

Chapter 15

MUNICIPAL COURT*

Sec. 15-01. Conflicting provisions.

Ordinance No. 7497, § 1, adopted March 13, 1986, repealed former Chapter 2, Administration, and substituted in lieu thereof of new chapter pertaining to similar provisions. In the event of a conflict between the provisions of this chapter and the provisions in Chapter 2, Article IV, Division 7, presumably the latter provisions shall prevail.

Editor's note—The above section was added at the request of the city, pending revision of Ch. 15, and will be deleted at such time as Ch. 15 is revised.

Sec. 15-1. Established.

There is hereby established a court to be known as the Municipal Court of the City of Kirkwood, a division of the 21st Judicial Circuit Court of the State of Missouri. This court is a continuation of the municipal court of the city as previously established, and is termed herein "the municipal court." (Ord. No. 6380, §2, 2-1-79)

Sec. 15-2. Municipal judge to preside, jurisdiction.

The municipal court shall be presided over by a municipal judge who shall be a conservator of the peace and shall have original jurisdiction to hear and determine all violations against the ordinances of the city. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-3. Selection, term of municipal judge.

The municipal judge shall be appointed by the council, and shall hold his office for a period of four (4) years, and shall take office on the first Thursday in June, 1980, with the present municipal judge completing the term of office until said date. If for any reason the municipal judge vacates his office, his successor shall be appointed by the council and shall complete that term of office, even if the same be for less than four (4) years. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-4. Compensation of municipal judge.

The municipal judge shall receive such compensation for his services as the council may from time to time determine, payable in equal monthly installments. (Ord. No. 6380, §2, 2-1-79)

***Editor's note**—Ord. No. 6380, § 1, adopted Feb. 1, 1979, repealed former Ch. 15, §§ 15-1—15-41, providing for a municipal court; said former provisions were derived from Gen. Ords. 1959, §§ 7.06, 8.01-8.29, 8.30(a), (b), 8.31-8.33, 8.36-8.40; Ord. No. 5686, § 1, adopted April 4, 1974; Ord. No. 5909, § 1, adopted July 8, 1976; Ord. No. 5986, §§ 1-3, adopted July 8, 1976; Ord. No. 6060, § 1, adopted Dec. 9, 1976; Ord. No. 6111, § 1, adopted April 14, 1977; and Ord. No. 6315, § 1, adopted Aug. 3, 1978.

Cross references—General penalty, § 1-8; issuance of uniform traffic tickets to police officers, § 14-86.

State law reference—Courts and attorneys in cities of the third class, RSMo § 98.320, et seq.

MUNICIPAL COURT

Sec. 15-5. Provisional municipal judge.

The mayor may designate some competent, eligible person to act as provisional municipal judge in the event the municipal judge is absent, sick or disqualified from acting. The provisional judge shall act until such absence or disqualification shall cease. The council shall provide by ordinance for the compensation of any person designated to act as provisional municipal judge under the provisions of this section. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-6. Municipal judge and provisional municipal judge to take oath of office.

Before entering upon the duties of office, the municipal judge and provisional municipal judge shall take the oath required of other city officers. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-7. Qualification for municipal judge; outside employment.

- (a) The municipal judge shall possess the following qualifications before he shall take office:
- (1) He must be licensed to practice law within the State of Missouri.
 - (2) He must be a resident of Missouri, but need not be a resident of the City of Kirkwood.
 - (3) He must be at least twenty-one (21) years of age, but no person shall serve as a municipal judge after he has reached his seventieth birthday.
 - (4) He may not hold any other office within the city.

(b) The municipal judge shall be considered holding a part-time position, and as such may accept other employment and may serve as municipal judge for another municipality. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-8. Superintending authority.

The municipal court of the city shall be subject to the rules of the Circuit Court of St. Louis County, and to the rules of the state supreme court. The municipal court shall be subject to the general administrative authority of the presiding judge of the circuit court, and the judge and court personnel of said court shall obey his directives. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-9. Powers of municipal judge.

The municipal judge shall be and is hereby authorized to:

- (a) Administer oaths and enforce due obedience to all orders, rules and judgments made by him, and may fine or imprison for contempt committed before him while holding court, in the same manner and to the same extent as a circuit judge.
- (b) Commute the term of any sentence, stay execution of any fine or sentence, suspend any fine or sentence and make such other orders as the municipal judge deems necessary or relative to any matter that may be pending in the municipal court.

