

Chapter 13

COURTS*

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*Cross reference(s)--General penalty for ordinance violation, § 1-14; department of law, § 2-196 et seq.

ARTICLE I. IN GENERAL**Secs. 13-1--13-24. Reserved.****ARTICLE II. MUNICIPAL DIVISION OF
CIRCUIT COURT*****Sec. 13-25. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Court means the municipal division of the circuit court established in Charter art. IX.

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 13-26. Disqualification of judge.

(a) The 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 city attorney files an application for change of judge. The application need not allege or prove any reason for such change. The application need not be verified and may be signed by any party or any attorney for any party.

(b) The application shall be filed not less than ten days before the date set for trial. If the designation of the trial judge occurs less than ten days before trial, the application may be filed any time prior to trial.

(c) Neither the defendant nor the city shall be entitled to file more than one application or disqualification in the same case.

(Code 1969, § 15-29)

State law reference(s)--Disqualification of judge, RSMo 479.220.

Sec. 13-27. Absence of judge; vacancy.

(a) The mayor, with the advice and consent of the city council, shall designate competent, eligible individuals to serve as substitute judges at any time during the council term if the elected judge is absent for any reason.

***Charter reference(s)**--Municipal division of circuit court, art. IX.

State law reference(s)--Municipal courts, RSMo ch. 479.

(b) Should a vacancy occur in the office of the elected judge more than six months prior to the general municipal election, a special election shall be held to fill such vacancy. Should a vacancy occur in the office of the elected judge less than six months prior to the general municipal election, the mayor, with the advice and consent of the city council shall select a competent, eligible person to fill such vacancy.

(Code 1969, § 15-30; G.O. 2141, 12-5-05)

State law reference(s)--Similar provisions, RSMo 479.230(1).

Sec. 13-28. Substitute judge.

(a) A substitute judge during the time of such judge's appointment shall possess all the powers and shall be subject to all the responsibilities, and such judge's judgments shall have the same force and effect as those of the regular judge.

(b) A substitute judge designated under provision of this article shall take an oath or affirmation to support the Constitution of the United States, the state and the Charter of the city and demean himself faithfully and shall be a member of the bar association of the state and a resident of the city.

(c) A substitute judge designated under the provisions of this section shall be paid at the hourly rate of the municipal judge.

(Gen. Ord. No. 803, § 1(15-31), 6-25-90)

State law reference(s)--Compensation of acting judge to be as established by ordinance, RSMo 479.230(2).

Sec. 13-29. Municipal court staff.

(a) There shall be a municipal court administrator and court services support staff, assigned to municipal court to provide for the proper functioning of the municipal division.

(b) The municipal court administrator shall be appointed by the director of financial services, with the consent of the municipal judge, to supervise all non-judicial personnel and to work in cooperation with the municipal judge to ensure the proper functioning of the municipal court. The municipal court administrator or his or her designee may act as clerk of the traffic violation bureau, upon his or her appointment by the municipal judge to be the clerk of the traffic violation bureau. The municipal court administrator or his or her designee shall collect

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finer and court costs which are assessed by the municipal judge or in the traffic violation bureau, and remit to the proper officials fines and court costs which are collected within the time and in the manner provided by statute, court rule or ordinance.

(c) All non-judicial court personnel (all personnel excluding the municipal judge and substitute judges) shall be classified employees of the city. The selection and tenure of the municipal court administrator, municipal court clerk and other court staff shall be as determined by the city with the consent of the municipal judge. The compensation of the municipal court administrator, municipal court clerk and other court staff shall be determined by the city; provided that at no time shall the salaries of the court support staff be predicated upon the amount of fines levied or the number of guilty pleas or adjudications of guilt in cases processed through the court or traffic bureau which they serve. (Code 1969, § 15-32(a)--(d); G.O. 1972, 9-29-03)

Sec. 13-30. Traffic violation bureau.

There is established, in conjunction with the municipal division of circuit court, a traffic violation bureau as authorized by RSMo 479-050 and the rules of the supreme court. The traffic violation bureau shall be under the supervision of the municipal judge and operated by the municipal court administrator upon his or her appointment by the municipal judge to be clerk of the traffic violations bureau. All monies collected as fines and costs shall be accounted for and transmitted daily to the director of financial services. (Code 1969, § 15-34; G.O. 1972, 9-29-03)

Cross reference(s)--Department of city, § 2-186 et seq.; administration and enforcement of traffic ordinances, § 28-51 et seq.

