

## Chapter 15

### MUNICIPAL COURT\*

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\* **Charter References:** Municipal court, §§ 114--118.

**Cross References:** General penalty for Code violations, § 1-8; administration generally, Ch. 2; guards and security patrol officers, § 13-46 et seq.; motor vehicles and traffic, Ch. 14; offenses and miscellaneous provisions, Ch. 16; police, Ch. 21.

**State Law References:** Municipal courts, RSMo. Ch. 479.

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#### Art. I. In General, §§ 15-1--15-45

#### Art. II. Judge, §§ 15-46--15-50

### ARTICLE I.

#### IN GENERAL

##### Sec. 15-1. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings respectively ascribed:

*Municipal court and municipal division of the circuit court.* A division of the circuit court of the circuit in which the city is located, served by a municipal judge selected by the city council pursuant to the requirements of the charter and ordinances of the city to have original jurisdiction to hear and determine all violations against the ordinances of the municipality.

*Municipal judge and judge of the municipal division of the circuit court.* The person selected by the city council pursuant to the requirements of the charter and ordinances of the city to serve as judge of the municipal division of the circuit court.

(Code 1964, § 7.005)

##### Sec. 15-2. Jurisdiction; change of venue.

The municipal division of the circuit court shall have original jurisdiction to hear and determine all violations against the charter and the ordinances of the city. There shall be no change of venue or other transfer of cases to other divisions except as provided by the laws of the state. This section shall in no way be construed to remove or limit a defendant's right to trial by jury.

(Code 1964, § 7.025)

##### Sec. 15-3. Rules governing procedure and practice.

The rules governing the procedure and practice in the municipal court shall be those established and promulgated by the Supreme Court of Missouri on July 1, 1959, and such subsequent rules as the supreme court

shall from time to time establish and promulgate; and any provision of this chapter which shall be in conflict with such rules is hereby repealed.  
(Code 1964, § 7.075)

#### **Sec. 15-4. Courtrooms.**

The city council shall, by resolution, designate the place in which the municipal court shall sit, and shall provide a suitable courtroom in which the municipal court shall be held.  
(Code 1964, § 7.040)

**State Law References:** Municipality to provide courtroom, RSMo. § 479.060(1), (2).

#### **Sec. 15-5. Sessions.**

The municipal court shall be open every day except Saturday, Sunday and legal holidays; provided, however, that the municipal judge shall have the authority to cancel municipal court for a date certain by giving proper notice to the court personnel, the city prosecutor, and heads of departments of the city, when he determines that the judicial business on such date will be slight and that rescheduling cases will create no hardship on any party.  
(Code 1964, § 7.045)

#### **Sec. 15-6. Warrants; generally.**

All warrants issued by a municipal judge shall be directed to the 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 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.  
(Code 1964, § 7.065)

#### **Sec. 15-7. Warrant authority; procedures.**

(a) The municipal judge shall have authority to issue search warrants for searches or inspections to determine the existence of violations of any of the provisions of the Code of Ordinances. The municipal judge shall also have authority to issue warrants for the entry onto property to seize property or to otherwise enforce any of the provisions of the Code of Ordinances.

(b) Warrants and searches or inspections made pursuant thereto shall conform to and be governed by the following provisions:

- (1) Any police officer, deputy, code enforcement official or prosecuting attorney of the city may make application for the issuance of a warrant.
- (2) The application shall:
  - a. Be in writing;
  - b. State the time and date of the making of the application;

- c. Identify the property or places to be entered, searched or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
  - d. State facts sufficient to show probable cause for the issuance of a search warrant to search for violations of this Code of Ordinances or to show that entry or seizure is authorized by this Code and that due process has been afforded prior to the entry or seizure;
  - e. Be verified by the oath or affirmation of the applicant; and
  - f. Be filed in the municipal division of the Boone County, Missouri, Circuit Court.
- (3) The application shall be supplemented by written affidavits verified by oath or affirmation. Such affidavits shall be considered in determining whether there is probable cause for the issuance of the warrant and in filling out any deficiencies in the description of the property or places to be entered or searched. Oral testimony shall not be considered.
- (4) The judge shall hold a nonadversary hearing to determine whether sufficient facts have been stated to justify the issuance of a warrant. If it appears from the application and any supporting affidavits that there is probable cause to inspect or search for violations of this Code, or that entry or seizure is authorized by this Code, a warrant shall immediately be issued to allow such search, entry or seizure. The warrant shall be issued in the form of an original and two (2) copies.
- (5) The application and any supporting affidavits and a copy of the warrant shall be retained in the records of the municipal judge.
- (6) The warrant shall:
- a. Be in writing and in the name of the issuing authority;
  - b. Be directed to any police officer or deputy in the city;
  - c. State the time and date the warrant is issued;
  - d. Identify the property or places to be searched, entered or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
  - e. In the case of a search warrant, command that the described property or places be searched and that any photographs of violations found thereon or therein be brought, within ten (10) days after filing of the application, to the judge who issued the warrant, to be dealt with according to law; and
  - f. Be signed by the municipal judge, with his title of office indicated.
- (7) A warrant issued under this section may be executed only by a police officer or deputy of the

city. The warrant shall be executed by conducting the search or entry or seizure commanded.

