Chapter 72 -- Municipal Court

- 72.010. <u>Court established</u>. There is hereby established in this City a municipal court to be known as the "Holts Summit Municipal Court, a Division of the Callaway County Circuit Court of the State of Missouri." This court is a continuation of the police court of the City as previously established, and is termed herein "the Municipal Court."
- 72.020. <u>Jurisdiction</u>. The jurisdiction of the municipal court shall extend to all cases involving alleged violations of the ordinances of the City.
- 72.030. <u>Selection of judge</u>. The judge of the City's municipal court shall be known as a municipal judge of the Callaway County Circuit Court, and shall be selected as follows:
- 1. A municipal judge for the City of Holts Summit, Missouri, shall be appointed by the Mayor with the approval of the Board of Aldermen by resolution.
- 72.040. <u>Tenure of municipal judge</u>. A municipal judge shall be appointed pursuant to Section 72.030 for such terms as designated by the Mayor and approved by resolution of the Board of Aldermen. Any municipal judge appointed pursuant to Section 72.030 shall serve at the will of the Board of Aldermen, and may be dismissed at any time, with or without cause, by resolution passed by a majority of the Board of Aldermen.
- 72.050. <u>Vacation of office</u>. The municipal judge shall vacate his office under the following circumstances:
- 1. Upon removal from office by the State Commission on the Retirement, Removal, and Discipline of Judges, as provided in Missouri Supreme Court Rule 12.
 - 2. Upon attaining his 75th birthday.
- 3. Should he fail, within six months of his selection, to satisfactorily complete a course of instruction for municipal judge as prescribed by the State Supreme Court, unless he is a licensed attorney.

- 4. If he is a licensed attorney, upon having said license suspended or withdrawn.
- 72.060. <u>Qualifications for office</u>. The municipal judge shall possess the following qualifications before he shall take office:
 - 1. He must be a resident of the State of Missouri.
 - 2. He must be between the ages of 21 and 75 years.
 - 3. He may not hold any other office within the City government.
- 4. He must, within six months after his selection to the position, satisfactorily complete a course of instruction for municipal judge as prescribed by the State Supreme Court unless he is a licensed attorney.
- 5. The municipal judge shall be considered holding a part-time position and as such may accept other employment (within the requirements of the Code of Judicial Conduct, Missouri Supreme Court Rule 2).
- 72.070. <u>Superintending authority</u>. The municipal court of the City shall be subject to the rules of the Circuit Court of which it is a part, 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.
- 72.080. Report to Board of Aldermen. The municipal judge shall cause to be prepared within the first ten (10) days of every month a report indicating the following: A list of all cases heard and 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 cost, the names of the defendants committed, and the cases where there was an application for trial de novo, respectively. The same shall be prepared under oath by the municipal court clerk or the municipal judge. This report will be filed with the city clerk, who shall thereafter forward the same to the Board of Aldermen of the City for examination at its first session thereafter. The municipal court shall, within the ten (10) days after the first of the month, pay to the municipal treasurer the full amount of all fines collected during the preceding month, if they have not previously been paid.

- 72.090. <u>Docket and court records</u>. 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 proceedings therein and he shall keep such other records as may be required. Such docket and records shall be records of the circuit court in Callaway County. The municipal judge shall deliver the docket and records of the municipal court, and all books and papers pertaining to his office, to the presiding judge of the circuit.
- 72.100. <u>Municipal judge; power and duties, generally</u>. The municipal judge shall be and is hereby authorized to:
- 1. Establish a Traffic Violations Bureau as provided for in the Missouri Rules of Practice and Procedure in municipal and traffic courts and Section 479.050 of the Revised Statutes of Missouri.
- 2. Administer oaths and enforce due obedience to all orders, rules, and judgments made by him and may fine and imprison for contempt committed before him while holding court, in the same manner and to the same extent as a circuit judge.
- 3. 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 relative to any matter that may be pending in the municipal court.
- 4. Make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this Chapter, and 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. Any and all rules made or adopted hereunder may be annulled or amended by an ordinance limited to such purpose; provided that such ordinance does not violate or conflict with, the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts or state statutes.
- 5. 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 ordinance of this City.
- 72.105. <u>Authorization of municipal judge to establish bond schedule</u>. The municipal judge is hereby authorized to establish by order, in connection with charged violations of any ordinance of the City of Holts Summit, a bond schedule and procedures for handling bonds.