Sec. 13-31. Powers.

The court shall have the power to:

- (1) Assess fines and punishment in cases heard by the court, such fines and punishments to be subject to the following:
 - a. Any person who shall be convicted of a misdemeanor under the provisions of this code or any ordinance of the city, in cases where no penalty is otherwise provided or prescribed, may

be fined or imprisoned, or both, in the discretion of the court before whom conviction may be had.

- b. The fine shall not be less than \$1.00 nor more than \$500.00 and the imprisonment not to exceed six months or both.
 - c. Each day's violation of or failure, refusal or neglect to comply with any provision of this code or of any ordinance shall constitute a separate and distinct offense.
- (2) Order persons guilty of violations of city ordinances to participate in instructional and educational programs or classes for the improvement of driving skills or for the treatment of alcoholism.
 - (3) Punish contempt of court in the manner and to the same extent as is authorized by law for courts of record.
 - (4) Enforce its process, orders and judgments in the same manner as courts of record.
 - (5) Issue search warrants as authorized by law and Section 2-1273 of this code, upon application of the chief of police, the director of health, the director of community services, the director of public works and transportation or the fire chief, or any person designated by them.
 - (6) Summons and compel the attendance of witnesses, administer oaths and pass upon the competency of evidence.
 - (7) Render final judgment on any forfeited bond or recognizance returnable to such court, subject to appeal, as in other cases.
 - (8) Order persons who have been convicted of violations of city ordinances to perform labor on public streets and highways, alleys and other public works and buildings of the city for such purposes as the mayor may deem necessary as authorized by RSMo 71.220, as amended.
 - (9) Order parole or probation as follows:
 - a. To parole any person or to place any person on probation or to suspend or stay any fine or sentence or any part thereof of imprisonment imposed on

any person, on such conditions as the judge may consider reasonable and just, but only as to persons convicted before him or in the municipal division of the circuit court of a violation of the city code or charter.

- b. To terminate or revoke any such parole, probation, suspension or stay, in whole or in part, but only as to a parole, probation, suspension or stay adjudged by him or in the municipal division of circuit court.

(10) Provide for the payment of any fine assessed in an installment basis under such terms and conditions as the judge may deem appropriate.

(11) Exercise any other function necessary to carry out its assigned responsibilities and which are not contrary to the law.

(Code 1969, § 15-10; G.O. 1297, 5-8-95; G.O. 2388, 6-28-10)

State law reference(s)--Powers and duties of municipal judge, RSMo 479.070; fines and costs, RSMo 479.080, 479.240, 479.260.

Sec. 13-32. Place and time for holding court.

The sessions of the court shall be held in the basement of the Buchanan County Courthouse, 411 Jules Street, St. Joseph, or in any other suitable location within the city as may be provided by the council.

(Code 1969, § 15-11; G.O. 1408, 5-20-96)

Sec. 13-33. Court sessions.

There shall be sessions of the court held at least three times in each week at times designated by the judge. All cases set for trial shall be tried on the date set, unless continued pursuant to law.

(Code 1969, § 15-12)

Sec. 13-34. Limitation on city's cause of action.

(a) No prosecution for violation of this code or any city ordinance for which a penalty of fine is assessed and given in whole or in part to any person who will prosecute for the same shall be commenced after the lapse of one year after the date of such violation; no prosecution for violation of this code or any city ordinance for which a penalty or fine is assessed and is given in whole or in part to the city, or the finance director thereof,

shall be commenced after the lapse of two years after the date of such violation; no prosecution for violation of this code or any city ordinance for which a penalty or fine is assessed and given in whole or in part to the party aggrieved shall be commenced after the lapse of three years after the date of such violation.

(b) If any person charged with any type of violation noted above shall conceal or absent himself so that the process cannot be served upon him or shall absent himself from the city for the purpose of avoiding such prosecution, the time of such absence or concealment shall not be included within the computation of the corresponding time periods specified above.

(Code 1969, § 15-16; G.O. 1234, 11-7-94)

Sec. 13-35. City attorney's duties.

It shall be the duty of the city attorney or his assistants, whenever in his opinion an action can be maintained against the person complained of, to institute proceedings before the judge of the court by filing a statement or information in accordance with the rules of the state supreme court.

(Code 1969, § 15-17)

State law reference(s)--Prosecuting attorney, RSMo 479.120.

Sec. 13-36. Appointment of attorney by judge.