- (8) A warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten (10) days after the date of the making of the application.
- (9) After execution of the warrant, the warrant, with a return thereon signed by the officer making the search, entry or seizure, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution and the name of the possessor and of the owner of the property or places searched, entered or seized, when he is not the same person, if known.
- (10) A warrant shall be deemed invalid:
  - a. If it was not issued by a judge of the municipal division of the Boone County, Missouri, Circuit Court; or
  - b. If it was issued without a written application having been filed and verified; or
  - c. If it was issued without probable cause; or
  - d. If it was not issued with respect to property or places within the city; or
  - e. If it does not describe the property or places to be searched, entered or seized with sufficient certainty; or
  - f. If it is not signed by the judge who issued it; or
  - g. If it was not executed within the time prescribed by subsection (b)(8) of this section.

(Code 1964, § 7.070; Ord. No. 14914, § 8-5-96; Ord. No. 15468, § 1, 12-15-97)

#### **Sec. 15-8. Complaint required following arrest.**

The chief of police or other police officer of the city shall, without a warrant, arrest any person who commits an offense in his presence, but such officer shall, before the trial, file a written complaint with the municipal judge.

(Code 1964, § 7.060)

#### **Sec. 15-9. City prosecutor.**

It shall be the duty of an attorney designated by the city to prosecute the violations of the municipality's ordinances before the municipal judge. The salary or fees of the attorney and his necessary expenses incurred in such prosecutions shall be paid by the municipality.

(Code 1964, § 7.050)

#### **Sec. 15-10. Informations.**

All prosecutions for violation of municipal ordinances shall be instituted by informations 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.  
(Code 1964, § 7.055)

#### **Sec. 15-11. Trial by jury.**

(a) Any person charged with the violation of a municipal ordinance shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an associate circuit 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 municipal 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 chapter 517, RSMo.  
(Code 1964, § 7.080)

#### **Sec. 15-12. Witnesses.**

(a) *Summons; oral notification.* 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. 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.

(b) *Policeman or other officer as witness.* In prosecutions before the municipal judge for misdemeanors arising under ordinances of the city, any policeman or other executive officer shall be a competent witness in the case but no such policeman 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.  
(Code 1964, §§ 7.085, 7.090, 7.095)

**State Law References:** Summoning of witnesses, RSMo. § 479.160.

#### **Sec. 15-13. Service on city.**

Notices and processes arising in the municipal court which are necessary to be served on the city shall be served on the city prosecutor.  
(Code 1964, § 7.100)

#### **Sec. 15-14. 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.  
(Code 1964, § 7.105)

#### **Sec. 15-15. Ordinances as evidence.**

In the trial of municipal ordinance violation cases, a copy of a municipal ordinance which is certified by the clerk of the municipality shall constitute prima facie evidence of such ordinance. If such certified copy is on file with the clerk serving the judge hearing the case and readily available for inspection by the parties, the judge may take judicial notice of such ordinance without further proof.  
(Code 1964, § 7.110)

#### **Sec. 15-16. Complaints to be transferred to prosecuting attorney.**

If, in the progress of any trial before the municipal judge, it shall appear that the accused ought to be put on trial for an offense against the criminal law of the state, and not cognizable before him as municipal judge, he shall immediately stop all further proceedings before him and shall cause the complaint to be made to the prosecuting attorney within the county, and the accused shall thereupon be proceeded against in the manner provided by law.  
(Code 1964, § 7.115)

**State Law References:** Similar provisions, RSMo. § 497.170.

#### **Sec. 15-17. Trial de novo.**

In any case tried before the municipal 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 to 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 (10) days after judgment and shall be filed in such form and perfected in such manner as provided by supreme court rule.  
(Code 1964, § 7.140)

**State Law References:** Similar provisions, RSMo. § 479.200(2).

#### **Sec. 15-18. Parole or probation.**

(a) Any judge hearing violations of municipal ordinances may, when in the judge's 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, the person shall be given a certificate explicitly stating the conditions on which the person 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 a person does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly.

