All expenses incident to the operation of the Traffic Violations Bureau, including salaries of clerical personnel, shall be paid by the city. The city shall provide suitable quarters for the Traffic Violations Bureau.

(D) The Traffic Violations Bureau shall accept pleas of guilty to certain violations of traffic ordinances designated by the Judge and shall accept payments of fines-established by the Judge and court costs assessed on said pleas of guilty. (Prior Code, § 125.030)

§ 35.05 CLERK; MUNICIPAL DIVISION; TRAFFIC VIOLATIONS BUREAU; BOND.

The city shall employ a person to serve as Clerk of the Municipal Division of the County Circuit Court and shall fix and determine the salary. The Clerk may also serve as Clerk in the Traffic Violations Bureau. The Clerk shall enter into a bond payable to the state and a bond payable to the city, with good and sufficient securities, in amounts to be determined by the Judge. The cost of the bonds shall be paid by the city. (Prior Code, § 125.040)

§ 35.06 POLICE; SERVE AS BAILIFF.

At such times as the Judge is hearing and determining violations of the ordinances of the city, the Chief of Police or any member of the city's Police Department shall serve as bailiff to the court.
(Prior Code, § 125.050)

§ 35.07 COURTROOM.

The Judge may hear and determine violations of the ordinances of the city in a courtroom provided by the county or, at the request of the Judge, the city shall provide a suitable courtroom in which to hold court.
(Prior Code, § 125.060)

§ 35.08 COURT COSTS; FILING FEES.

In cases of violations of ordinances of the city submitted to, heard, and determined by the Associate Circuit Judge, and in addition to all other fees authorized or required by law, there shall be assessed as costs the following:

(A) Costs of court in the amount of \$15;

(B) A police officer training fee. A fee of \$3 is hereby established and assessed as additional court costs in each court proceeding, except that no such fee shall be collected when the proceedings against the defendant have been dismissed:

(1) Two dollars of each such court cost shall be transmitted monthly to the Treasurer of the city and used to pay for police officer training as provided by RSMo. §§ 590.100 to 590.180. The city shall not retain for training purposes more than \$1,500 of such funds for each certified law enforcement officer or candidate for certification employed by the city. Any excess funds shall be transmitted quarterly to the city's General Fund; and

(2) One dollar of each such court cost shall be sent to the State Treasury to the credit of the Peace Officers Standards and Training Commission Fund created by RSMo. § 590.178.

(C) A fine to the Crime Victims' Compensation Fund. An additional sum of \$5 shall be assessed and added to the basic costs in division (A) above, provided that no such cost shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the court. All sums collected pursuant to this division (C) shall be paid at least monthly as follows:

(1) Ninety-five percent of such fees shall be paid to the state's Director of Revenue for deposit as provided in RSMo. § 595.045.5; and

(2) Five percent shall be paid to the City Treasury.

(D) A fine to the Motorcycle Safety Trust Fund:

(1) Any person who violates a municipal ordinance when the court finds that the violation occurred when the defendant was the operator of a motorcycle or motor tricycle shall have a judgment assessed against the defendant of \$5 in the favor of the state's Motorcycle Safety Trust Fund. Any motor vehicle operator who violates a municipal ordinance where the violation involves a motorcycle or motor tricycle or where the operator causes an accident involving a motorcycle or motor tricycle shall have a judgment assessed against the defendant of \$5 in the favor of the state's Motorcycle Safety Trust Fund;

(2) Each court cost assessed under this division (D) shall be doubled if the operator at fault violated any state law or local ordinance relating to the consumption of alcohol; and

(3) The court costs collected under this division (D) by the Clerk of the Court shall be paid into the State Treasury to the credit of the Motorcycle Safety Trust Fund created in RSMo. § 302.137.

(E) Other costs, such as for the issuance of a warrant, a commitment, or a summons, as provided before the Associate Circuit Judge in criminal prosecutions;

(F) Actual costs assessed against the city by the County Sheriff for apprehension or confinement in the county jail;

(G) Mileage, in the same amount as provided to the Sheriff in criminal violations, for each mile and fraction thereof the officer must travel (both directions) in order to serve any warrant or commitment or order of this court;

(H) Any other reasonable cost as may be otherwise provided by ordinance, including, but not limited to, costs of confinement, including any necessary transportation related thereto, medical costs incurred by the city while a defendant is in city custody, and costs related to the arrest and testing of any person for any intoxication-related traffic offense as set out in division (I) below; and

(I) Reimbursement of certain costs of arrest.