- 72.110. <u>Traffic Violations Bureau</u>. Should the municipal judge determine that there shall be a Traffic Violations Bureau, the City shall provide all expenses incident to the operation of the same. The Court Clerk is hereby designated as the Traffic Violations Clerk for said Bureau, if established. **Ord #1791 (9-10-07)**
- 72.120. <u>Issuance and execution of warrants</u>. 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 warrant shall be executed by the chief of police, police officer, or sheriff 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.
- 72.130. <u>Arrest without warrants</u>. The chief of police or other police officer of the City shall, without warrant, make arrest 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.
- 72.140. <u>Jury trials</u>. Any person charged with a violation of a municipal ordinance of this 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 trial by jury, the municipal court shall certify the case to the presiding judge of the circuit court for reassignment, as provided in Section 2 of Section 517.520, Revised Statutes of Missouri.
- 72.160. <u>Summoning of witnesses</u>. 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.
- 72.170. <u>Transfer of complaint to associate circuit judge</u>. 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 of Missouri and not cognizable before him as municipal judge, he shall immediately cause the complaint to be made before some associate circuit judge, within the County.

- 72.180. <u>Jailing of defendants</u>. If in the opinion of the municipal judge the City has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail, and it shall be the duty of the sheriff, if 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 to such sheriff for the keeping of such prisoner in his custody. The same shall be taxed as cost.
- 72.190. <u>Parole and probation</u>. 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.
- 72.200. <u>Right of appeal</u>. The defendant shall have a right to a trial de novo before a circuit judge or an associate circuit judge except where the case has been tried with a jury. Such application for a trial de novo shall be filed within ten days after the judgment and shall be in the form as provided by Supreme Court rules.
- 72.210. <u>Appeal from jury verdicts</u>. 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.
- 72.220. Breach of recognizance. In the case of a breach of any recognizance entered into before a municipal judge or an associate circuit judge hearing a municipal ordinance violation case, 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 judge, such 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.
- 72.230. <u>Disqualification of municipal judge from hearing particular case</u>. A municipal judge shall be disqualified to hear any case in which he is 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.
- 72.240. <u>Temporary municipal judge</u>. If a municipal judge is absent, sick, or disqualified from acting, the Mayor may designate some competent, eligible person to act as municipal judge until such absence or disqualification shall cease. The Board of Aldermen shall

provide by ordinance for the compensation of any person designated to act as municipal judge of the provisions of this Section.

- 72.250. <u>Compensation</u>. The municipal judge shall receive as full compensation such a sum as shall be from time to time fixed by ordinance prior to election by the Board of Aldermen.
- 72.260. <u>Clerk of the municipal court</u>. The Board of Aldermen shall appoint a clerk for the municipal court. The duties of said clerk shall be as follows:
- 1. To collect fines for violations of such offenses as be prescribed, and the court costs thereof.
 - 2. To take oaths and affirmations.
- 3. To accept signed complaints, and allow the same to be signed and sworn to or affirmed before him.
- 4. Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas duces tecum.
- 5. Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in Traffic Violations Bureau cases or as directed by the municipal judge; generally, act as violation clerk of the Traffic Violations Bureau.
- 6. 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.
- 7. Maintain, properly certified by the clerk, a complete copy of the ordinance 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.
- 72.265. <u>Compensation.</u> The court clerk shall receive full compensation. Such sum shall be from time to time fixed by the Board of Aldermen.