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

(Code 1964, § 7.145; Ord. No. 17922, § 1, 12-1-03)

**State Law References:** Similar provisions, RSMo. § 479.190.

### **Sec. 15-19. Costs--Enumerated.**

(a) *Court costs.* The municipal judge may assess against each defendant who pleads guilty or is found guilty (except when the defendant is found by the judge to be indigent and unable to pay) the following court costs: Fees set pursuant to Section 514.015, Revised Statutes of Missouri, and service charges, witness fees and jail cost authorized by statute.

(b) *Warrant fees.* When the municipal judge issues a warrant for the arrest of any defendant or witness to compel attendance in municipal court, the judge may assess a warrant fee in the amount of fifty dollars (\$50.00).

(c) *Law enforcement training.* In all cases filed by the city prosecutor for violation of any of the ordinances of the city except nonmoving traffic violations, a surcharge of two dollars (\$2.00) shall be assessed against a defendant who pleads guilty or is found guilty, for training law enforcement officers. Such surcharge shall be collected along with the fine assessed by the court and shall be deposited with the director of finance who shall place such costs in a special account to be used for training law enforcement officers.

(d) *State law enforcement training.* In all cases filed by the city prosecutor for violation of any of the ordinances of the city except non-moving traffic violations, a surcharge of one dollar (\$1.00) shall be assessed against a defendant who pleads guilty or is found guilty, for law enforcement training purposes. Such surcharge shall be collected and shall be deposited with the director of finance, who shall send such funds monthly to the state treasury to the credit of the "Peace Officer Standards and Training Commission Fund."

(Code 1964, § 7.120; Ord. No. 13386, § 1, 7-20-92; Ord. No. 13893 § 1, 12-6-93; Ord. No. 15018, § 1, 10-21-96; Ord. No. 15126, § 1, 1-21-97; Ord. No. 16590, § 1, 9-18-00)

**Cross References:** Licenses, permits and miscellaneous business regulations, Ch. 13.

**State Law References:** Court costs, filing fees, RSMo. § 479.260; similar provisions §§ 302.137, 429.260, 479.261, 491.280, 514.005, 590.140 and 595.045.

### **Sec. 15-20. Same--When prosecution is without cause.**

If the defendant is acquitted, the informant may be adjudged to pay the costs, if it appears to the satisfaction of the court that the prosecution was instituted vexatiously or without probable cause.

(Code 1964, § 7.125)

### **Sec. 15-21. Same--When deposit of costs required.**

The city counselor may, when he is not satisfied that the information is made for the purpose of public justice, or that the evidence is sufficient to obtain the conviction of the accused, require the prosecuting witness to deposit with the municipal court a sufficient amount of money for the payment of all costs that may accrue, or else, give bond and security for the costs; and in such case, if the accused by acquitted, the court shall render judgment against the prosecuting witness for costs.  
(Code 1964, § 7.130)

#### **Sec. 15-22. Forfeiture of bonds.**

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 on the transcript of the proceedings before the municipal judge. All monies recovered in such actions shall be paid over to the municipal treasury to the general revenue fund of the municipality.  
(Code 1964, § 7.135)

**State Law References:** similar provisions, RSMo. § 479.210.

#### **Sec. 15-23. Payment of fines on installment basis.**

When a fine is assessed for violation of an ordinance, it shall be within the discretion of the judge assessing the fine to provide for the payment of the fine on an installment basis under such terms and conditions as he may deem appropriate.  
(Code 1964, § 7.150)

**State Law References:** Similar provisions, RSMo. § 479.240.

#### **Sec. 15-24. Failure or refusal to pay fines or costs.**

Upon failure or refusal by any person, who has been convicted in the municipal court and fined by the municipal judge for violation of any ordinance of the city, to pay such fine, the court may order, except in cases of indigency, that the defendant be imprisoned until the fine and costs are fully paid, or if the fine is not paid, then for every ten dollars (\$10.00) of such judgment the prisoner shall serve one day in jail or other place of confinement.  
(Code 1964, § 7.155)

#### **Sec. 15-25. Accounting for fines and costs; monthly report.**

The municipal judge shall cause the clerk, within the first ten (10) 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 an 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 clerk of the municipality, who shall lay the same before the governing body of the municipality at its first session thereafter; providing, that the city council hereby designates the finance director its agent and delegates to such finance director the duty to receive and review such verified lists and statements. The official collecting fines shall, within the ten (10) days aforesaid, pay to the municipal treasurer the full amount of all fines collected by him during the preceding month if not previously paid to the municipal treasurer.  
(Code 1964, § 7.160)

#### **Sec. 15-26. Disposition of fines and costs.**

All fines and costs paid into the municipal court shall be paid to and deposited not less frequently than monthly into the municipal treasury.

All fines, penalties and forfeitures arising out of violations of ordinances of the city shall be deposited in the general fund of the city.