MUNICIPAL COURT

(c) Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this chapter, and to make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the municipal court and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts.

(d) The municipal judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this state, this Code or other ordinances of the city.

(Ord. No. 6380, §2, 2-1-79)

Sec. 15-10. Municipal judge to maintain docket; contents.

The municipal judge shall cause a docket to be kept in which he shall enter every case commenced before him and the proceedings therein, and he shall keep other records as required. Such docket and records shall be records of the circuit court. The municipal judge shall deliver said docket and records and all books and papers pertaining to his office to his successor in office or to the presiding judge of the circuit court. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-11. Records and reports of collectors; transmittal of fines and costs.

It shall be the duty of the municipal judge to tax all costs in the municipal court, to cause all fee bills and executions, to cause and issue all processes of the court and sign the same as municipal judge, and to cause to be prepared within the first ten (10) days of every month a report indicating a list of all the cases heard or tried before the court 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 an application for trial de novo, respectively. Said report shall be verified by affidavit by the municipal judge or the clerk of the court. Said report shall be filed with the clerk, who shall forward the same before the council for examination at its first session thereafter. The municipal court shall, within the ten (10) days aforesaid, pay to the director of finance the full amount of all fines collected during the preceding months, if they have not previously been paid. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-12. Traffic violations bureau; assessment of costs for law enforcement training.

(a) The municipal judge may establish a traffic violations bureau, and shall establish such a bureau if a request therefor is made by the council. The traffic violations bureau shall operate under the supervision of the circuit court and the municipal judge, and shall be operated in accordance with the rules of the supreme court and the rules of the circuit court. All expenses incident to the operation of the traffic violations bureau shall be paid by the city and all fines and costs shall be paid into the city treasury.

(b) On all fines for moving traffic violations paid at the traffic violations bureau, there is hereby assessed a cost, as established in Section 15-33(b) for the "crime victim's compensation fund", and two dollars (\$2.00), which sum shall be used for the training of law enforcement officers.

(Ord. No. 6380, §2, 2-1-79; Ord. No. 6527, §1, 1-3-80; Ord. No. 7793, §1, 8-4-88; Ord. No. 9557, §1, 12-1-05)

MUNICIPAL COURT

Sec. 15-13. Information and complaints.

All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the supreme court rules governing practice and procedure in proceedings before municipal judges. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-14. Warrants.

All warrants issued by the municipal judge shall be directed to the city marshal, chief of police, or any other police officer of the municipality, or to the sheriff of the county. The warrants shall be executed by the marshal, 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 warrants in criminal cases. Warrants shall be executed by arresting the person therein named and bringing him before the municipal judge if the arrest is made while the court is in session, or, if the court is not then sitting, by taking and holding the person in custody until the next session of the court, unless bail is given as provided in this chapter. Upon the return of the warrant by the officer executing it, the municipal judge shall be fully possessed of the case and shall forthwith proceed to hear and determine the same, unless for good cause the trial be postponed to a time certain, and shall issue subpoenas or attachments for witnesses to compel their attendance. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-15. Arrests without warrants.

The city marshal, chief of police or other police officer of any municipality shall, without a warrant, make arrests of any person who commits an offense in his presence, but such officer shall, before the trial, file a written complaint with the judge hearing violations of municipal ordinances. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-16. Bail bonds.

Any person arrested for violation of any provision of this Code or other city ordinance may be admitted to bail by executing a bond to the city with sufficient security to be approved by the municipal judge, conditioned that the defendant will appear on a day therein stated before the municipal court to answer to the charge against him. All bonds so taken shall forthwith be filed with the municipal court by the officer approving and taking the bond. Whenever any person is arrested and brought before the municipal court and for any cause the trial is postponed to a time certain, the defendant shall be required to enter into a recognizance with security to be approved by the court, conditioned that he will appear from time to time before the court at the time and place appointed, then and there to answer the complaint alleged against him. If any person arrested or brought before the court aforesaid fails to enter into such a recognizance, he shall be committed to jail and held to answer the complaint against him. Any nonresident of the city, in lieu of obtaining sufficient surety, may deposit cash in an amount determined by the police department. The municipal judge shall have discretion to waive the aforementioned bond. (Ord. No. 6380, §2, 2-1-79; Ord. No. 9015, §1, 4-19-01)

Sec. 15-17. Forfeiture of bail bond.