In the absence of the city attorney or other person prosecuting in his stead when any case is about to be tried, the judge of the court may appoint some competent attorney to prosecute in behalf of the city, who shall, during the time he is acting, possess all of the powers vested in the city attorney.

(Code 1969, § 15-18)

Sec. 13-37. Failure to appear.

It shall be unlawful and a misdemeanor for any person to fail to appear for arraignment or trial in court at the time and place designated without just cause, after having been duly summoned to appear for such arraignment or trial.

(Code 1969, § 15-20)

Sec. 13-38. Bond to secure appearance.

A person arrested for a violation of any ordinance may be held to bail by executing a bond to the city, with sufficient security, to be approved by the judge of the court or chief of police or such

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police officer as may be designated by the chief of police, in such amount as in the discretion of the judge of the court, chief of police or other police officer designated by the chief of police will ensure the appearance of the prisoner before the judge of the court. In no event shall the bond exceed double the amount of the highest penalty provided by ordinance.

(Code 1969, § 15-21)

Sec. 13-39. Forfeiture of appearance bond.

The bond provided for in this article, when approved, shall be filed with the municipal court administrator or his or her designee(s), and if the principal therein shall fail to appear according to the conditions of his or her bond or, having appeared, shall depart the court without leave, the judge of the court shall adjudge such bond to be forfeited and render judgment against the principal and sureties therein for the amount of the penalty mentioned in the bond, together with costs, and shall issue execution therefor.

(Code 1969, § 15-22; G.O. 1972, 9-29-03)

State law reference(s)--Recognizances and forfeitures, RSMo 479.210.

Sec. 13-40. Setting aside forfeiture of appearance bond.

If the principal on any bond which shall have been forfeited and judgment rendered thereon shall personally or by attorney appear before the judge of the court within five days after the rendition of such judgment and make his application, supported by affidavit, showing good cause therefor, the judge of the court may, on the payment of all accrued costs, set such judgment aside.

(Code 1969, § 15-23)

State law reference(s)--Recognizances and forfeitures, RSMo 479.210.

Sec. 13-41. Commitment of accused in default of bail.

Persons in custody who cannot be tried because of the absence of witnesses or other cause shall, in default of bail for appearance, be committed to the

county jail, or other authorized place of confinement, until the time of the trial. In such cases, the judge of the court shall deliver to the chief of police a commitment stating therein the cause of detention.

(Code 1969, § 15-24)

Sec. 13-42. Amending statement, information or report.

No suit shall be dismissed on account of any defect or imperfection in the statement, information or report, but such statement, information or report may be amended at any time before judgment is rendered.

(Code 1969, § 15-19)

Sec. 13-43. Continuances of pending cases.

The judge of the court may for good cause shown adjourn any case pending before him to another specified day. If in such case the defendant is under arrest, he may be discharged on his executing a bond to the city with sufficient security, to be approved by the judge of the court.

(Code 1969, § 15-13)

Sec. 13-44. Affidavits made on behalf of the city.

When an affidavit on the part of the city shall be required in any cause which has originated in the court, it shall be made by the city attorney or by some officer or person to whom the facts are known. No affidavit shall be required of the city attorney in support of an application for a continuance.

(Code 1969, § 15-14)

Sec. 13-45. Motions, pleas.

All motions in relation to matters which do not necessarily arise during the progress of a trial in court and all special and dilatory pleas therein must be made in writing and argued when the case is called for trial and at no other time.

(Code 1969, § 15-15)

Sec. 13-46. Officers' attendance as witnesses.

Officers shall attend as witnesses at court against persons whom they have arrested without being summoned, and if they fail to appear at the

time fixed for trial, they may be punished for contempt.
(Code 1969, § 15-25)

by RSMo Section 488.5026
for the inmate security fund..... \$2.00

Sec. 13-47. Payment of witness, other fees.

All witnesses and others entitled to any fees shall claim such fees on the day of trial and shall be paid by the municipal court administrator or his or her designee(s). If not so claimed, such persons entitled to the fees shall be barred thereafter from making claims for such fees.
(Code 1969, § 15-26; G.O. 1972, 9-29-03)

State law reference(s)--Witnesses, RSMo 479.160.

Sec. 13-48. Costs, assessment, disposition.