(Code 1964, § 7.165)

**State Law References:** Similar provisions, RSMo. § 479.080(1).

#### **Sec. 15-27. Place of imprisonment.**

In all cases where any person is in the charge of or in the custody of the chief of police or members of the police department, either before or after trial, such person shall be kept and held at the Boone County jail or at such other place as the chief of police may designate, except as otherwise provided by law or ordinance.

(Code 1964, § 7.170)

#### **Sec. 15-28. Working prisoner.**

(a) Any person who has been convicted in the municipal court and sentenced by the municipal judge for violation of any ordinance of the city, whether the punishment be by fine or imprisonment or by both, may be put to work to perform labor on the public streets, highways, alleys, or other public works or buildings of the city. It shall be deemed a part of the judgment and sentence of the court that such prisoner may be worked as herein provided. The chief of police shall have power and be authorized to have or cause all such prisoners to work out the full number of days for which they have been sentenced.

(b) If the punishment is by fine and the fine be not paid, then for every ten dollars (\$10.00) of such judgment the prisoner shall work one day.

(Code 1964, § 7.175)

#### **Sec. 15-29. Chief of police to designate work and discharge.**

In all cases where the defendant is required to work out the whole or any part of the fine and costs imposed on him, the chief of police shall designate the kind of work required of the prisoner, and it shall be such labor as his health and strength will permit, not exceeding eight (8) hours per day. On performance of the required amount of labor, the prisoner shall be discharged from custody by the chief of police, who shall make return on the execution of such shall be done at the direction, and under the supervision, of the chief of police, or such other person as he may appoint.

(Code 1964, § 7.180)

#### **Secs. 15-30--15-45. Reserved.**

### **ARTICLE II.**

#### **JUDGE\***

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- \* **Charter References:** Judge, § 115; salary of judge to be provided for by ordinance, § 116.  
**Cross References:** City officers and employees generally, § 2-121 et seq.  
**State Law References:** Municipality's authority to provide for selection, tenure and compensation, RSMo. § 479.020(1).
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#### **Sec. 15-46. Selection, qualification and term of office.**

The municipal judge shall be selected by the council, a majority vote of all members being required for his selection. Selection shall be for a term of four (4) years, and he shall serve until his successor is selected and qualified. The judge shall have been a resident of the city for at least two (2) years prior to his selection, and a duly licensed attorney of the state for at least three (3) years prior to his selection. The judge shall be at least twenty-one (21) years of age and no person shall serve as municipal judge after he has reached his seventy-fifth birthday. The judge shall not hold any other office in the city.

(Code 1964, § 7.010)

**State Law References:** Similar provisions, RSMo. § 479.020(6), (7).

#### **Sec. 15-47. Duties and powers.**

The municipal judge shall be a conservator of the peace. He shall keep a docket in which he shall enter every case commenced before him and the proceeding therein and he shall keep such other records as required. Such docket and records shall be records of the circuit court. The judge shall deliver such 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. The judge shall have the power to administer oaths and enforce due obedience to all orders, rules and judgments made by him, and may fine or imprison for contempt committed before such judge while holding court, in the same manner and to the same extent as a circuit judge.

(Code 1964, § 7.035)

#### **Sec. 15-48. Removal from office.**

The municipal judge may be removed from office for cause in the manner provided for removal by the Charter of the city.

(Code 1964, § 7.015)

**Charter References:** Removal, § 115.

#### **Sec. 15-49. Disqualification procedures.**

A municipal judge shall be disqualified to hear any case in which he is in anywise 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 affidavit or disqualification in the same case.

(Code 1964, § 7.030)

**State Law References:** Similar provisions, RSMo. § 479.220.

#### **Sec. 15-50. Associate municipal judges.**

- (a) There shall be at least three (3) associate municipal judges to hear and decide cases in the City of

Columbia municipal division of the circuit court. An associate municipal judge shall act as municipal judge when the municipal judge is absent, disabled or disqualified. Associate municipal judges shall also hear and decide cases assigned to them by the municipal judge.

(b) Associate municipal judges shall be licensed to practice law in Missouri for at least three (3) years prior to appointment and shall be residents of Missouri.

(c) The city council shall appoint associate municipal judges, by resolution, to terms of no more than four (4) years. The resolution appointing an associate municipal judge shall specify the length of the judge's term of office. The city council, by resolution, may remove any associate municipal judge from office.

(d) Compensation for associate municipal judges shall be determined under the rules and procedures set forth in Chapter 19 of this Code.

(Code 1964, § 7.020; Ord. No. 17604, § 1, 3-3-03)

**State Law References:** Procedure in absence of judge, RSMo. § 479.230.