In case of a breach of any recognizance entered into before a municipal judge, 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 municipality as plaintiff. Such action shall be prosecuted before a circuit judge or associate circuit judge, and in the event of cases caused to be prosecuted by a municipal

MUNICIPAL COURT

judge, such shall be on the transcript of the proceedings before the municipal judge. All moneys recovered in such actions shall be paid over to the city treasury to the general revenue fund of the municipality. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-18. Duties of city prosecuting attorney.

It shall be the duty of an attorney designated by the municipality to prosecute the violations of the municipality's ordinances before the municipal judges or before the associate circuit judges hearing the violations of that municipality's ordinances. The salary or fees of the attorney and his necessary expenses incurred in such prosecutions shall be paid by the municipality. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-18. City prosecuting attorney to make affidavits on behalf of city.

When an affidavit on the part of the city is required in any cause which has originated in the municipal court, it shall be made by the city prosecuting attorney or, in case of his inability, by any person to whom the facts are known. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-20. Delivery of defendants in custody for trial.

At the opening of the municipal court each day, the city marshal shall bring before it for trial all persons then in custody for violation of this Code or other city ordinances, excepting, however, those whose cases have previously been continued to a later day; and for this purpose, the keeper of the jail shall deliver to the chief of police all prisoners in his custody whose cases have not been so committed. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-21. Summoning of witnesses.

(a) It shall be the duty of the municipal 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.

(b) When a trial shall be continued by a municipal judge, it shall not be necessary to summon any witnesses who may be present at the continuance, but the municipal judge shall orally notify such witnesses as either party may require to attend before him on the day set for trial to testify in the case, and enter the names of such witnesses on his docket, which oral notice shall be valid as a summons.

(Ord. No. 6380, §2, 2-1-79)

Sec. 15-22. Jury trials.

Any person charged with a violation of a municipal ordinance of the city shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an associate circuit judge. Whenever a defendant accused of a violation of a municipal ordinance demands a trial by jury, the municipal court shall certify the case to the presiding judge of the circuit for assignment in the manner provided in subsection 2 of section 517.520, Revised Statutes of Missouri. (Ord. No. 6380, §2, 2-1-79)

MUNICIPAL COURT

Sec. 15-23. Judge to be trier of fact.

In any trial for the violation of a municipal ordinance, all issues of fact shall be tried by the judge except where trial by jury is authorized by law and the defendant or his attorney requests a trial by jury. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-24. Continuances.

(a) When a case is first called for trial, if either party applies for a continuance owing to the absence of material witnesses, the municipal judge shall continue the case for one (1) week, and may continue it for a longer time, not exceeding thirty (30) days, if he is satisfied that the continuance is in the interests of justice.

(b) If, at the calling of the case on the day to which it has been continued, a further continuance is asked, the party applying therefor may be required to file an affidavit setting forth the grounds upon which such continuance is sought, and if it is the absence of witnesses, he shall state therein the materiality of such witnesses, their names and residences, what he expects to prove by them, what means have been used to procure their attendance, and what reasons he has to believe that they will be present at the trial of the case if it is continued, and if in its judgment sufficient cause is shown, the court shall grant a further continuance not exceeding thirty (30) days. Before any continuance is granted, however, the defendant shall be required to enter into recognizance as required by this chapter, unless waived by the court.

(c) All applications for continuances shall be made in open court at any setting of the case, and at no other time unless by leave of court; and all motions for dismissal on account of informality or illegality in the papers or proceedings, and all other motions not necessarily arising during the trial, and all pleas except "guilty" or "not guilty" shall be made and filed in writing and argued when the case is called for trial and at no other time.

(Ord. No. 6380, §2, 2-1-79).

Sec. 15-25. Abatement of proceedings where offense is subject to state law; transfer to associate circuit judge.

If, in the progress of any trial before a municipal judge, it shall appear to the judge that the accused ought to be put upon trial for an offense against the criminal laws of the state and not cognizable before him as municipal judge, he shall immediately stop all further proceedings before him as municipal judge and cause the complaint to be made before some associate circuit judge within the county. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-26. Parole and probation.

Any judge hearing violations of municipal ordinances may, when in his 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 said judge. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-27. Commitment to jail.