(1) Upon a plea or a finding of guilty for a first offense of violating the provisions of an ordinance of the city, involving alcohol- or drug-related traffic offenses, the court may, in addition to imposition of any penalties provided by law, order the convicted person to reimburse the Police Department for the costs associated with such arrest.

(2) Such costs hereby authorized shall include the reasonable cost of making the arrest, including the cost of any chemical test made as authorized or required by law or ordinance to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking, and holding such person in custody.

(3) The Chief of Police shall establish a schedule of such costs hereby authorized and shall submit the same to the Municipal Judge; however, the court may order the costs reduced if it determines that the costs are excessive.

(4) Upon receipt of such additional costs authorized by this division (I), the City Treasurer shall retain such costs in a separate fund to be known as the "DWI/Drug Offense Cost Reimbursement Fund". Monies with such Fund shall be appropriated by the Board of Aldermen to the Police Department in amounts equal to those costs so collected and shall be used by such Department specifically to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the city. (Prior Code, § 125.070)

§ 35.09 FINES AND COSTS; WHERE PAID.

In cases of violations of ordinances of the city submitted to, heard, and determined before the Judge, all fines shall be paid to and deposited at least monthly into the City Treasury and all court costs shall be accounted for and remitted to the State Treasury in the same manner as provided by law for costs in misdemeanor cases.

(Prior Code, § 125.080)

§ 35.10 PROCEDURE; FINES AND COSTS; REPORT.

The Supreme Court, by administrative rule, may provide for uniform procedure and reporting forms for the collection and transmittal of fines and costs. Until modified or otherwise provided by such administrative rule, the Judge hearing and determining violations of city ordinances shall cause the Clerk of the Municipal Division, within the first ten days of every month, to make out a list of all the cases heard or tried before the Judge during the preceding month, giving in each case the name of the defendant, the fine imposed, if any, the amount of costs, the names of defendants committed and the cases in which there was application for trial de novo, respectively. Such Clerk or the Judge shall verify such lists and statements by affidavit, and file the same forthwith with the City Clerk, who shall present the same before the Board of Aldermen at its first session thereafter. The official collecting fines shall, within the ten days aforesaid, pay to the City Treasurer the full amount of all fines collected by him or her during the preceding month if not previously paid to the City Treasurer.

(Prior Code, § 125.090)

§ 35.11 PROSECUTIONS; ON INFORMATION.

All prosecutions for the violation of city ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the Supreme Court Rule governing practices and procedures in proceedings before Municipal Judges.

(Prior Code, § 125.100)

§ 35.12 WARRANTS; HOW ISSUED AND EXECUTED.

All warrants issued by the Judge hearing violations of city ordinances shall be directed to the Chief of Police, or any other police officer of the city, or to the County Sheriff. The warrants shall be executed

by the Chief of Police, police officer, or Sheriff at any place within the limits of the county, and not elsewhere, unless the warrants are endorsed in the manner provided for warrants in criminal cases, and, when so endorsed, shall be served in other counties, as provided for in warrants in criminal cases.
(Prior Code, § 125.110)

§ 35.13 WITNESSES.

(A) *Judge to summon witnesses.* It shall be the duty of the Judge to summon all persons whose testimony may be deemed essential as witnesses at the trial, and to enforce their attendance by attachment, if necessary. The fees of witnesses shall be the same as those fixed for witnesses in trials before Associate Circuit Judges and shall be taxed as other costs in the case. When a trial shall be continued by the Judge, it shall not be necessary to summon any witnesses who may be present at the continuance; but the Judge shall orally notify such witnesses as whether party may require to attend before him or her on the day set for trial to testify in the case, and enter the names of such witnesses on his or her docket, which oral notice shall be valid as a summons.

(B) *Police officer or other officer as witness.* If prosecutions before the Judge for misdemeanors arising under ordinances of the city, any police officer or other executive officer shall be a competent witness in the case; but no such police officer or executive officer shall be entitled to any witness fee in such case.

(C) *Arresting officers to attend as witnesses without summons.* Officers shall attend, upon notice, as witnesses against persons whom they have caused to be arrested, without being summoned to do so; and, upon their failure to appear at the time of the trial, may be attached and punished for contempt as witnesses summoned.

(Prior Code, § 125.115)

§ 35.14 ARREST WITHOUT WARRANTS; PROCEDURE.

The Chief of Police or other police officer of the city shall, without a warrant, make arrests of any person who commits an offense in his or her presence, but such officer shall, before the trial, file a written complaint with the Judge hearing violations of city ordinances.

(Prior Code, § 125.120)

§ 35.15 ATTORNEY TO PROSECUTE VIOLATIONS.