(a) In all cases filed in municipal court for violation of a city ordinance where either a plea of guilty or a finding of guilty is recorded, the defendant shall be assessed the following costs, to be collected along with the fine assessed by the court:

- (1) Filing of information.....\$12.00
- (2) Service of summons or subpoena when personally served by an individual who holds a regular or special police commission or by an individual authorized to make personal service by the court - police processing fee\$20.00
- (3) Witness fees for each day's appearance.....\$3.00
- (4) Application for trial de novo\$30.00
- (5) Additional costs authorized by RSMo Section 488.607 for the domestic violence shelter fund\$4.00
- (6) Additional costs authorized by RSMo Section 488.5336 for law enforcement officer training.....\$3.00
- (7) Additional costs authorized by RSMo Section 595.045 for the crime victim compensation fund\$7.50
- (8) Additional surcharge authorized

(9) Jail costs at the actual cost to the city.

In addition, RSMo Section 479.260 provides for a \$1.00 fee to be allocated between two funds used for judicial education and appointed counsel. The municipal court judge shall provide the method for allocation of these funds by court order.

(b) The foregoing schedule of costs shall not be deemed to require the judge to assess costs against the defendant in those cases where the defendant is found by the judge to be indigent and unable to pay the costs.

(c) The revenue generated, pursuant to RSMo Section 479.260, RSMo Section 488.607, RSMo Section 488.5336, RSMo Section 595.045 and RSMo Section 488.5026 shall be collected, handled and utilized only as authorized under the aforesaid statutes. In addition, the revenue generated pursuant to RSMo Section 488.607 shall be allocated and distributed as provided by special ordinance.

(d) RSMo Section 488.5030 provides the ability to contract with a public agency or private entity to collect on past-due court-ordered penalties, fines, restitution, sanctions, court costs, including restitution and juvenile monetary assessments, or judgments. Any fees or costs associated with such collection efforts shall be added to the amount due, but such fees and costs shall not exceed 20% of the amount collected.

(Code 1969, § 15-27; G.O. 1484, 12-30-96; G.O. 1489, 1-27-97; G.O. 1536, 7-28-97; G.O. 1854, 10-29-01; G.O. 1857, 11-26-01; G.O. 2017, 5-10-04; G.O. 2033, 7-19-04; G.O. 2069, 12-20-04; G.O. 2094, 5-9-05; G.O. 2379, 4-19-10; G.O. 2656, 10-29-12; G.O. 2752, 9-2-14; G.O. 2786, 8-17-15)

Cross reference(s)--General penalty for ordinance violation, § 1-14.

State law reference(s)--Costs and fees, RSMo 479.260.

Sec. 13-49. Judgment against informant for costs.

When upon trial of any person charged with a violation of this code or any ordinance of the city

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the judge of the court shall be satisfied from the evidence that the information upon which such violation is based was made vexatiously, maliciously and without probable cause, he shall acquit the defendant and render judgment against the informant for all the costs of the proceedings had therein, and such judgment shall have like effect and may be enforced in the same manner as if judgment had been rendered against such informant for violation of this code or such ordinance.

(Code 1969, § 15-28)

defendant shown on the records of the department of revenue.

(G.O. 1408, 5-20-96)

Sec. 13-50. Copy charges.

The court shall be entitled to charge a fee for all copies made of court-related documents as provided in Section 2-1305 of the code of ordinances at the request of any party to an action pending in municipal court, or his or her legal counsel.

(G.O. 1298, 5-8-95; G.O. 1972, 9-29-03)

Sec. 13-51. Failure to pay fine and/or court costs or to appear - suspension of driver's license.

If a Missouri resident charged with a moving traffic violation of the city fails to dispose of the charge of which he/she is accused through authorized prepayment of the fine and/or court costs and fails to appear on the return date or at any subsequent date to which the case has been continued, or without good cause fails to pay any fine and/or court costs assessed against him/her for any such violation within the period of time specified or in such installments as approved by law, the court shall, within ten days of the failure to comply, inform the defendant by ordinary mail at the last address shown on the court records that the court will order the Missouri director of revenue to suspend the defendant's driving privileges if the charge is not disposed of and fully paid within 30 days from the date of mailing. Thereafter, if the defendant fails to timely act to dispose of the charge and fully pay any applicable fine and/or court costs, the court shall notify the director of revenue of such failure and of the pending charge against the defendant. Upon receipt of this notification, the director of revenue shall suspend the driver's license of the defendant pursuant to Section 302.341, RSMo, effective immediately, and provide notice of the suspension to the defendant at the last address for the

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