If, in the opinion of the municipal judge, the city has no suitable and safe place of confinement, the defendant may be committed to the county jail by the judge, and it shall be the duty of the sheriff, if

MUNICIPAL COURT

space for the prisoner is available in the county jail, upon receipt of a warrant of commitment from the judge to receive and safely keep such prisoner until discharged by due process of law. The municipality shall pay the board of such prisoner at the same rate as may now or hereafter be allowed by law to such sheriff for the keeping of other prisoners in his custody. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-28. Right of appeal.

In any case tried before the municipal court, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo before a circuit judge or, on assignment, before an associate circuit judge. An application for a trial de novo shall be filed within ten (10) days after judgment and shall be filed in such form and perfected in such manner as provided by supreme court rules. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-29. Bond or cash deposit pending perfecting of appeal.

Any defendant wishing to appeal from the judgment of the municipal court and who is not ready to enter into a bond, may deposit with the chief of police the amount of the fine and costs imposed, which shall be received by the chief of police as collateral security for such fine and costs until an appeal is perfected, when it shall be returned to defendant; but if such appeal is not perfected within ten (10) days, the collateral shall be applied to satisfy the fine and costs imposed upon him. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-30. Appeal from jury verdict.

In all cases in which a jury trial has been demanded, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate appellate court. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-31. Disqualification of municipal judge from hearing particular case.

A municipal judge shall be disqualified to hear any case in which he is in any way interested, or if, before the trial is commenced, the defendant or the prosecutor files an affidavit that the defendant or the municipality, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the judge. Neither the defendant nor the municipality shall be entitled to file more than one (1) affidavit or disqualification in the same case. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-32. Duties of clerk of the municipal court.

The duties of the clerk of the municipal court shall be as follows:

- (a) To collect such fines for violations of such offenses as may be described, and the court costs thereof.
- (b) To take oaths and affirmations.
- (c) To accept signed complaints, and to allow the same to be signed and sworn to or affirmed before him.
- (d) To sign and issue warrants as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts.

MUNICIPAL COURT

(e) To sign and issue subpoenas requiring the attendance of witnesses and to sign and issue subpoenas duces tecum.

(f) To accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in traffic violation bureau cases or as directed by the municipal judge, [and] generally, to act as violation clerk of the traffic violation bureau.

(g) To perform all other duties as provided for by ordinance, by rules of practice and procedure adopted by the municipal judge and by the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and by statute.

(h) To maintain, properly certified by the city clerk, a complete copy of the ordinances of the city which shall constitute prima facie evidence of such ordinance before the court; further, to maintain a similar certified copy on file with the clerk serving the circuit court of this county. (Ord. No. 6380, §2, 2-1-79)

Sec. 15-33. Court costs and surcharges.

(a) In all cases twelve dollars (\$12.00) and in addition thereto a cost of five dollars (\$5.00) for the issuance of a failure to appear summons will be assessed by the court.

(b) In all cases where costs are assessed, an additional surcharge of seven dollars and fifty cents (\$7.50) will be assessed for the "Crime Victim's Compensation Fund" and distributed in accordance with State law.

(c) In all cases where costs are assessed, an additional surcharge of two dollars (\$2.00) will be assessed by the Court and retained by the director of finance in a special fund to be used for training law enforcement officers. Said surcharge shall not be applied on non-moving traffic violations prior to July 1, 1997.

(d) Effective January 1, 1997, in all cases where costs are assessed, an additional surcharge of one dollar (\$1.00) will be assessed and distributed under State law for use by the State for training law enforcement officers.

(e) In addition to any fine imposed and costs assessed pursuant to law an additional cost of two dollars (\$2.00) shall be assessed. The judge may waive assessment of this cost in these cases where the defendant is found by the judge to be indigent and unable to pay the costs. The costs collected pursuant to this section shall be collected by the clerk and transmitted at least monthly to the County Treasurer for deposit in a fund for the provision of operating expense for shelters for battered persons, pursuant to Section 479.261 R.S.Mo. This cost shall not be assessed if the court dismisses the charges.

(f) In addition to other fines or costs assessed pursuant to law, and additional surcharge of Two Dollars (\$2.00) shall be imposed in all cases for violation of municipal ordinances. Such funds collected under this Section shall be retained by the director of finance in a special fund for the operation and maintenance of the Live Scan Fingerprinting equipment and to pay costs associated with custody, housing and other expenses for prisoners. No such charge shall be collected in any proceedings when the proceeding or defendant has been dismissed by the Court.