The City Attorney is hereby designated by the city to prosecute the violations of the ordinances of the city before the Judge hearing the violations of the ordinances of the city. The salary or fees of the attorney and his or her necessary expenses incurred in such prosecutions shall be paid by the city.

(Prior Code, § 125.130)

§ 35.16 SERVICE ON CITY AND AFFIDAVIT BY CITY.

(A) *Service on city.* Notices and process arising in the Municipal Court which are necessary to be served on the city shall be served on the City Prosecutor.

(B) *Affidavit by city.* Whenever any affidavit shall become necessary to be made on the part of the city, the City Prosecutor shall cause the same to be made by some person to whom the facts are known. (Prior Code, § 125.135)

§ 35.17 TRIAL BY JURY; WHEN.

(A) Any person charged with the violation of an ordinance of the city shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an Judge.

(B) Whenever a defendant accused of a violation of a municipal ordinance has the right to a trial by jury and demands such trial by jury, the Judge shall certify the case to the Presiding Judge of the Circuit Court serving the city for assignment in the manner provided by state law. Proceedings in the case shall be had as if the case was originally commenced under the practice and procedure applicable before Circuit Judges, with there being no right of trial de novo, but the sufficiency of plaintiff's petition shall be adjudged according to the procedures under RSMo. Chapter 517. (Prior Code, § 125.140)

§ 35.18 JUDGE TO BE TRIER OF FACT.

In any trial for the violation of an ordinance of the city, all issues of fact shall be tried by the Judge except where trial by jury is authorized by law and the defendant or his or her attorney requests a trial by jury. (Prior Code, § 125.150)

§ 35.19 PAROLE OR PROBATION, WHEN GRANTED; CERTIFICATE; CONDITIONS OF PROBATION; MODIFICATION OF CONDITIONS.

(A) Any Judge hearing violations of municipal ordinances may, when in his or her judgment it may seem advisable, grant a parole or probation to any person who shall plead guilty or who shall be convicted after a trial before such Judge. When a person is placed on probation, he or she shall be given a certificate explicitly stating the conditions on which he or she is being released.

(B) In addition to such other authority as exists to order conditions of probation, the court may order conditions which the court believes will serve to compensate the victim of the crime, any dependent of the victim, or society in general. Such conditions may include, but need not be limited to:

(1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the Judge; and

(2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the Judge.

(C) A person may refuse probation conditioned on the performance of free work. If he or she does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization, or employee of a county, city, person, organization, or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him or her if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed "employment" within the meaning of the provisions of RSMo. Chapter 288.

(D) The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

(Prior Code, § 125.160)

§ 35.20 APPEALS; TRIAL DE NOVO.

In any case tried before the Judge, except where there has been a plea of guilty or the case has been tried with a jury, the defendant shall have a right of trial de novo before a Circuit Judge or upon assignment before an Associate Circuit Judge. An application for a trial de novo shall be filed within ten days after judgment and shall be filed in such form and perfected in such manner as provided by Supreme Court Rule. In any case tried with a jury before an Associate Circuit Judge, a record shall be made and appeals may be had upon that record to the appropriate Appellate Court. The record shall be kept in a manner provided by state law or Supreme Court Rule.

(Prior Code, § 125.170)

§ 35.21 RECOGNIZANCE AND FORFEITURES.

In case of a breach of any recognizance entered into before the Judge hearing violations of the ordinances of the city, the same shall be deemed forfeited and the Judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the city as plaintiff. Such action shall be prosecuted before a Circuit Judge or Associate Circuit Judge. All monies recovered in such action shall be paid over to the City Treasury to the General Revenue Fund of the city.

(Prior Code, § 125.180)

§ 35.22 FINE; INSTALLMENTS ALLOWED; COMMUTED TO IMPRISONMENT.

(A) When a fine is assessed for violation of an ordinance, it shall be within the discretion of the Judge to provide for the payment of the fine on an installment basis under such terms and conditions as he or she may deem appropriate.

(B) When any person shall refuse or be unable to pay any fine and costs assessed against him or her, the Judge shall have power to commute such fine and costs to imprisonment in the city jail, which shall be credited up to a rate of \$10 of such fine and costs for each day's imprisonment, the specific rate to be within the discretion of the Judge.

(Prior Code, § 125.190)

§ 35.23 CITY ORDINANCES; EVIDENCE; JUDICIAL NOTICE OF.

In the trial of violations of the ordinances of the city, a copy of a city ordinance which is certified by the Clerk of the city shall constitute prima facie evidence of such ordinance. If such certified copy is on file with the Clerk of the Municipal Division and readily available for inspection by the parties, the Judge may take judicial notice of such ordinance without further proof.

(Prior Code, § 125.200)