72.270. <u>Court costs</u>. In addition to any fine that may be imposed by the municipal judge there shall be assessed as costs in *all* cases the following:

1. The following court costs shall be assessed on all municipal court

cases:

a.	Clerk Fee	\$12.00
b.	Crime victims Fund (CVF)	\$ 7.50
_	Dagga Officer Standards and	

c. Peace Officer Standards and

Training Fund (POST) \$ 1.00

d. State Court Automation Fund \$ 7.00 **Ord #2085** (10-12-2010)

e. Law Enforcement Training Fund (LET) \$ 2.00

f. Sheriff Retirement Fund Surcharge \$ 3.00 **Ord #2333** (08-12-2013)

2. Other costs, such as for the issuance of a warrant, a commitment, or an alias summons, as follows:

a. Alias Summons \$20.00b. Warrant \$61.00

- 3. Actual costs assessed against the City by the county sheriff for apprehension or confinement in the county jail.
- 4. 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.
- 5. Additional fee for Electronic Fund Transfers. The Municipal Court shall collect an additional fee up to four dollars (\$4.00) on all cases paid by electronic fund transfers. Said fee shall not be greater than the cost incurred to process the transfer. **Ord #2109** (01-24-11)
- 72.280. Same, assess against prosecuting witness. The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him that he pay the same and stand committed until paid in any case where it appears to the satisfaction of the municipal judge that the prosecution was commenced without probable cause and from malicious motives.
- 72.290. Delay in payment of fines; authorized. Upon the request of any person found guilty of a violation of an ordinance of the City of Holts Summit, Missouri, and the assessment of a fine for such violation by the municipal court, the municipal judge may, for good cause, allow such a person a period of time within which to pay off said fine on an installment basis under such terms and conditions as the municipal judge may deem appropriate.
- 72.291. Failure to pay fine within time allowed by municipal judge. Any person who fails to pay a fine assessed by the municipal court within the time prescribed by the municipal judge under the authority of Section 72.290 shall be deemed guilty of a violation of this Chapter.

- 72.292. Attempting to pay fine with bad check. Any person fined in the municipal court of the City of Holts Summit, Missouri, for a violation of a city ordinance who attempts to pay said fine or any portion thereof with a personal check which is subsequently dishonored because there are insufficient funds in the account upon which said check is drawn or because said account was closed prior to the issuance of said check or because payment of said check has been stopped, shall be guilty of a violation of this Chapter.
- 72.293. <u>Bond in cases of violation of preceding Sections</u>. Any person summoned to appear in municipal court for an alleged violation of Section 72.291 or Section 72.292 of this Chapter shall post a cash bond with the municipal court clerk guaranteeing his or her appearance for arraignment and trial in an amount equal to twice the amount of the unpaid portion of his fine, the payment of which was delayed by the municipal judge under the authority of Section 72.291 above or an amount equal to twice the amount of the dishonored check in cases involving a violation of Section 72.292 above.
- 72.300. <u>Sittings to be public</u>. The sitting of every court shall be public and every person may freely attend the same.
- 72.330. <u>Condition of probation, compensation of victims, free work, public or charitable.</u>
- 1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to insure that the defendant will not again violate the law. When a defendant is placed on probation he shall be informed of the conditions on which he is being released.
- 2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, or society. Such conditions may include, but shall not be limited to:
- a. Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge;
- b. The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge;
- c. The assessment of shock jail time, so long as such jail time is within the range of punishment authorized by ordinance of law for the offense charged.
- d. The assessment of a shock fine so long as such amount is within the range of punishment authorized by ordinance or law for the offense charged; and
- e. Completion of alcohol or substance abuse education, evaluation or treatment programs at the expense of the defendant.

- 3. The defendant may refuse probation conditioned on the performance of free work. If he 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 agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of Chapter 288, RSMo. When defendant is assigned to the City, the defendant will answer to the supervisory head of the Department he is assigned to work for, until such work sentence is entirely fulfilled.
- 4. The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.
- 5. The court may suspend either the imposition or execution of sentence as a condition of probation.
- 72.335. The judge hearing municipal ordinance violations is hereby authorized, empowered and instructed to enforce collection of all fines not paid in cash, when the same assessed, by an order to work upon the streets, highways, alleys or other public works, property or buildings of the city. If any fine shall not be paid when assessed, it is hereby declared to be the duty of the judge to enter upon his records the number of days' work necessary to pay such fine or sentence of imprisonment.