(g) In the event a warrant is issued, a charge of fifty dollars (\$50.00) will be assessed by the Court.

MUNICIPAL COURT

(h) In the event there is an application for a trial de novo as provided in section 15-28, there shall be an additional fee of sixty-five dollars (\$65.00) which shall be assessed as court costs.

(i) Other costs, such as, but not limited to, costs for a commitment, or a summons, as provided before the associate circuit judge in criminal prosecutions, or actual costs assessed against the city by the county sheriff for apprehension or confinement in the county jail.

(j) 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 warrant or commitment or order of this court.

(k) In cases where persons are referred to the Kirkwood Teen Driving School costs of fifty dollars (\$50.00) shall be assessed to recover the cost to administer.

(l) Upon a plea of guilt or a finding of guilty for violating the provisions of Section 14-142 or Section 14-143 or violations of any other ordinance of the City of Kirkwood 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 Kirkwood Police Department for the cost associated with such arrest. Such cost shall include the reasonable cost of making the arrest, including the cost of any chemical test 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. The Kirkwood Police Department may establish a schedule of costs; however, the Court may order the costs reduced if it determines that the costs are excessive.

(m) Any person convicted of an offense or misdemeanor or committed to the St. Louis County Jail, or any subsequent provider of jail services on behalf of the City of Kirkwood, shall pay for the cost of his/her incarceration. These costs shall include the actual costs charged to the City of Kirkwood by the correctional facility. Said costs may consist of all reasonable costs of confinement calculated on a per diem basis or based on actual expenses, including without limitation, any necessary transportation related thereto and medical costs incurred while a person is incarcerated.

In addition, any and all medical or dental expenses incurred by an inmate which are charged to the City of Kirkwood shall be imposed upon the incarcerated person receiving such medical treatment, including without limitation, medical expenses incurred in connection with medical and dental examinations and treatment, over-the-counter and prescription medications, and hospitalization expenses, less any co-payment collected from the inmate at the time medical expenses were rendered and received.

(Ord. No. 8574, §1, 12-19-96; Ord. No. 8846, §1, 9-2-99; Ord. No. 8960, §1, 9-7-00; Ord. No. 9075, §1, 9-20-01; Ord. No. 9099, §1, 11-15-01; Ord. No. 9206, §1, 11-21-02; Ord. No. 9557, §§ 2-3, 12-1-05; Ord. No. 9613 §1, 8-17-06; Ord. No. 9970, §1, 12-16-10; Ord. No. 10014, §1, 6-2-11)

Sec. 15-34. Costs to be assessed against complainant.

If, upon trial before the municipal judge or the court to which an appeal is taken, it appears to the satisfaction of the court or the jury trying the cause that the prosecution was malicious and without probable cause, the court shall so state in its findings, or the jury in its verdict, and the court shall enter judgment for costs against the prosecutor or person at whose instance the complaint was made and shall issue execution therefor. (Ord. No. 6380, §2, 2-1-79)

MUNICIPAL COURT

Sec. 15-35. Installment payment of fine and jail credit toward fine.

(a) When a fine is assessed for violating 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 the judge may deem appropriate.

(b) When a defendant is committed to jail pursuant to an arrest or the order of the judge, it shall be within the discretion of the judge to order a credit toward any fine connected with that arrest or order in the amount of twenty-five dollars (\$25.00) per each day served in jail.

(Ord. No. 6380, §2, 2-1-79; Ord. No. 8716, §1, 4-2-98)

Sec. 15-36. Failure to appear and failure to pay fine.

(a) It shall be unlawful for any person who has been charged with an offense of the Ordinances of the City of Kirkwood and the charge having been set in the Municipal Court of the City of Kirkwood to fail to appear before such Court as required. Proof of delivery or mailing of the court notice to the person shall establish a presumption of knowledge by that person of his or her court date.

(b) It shall be unlawful for any person who has been convicted of, pled guilty to or been found guilty of any offense in the Municipal Court of the City of Kirkwood and who has been sentenced to pay any fine or otherwise required by law to pay any monetary penalty or costs of Court or reimbursement of expenses associated with the investigation or prosecution of such offense to fail to pay such fine, penalty, costs or reimbursements as required by the Court.

(Ord. No. 8550, §1, 9-19-96)