

Chapter 17

MUNICIPAL COURT

Cross Reference — When municipal judge may issue oaths and affirmations, § 2-62; Police and prisoners, § 20-1 et seq.

State Law Reference — Courts in third class cities, RSMo. § 98.320.

ARTICLE I In General

SECTION 17-1. Organization. ¹ [Ord. No. 94-35 § 1, 2-14-1995]

- A. A court is hereby established in the City of Lexington to be known as the Municipal Court of the City of Lexington.
- B. The Municipal Judge shall be appointed by the Mayor with the consent and approval of the Council by a majority vote.
- C. The City Council shall, by ordinance set the compensation for the Municipal Judge, which shall not be dependent in any way upon the number of trials, guilty verdicts or amount of fines imposed or collected.
- D. The Municipal Judge shall be under the Administrative Supervisor of the Circuit Judge, and Municipal Judge, and the Municipal Court shall be a Division of the Circuit Court. The Municipal Division shall be subject to the Rules of the Circuit Court not inconsistent with the Rules of the Supreme Court.
- E. The Municipal Court is governed by Ch. 479, RSMo., and any ordinance in conflict therewith is declared void.

SECTION 17-1.1. Time of Regular Sessions. [Ord. No. 2014-26 § I, 11-25-2014]

The Lexington Municipal Court shall convene in regular session on the third Thursday of each month, commencing at 4:00 P.M., starting February 2015.

SECTION 17-2. Qualifications. ² [Ord. No. 94-35 § 2, 2-14-1995]

- A. The Municipal Judge must be a resident of the State of Missouri but need not be a resident of the City or of the Judicial Circuit Court in which the City is located.
- B. The Municipal Judge must be at least twenty-one (21) years of age and no person may

1. State Law Reference — For similar provisions, see § 479.020, RSMo.

2. State Law Reference — For similar provisions, see § 479.020, RSMo.

serve as Municipal Judge who has reached the age of seventy (70).

- C. The Municipal Judge must be licensed to practice law in the State of Missouri and must be of good moral character.
- D. The Municipal Judge shall hold no other office in the City of Lexington.

SECTION 17-3. Duties and Powers of Municipal Judge. [RSMo. § 479.070]

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 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. The Municipal 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.

SECTION 17-4. Absence of Judge, Procedure. ³ [Ord. No. 94-12 § I, 5-24-1994]

If the Municipal Judge is absent, sick or disqualified from acting or performing his duties, the Mayor shall request the presiding Judge of the Circuit Court to designate a special Municipal Judge, who must be competent and eligible to act as a Municipal Judge until the absence or disqualification of the regular Judge shall cease.

SECTION 17-5. Fines and Costs, Where Paid, Deposited. [RSMo. § 479.240]

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.

SECTION 17-6. Prosecutions Based on Information Only, Proceedings. [RSMo. § 479.090]

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.

SECTION 17-7. Warrants, How Issued and Executed. [RSMo. § 479.100]

All warrants issued by a Municipal Judge hearing violations of municipal ordinances, shall be directed to the City Marshal, or any other Police Officer of the City, or to the Sheriff of the County. The warrants shall be executed by the Marshal, 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.

SECTION 17-8. Arrest Without Warrants, Procedure. [RSMo. § 479.110]

3. State Law Reference — For similar provisions, see § 479.230, RSMo.

The City Marshal, or other Police Officer of the City shall, without a warrant, make arrests of any person who commits any offense in his presence, but such officer shall, before the trial, file a written complaint with the Judge hearing violations of municipal ordinances.

SECTION 17-9. City to Designate Attorney to Prosecute Violations — Duties. [RSMo. § 479.120]

It shall be the duty of an attorney designated by the City to prosecute the violations of the City's ordinances before the Municipal Judge hearing the violations of that City's ordinances. The salary or fees of the attorney and his necessary expenses incurred in such prosecutions shall be paid by the City.

SECTION 17-10. Trial By Jury, When. [RSMo. § 479.130]

Any person charged with the 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.

SECTION 17-11. Judge to be Trier of Fact, When. [RSMo. § 479.140]

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.

SECTION 17-12. Trial By Jury, Certification for Assignment. [RSMo. § 479.150]

A defendant accused of a violation of a municipal ordinance has a right to a trial by jury and demands such trial by jury, the Municipal Judge shall certify the case for assignment to the Circuit Court in the manner provided in Subsection (2) of Section 517.520, RSMo.

SECTION 17-13. Witnesses How Summoned, Fees. [RSMo. § 479.160]

- 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.

SECTION 17-14. Municipal Judge Without Jurisdiction, When, Procedure. [RSMo. § 479.170]

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.

SECTION 17-15. Commitment in County Jail, When — Duty of Sheriff. [RSMo. § 479.190]

If a 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, in 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 City shall pay the board of such prisoner at the same rate as may now hereafter be allowed by law to such Sheriff for the keeping of other prisoners in his custody.

SECTION 17-16. Parole or Probation, When Granted. [RSMo. § 479.190]

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.

SECTION 17-17. Appeals, Trial De Novo. [RSMo. § 479.200]

In any case tried before the Municipal Judge who is not licensed to practice law in this State, the defendant, upon a finding of guilty or a plea of guilty, shall have a right to trial de novo, before a Circuit Judge or an Associate Circuit Judge.

SECTION 17-18. Recognizances and Forfeitures. [RSMo. § 479.210]

In case of a breach of any recognizance entered into before a Municipal Judge hearing in 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.

SECTION 17-19. Disqualifications of Judge, When, Procedure. [RSMo. § 479.220]

The 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 City, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice, neither the defendant nor the City shall be entitled to file more than one (1) affidavit or disqualification in the same case.

SECTION 17-20. Fines, Installments Allowed.

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.

SECTION 17-21. Municipal Ordinances, Evidence of, Judicial Notice of. [RSMo. § 479.250]

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 a case and readily available for inspection by the parties, the Judge may take judicial notice of such ordinance without further proof.

SECTION 17-22. Court Costs, Filing Fees. ⁴ [RSMo. § 479.260; Ord. No. 94-36 § 1, 2-14-1995; Ord. No. 94-43 §§ 1 — 2, 3-28-1995; Ord. No. 95-14 § 1, 7-11-1995; Ord. No. 99-50 § 1, 12-14-1999; Ord. No. 2002-41 § 1, 9-10-2002; Ord. No. 2005-46 § 1, 12-13-2005]

- A. The City, by ordinance, may provide for court cost in an amount not to exceed twelve dollars (\$12.00) per case for each Municipal Judge, and in the event a defendant pleads guilty or is found guilty, the Judge may assess costs against the defendant except in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs. One dollar (\$1.00) of such Court cost shall be deposited into the Judicial Education Fund, established and administered by the Municipal Court, for the judicial education and training of the Clerks of the Municipal Court. Any Judicial Education Fund balance that exceeds one thousand five hundred dollars (\$1,500.00) for each Court employee shall be turned over quarterly to the General Revenue Fund of the Municipal Treasurer.
- B. Costs for the training of Police Officers shall be assessed in the amount of three dollars (\$3.00) in all cases, except those for non-moving traffic violations, violations of fish and game regulations or in any proceeding wherein the proceeding has been dismissed by the Court. Two dollars (\$2.00) of such fees collected shall be deposited monthly to the Treasurer of the City to be used locally for training Law Enforcement Officers. One dollar (\$1.00) of such fees collected shall be deposited into the Peace Officer Standard and Training Commission Fund to be used statewide for training Law Enforcement Officers.
- C. Costs for the Crime Victims' Compensation Fund shall be assessed in the amount of seven dollars fifty cents (\$7.50) in all cases, except those for non-moving traffic violations or where the proceeding has been dismissed by the Court.
- D. Costs for County shelter for victims of domestic violence shall be assessed two dollars (\$2.00) in all cases and disbursed to the County once a month.
- E. No fees for a Judge, City Attorney or Prosecutor shall be assessed as cost in a municipal ordinance violation case.
- F. A municipal ordinance violation case, when there is an application for trial de novo, an additional fee of thirty dollars (\$30.00) shall be assessed as Court costs and collected by the Municipal Court Clerk.
- G. Costs authorized in this Section are in addition to service costs, witness fees, recoupment of funds and jail costs which may otherwise be authorized to be assessed, but are in lieu of other Court or Judge cost or fees.

SECTION 17-23. Failure to Appear — Forfeiture of Recognizance. [Ord. No. 93-34 § 1, 1-25-1994]

- A. It shall be unlawful for a defendant to neglect to appear for trial or judgment or upon any

4. State Law Reference — For similar provisions, see § 479.260, RSMo.

other occasion when his presence may be lawfully required before the presiding Municipal Judge according to the condition of his recognizance. If a defendant so neglects to appear, the presiding Municipal Judge must enter the default upon his record and the recognizance shall thereupon be adjudged forfeited.

- B. In addition to the provisions of Subsection (A), the presiding Municipal Judge may direct the issuance of a warrant for the arrest of any resident of this State, or any non-resident upon whom process may be served in this State, who fails to appear and answer a traffic ticket or summons lawfully served upon him and against whom an information or complaint has been filed by the City Prosecutor or City Attorney. Such warrant may be directed to any Peace Officer of the State and may be executed in any County in this State. If the warrant is not executed within thirty (30) days after issue, the court shall then place the case in an inactive file or docket subject to being reopened if thereafter the defendant appears or such warrant is executed.
- C. If a defendant is not a resident of this State or is not a resident of the County in which the alleged offense was committed or of any adjoining County in this State and fails to appear or answer a traffic ticket or summons lawfully served upon him and upon which a complaint or information has been filed within thirty (30) days after the return date of the ticket or summons, the court shall mail a notice to the defendant at the address stated in the complaint or information. The mailing of the notice in parking cases shall be discretionary with the court. If the defendant fails to appear or otherwise answer within thirty (30) days after the mailing of the notice, or in parking cases if no notice is mailed within sixty (60) days after the return date of the ticket or summons, the court shall place such case in an inactive file or docket, subject to being reopened if thereafter the defendant appears or the warrant provided for in Subsection (B) is issued and executed.

SECTION 17-24. Alternative Community Service. [Ord. No. 93-33 § 1, 1-25-1994; Ord. No. 93-41 § 1, 2-22-1994]

- 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 street, highways, alleys, or other public works of the City at a minimum of one (1) full business day. It shall be deemed as part of the judgement and sentence of the court that such defendant may be worked as herein provided: The City Administrator shall have the power, and be authorized to call all such defendants to work out the full number of days which they have been sentenced.
- B. If the punishment is by fine and the fine not be paid, then Court may issue community service hours as it deems appropriate, to be no less than one (1) full business day.

SECTION 17-25. City Administrator to Designate Work and Discharge. [Ord. No. 93-33 § 2, 1-25-1994; Ord. No. 93-41 § 2, 2-22-1994]

In all cases when defendant is required to work out the whole or any part of the fine and costs imposed, the City Administrator shall designate the kind of work required of the defendant, and it shall be such labor as his or her health will permit, not exceeding eight (8) hours per day. On performance of the required labor, the defendant shall be discharged from custody by the City

Administrator, who shall make the return on the execution of such facts, specifying therein the kind of employment and the days of work completed. Such waiver shall be done at the direction, and under the supervision, of the City Administrator, or such other person as the Administrator may appoint.

SECTION 17-26. Reimbursement of Certain Costs — When. [Ord. No. 93-36 §§ 1 — 2, 2-8-1994]

Upon a plea of guilty or a finding of guilty for violating Section 15-2 of the Code of the City of Lexington, the Municipal Court may, in addition to imposition of any penalties provided by law, order the person to reimburse enforcement agencies which made the arrest or the costs associated with such arrest. Such costs shall include the reasonable costs of making the arrest including the costs of chemical test made under this Chapter 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 enforcement agency may establish a schedule of such costs, however, the court may order the costs reduced if it determines that the costs are excessive.

SECTION 17-27. through SECTION 17-43. (Reserved)

ARTICLE II
Court Clerk

SECTION 17-44. Office Created. [Ord. of 1-2-1973, § 1]

The office of Clerk of the Municipal Court is hereby established.

SECTION 17-45. Appointment; Term. [Ord. of 1-2-1973, §§ 1,5]

The City Council is hereby authorized appoint a Clerk of the Municipal Court, who shall serve at the pleasure of the Council. The appointment referred to may be made by a motion presented, seconded and passed by a majority of the Council. The term of office of the Municipal Court shall be one (1) year.

SECTION 17-46. Salary. [Ord. of 1-2-1973, § 3]

The compensation to be paid to the Clerk of the Municipal Court shall be established by the City Council, payable monthly. The person appointed as Clerk shall present to the Council, or a person designated by the Council, a list of the hours worked in connection with his office, and upon approval by the Council, or a person designated by the Council, payment shall be made in the same manner as is customary by the City.

SECTION 17-47. Duties. [Ord. of 1-2-1973, § 4]

The Clerk of the Municipal Court shall:

1. Attend all Court sessions as may be established by the Judge of the Municipal Court;
2. Be responsible of all record keeping of the court as such record keeping may be determined to be necessary by the Judge of the Municipal Court;
3. Maintain records as to monetary accountability of all Court revenues in accordance with

the procedures set up by the Judge of the Municipal Court and the laws of the State, including but not limited to, the proper accounts for all bonds which may be filed with the Court;

4. Carry on all those duties and responsibilities as may be set out by the Statutes of the State;
5. Perform such other duties and responsibilities as may be assigned to the Clerk by the Judge of the Municipal Court; however, in the event such added responsibility shall substantially increase the amount of time required to be spent by the Clerk, said additional duties and responsibilities should be first reviewed and approved by the City Council.