

## Chapter 125

### MUNICIPAL COURT

#### ARTICLE I

#### In General <sup>1</sup>

##### **Section 125.010. Violations — To Be Heard By Associate Circuit Judge.**

The City of Mound City, hereby elects to have all violations of its municipal ordinances heard and determined by an Associate Circuit Judge of the Circuit Court of Holt County, Missouri, the County in which the City of Mound City is located.

##### **Section 125.020. Municipal Division — Circuit Court.**

The Division of the Circuit Court of Holt County, Missouri, which hears and determines violations of the ordinances of the City of Mound City shall be known as the "Municipal Division of the Circuit Court of Holt County, Missouri".

##### **Section 125.025. Rules Governing Procedure and Practice in The Municipal Court.**

The rules governing the procedure and practice in the Municipal Court shall be those established and promulgated by the Supreme Court of Missouri and such subsequent rules as the Supreme Court shall from time to time establish and promulgate; and any provision in these ordinances which shall be in conflict with such rules is hereby repealed.

##### **Section 125.030. Violations Bureau — Duties — Court Costs.**

The Judge may establish a Violations Bureau in the City of Mound City, and shall establish such a Bureau when a request therefor is made by the Board of Aldermen of the City of Mound City. The Violations Bureau shall operate under the supervision of the Circuit Court, and the Associate Circuit Judge hearing and determining violations of the ordinances of the City of Mound City, 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 Violations Bureau, including salaries of clerical personnel, shall be paid by the City of Mound City. The City shall provide suitable quarters for the Violations Bureau. The Violations Bureau shall accept pleas of guilty to certain violations of traffic ordinances designated by the Judge and shall accept payments of fines established by the Judge and court costs assessed on said pleas of guilty.

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<sup>1</sup>. Editor's Note — As to certain violations concerning an accused with special needs, §479.040, RSMo.

**Section 125.040. Fines and Costs — Where Paid.**

In cases of violations of ordinances of the City submitted to, heard and determined before the Judge, all fines shall be paid to and deposited at least monthly into the City Treasury and all court costs shall be accounted for and remitted to the State Treasury in the same manner as provided by law for costs in misdemeanor cases.

**Section 125.050. Procedure — Fines and Costs — Report.**

The Supreme Court by administrative rule may provide for uniform procedure and reporting forms for the collection and transmittal of fines and costs. Until modified or otherwise provided by such administrative rule, the Judge hearing and determining violations of City ordinances, shall cause the Clerk of the Municipal Division, 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 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 City, who shall present the same before the Board of Aldermen at its first session thereafter. The Official collecting fines, shall, within the ten (10) days aforesaid, pay to the City Treasurer the full amount of all fines collected by him/her during the preceding month if not previously paid to the City Treasurer.

**Section 125.060. Prosecutions — On Information.**

All prosecutions for the violation of City ordinances shall be instituted by information and may be based upon a complaint. Proceedings shall be in accordance with the Supreme Court Rule governing practices and procedures in proceedings before Municipal Judges.

**Section 125.070. Warrants — How Issued and Executed.**

All warrants issued by the Judge hearing violations of City ordinances, shall be directed to the Chief of Police, or any other Police Officer of the City, or to the Sheriff of Holt County. The warrants shall be executed by the Chief of Police, Police Officer or sheriff at any place within the limits of Holt 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 125.080. Witnesses.**

- A. It shall be the duty of the 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 the Judge it shall not be necessary to summon any witnesses who may be present at the continuance; but the Judge shall orally notify such witnesses as whether party may require to attend before him/her

on the day set for trial to testify in the case, and enter the names of such witnesses on his/her docket, which oral notice shall be valid as a summons.

- B. *Policeman Or Other Officer As Witness.* If prosecutions before the 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.

**Section 125.090. Arrest Without Warrants — Procedure.**

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

**Section 125.100. Attorney To Prosecute Violations.**

The City Attorney is hereby designated by the City to prosecute the violations of the ordinances of the City before the Judge hearing the violations of the ordinances of the City. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City.

**Section 125.110. Service On City and Affidavit By City.**

- A. *Service On City.* Notices and process arising in the Municipal Court which are necessary to be served on the City shall be served on the City Prosecutor.
- B. *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.

**Section 125.120. Trial By Jury — When.**

- A. Any person charged with the violation of an ordinance of the City shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an 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 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.

**Section 125.130. Judge To Be Trier of Fact.**

In any trial for the violation of an ordinance of the City, all issues of fact shall be tried by the Judge except where trial by jury is authorized by law and the defendant or his/her attorney requests a trial by jury.

**Section 125.140. Parole or Probation, When Granted — Certificate — Conditions of Probation — Modification of Conditions.**

- A. Any Judge hearing violations of municipal ordinances may, when in his/her 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, he/she shall be given a certificate explicitly stating the conditions on which he/she 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 he/she 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 employee of a County, City, person, 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 person placed on parole or probation or any person deriving a cause of action from him/her if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning of the provisions of Chapter 288, RSMo.
- D. The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

**Section 125.150. Appeals — Trial De Novo.**

In any case tried before the 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 of 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. In any case tried with a jury before an Associate Circuit Judge a record shall be made and appeals may be

had upon that record to the appropriate Appellate Court. The record shall be kept in a manner provided by State law or Supreme Court Rule.

**Section 125.160. Recognizance and Forfeitures.**

In case of a breach of any recognizance entered into before the Judge hearing violations of the ordinances of the City, 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 City of Mound City as plaintiff. Such action shall be prosecuted before a Circuit Judge or Associate Circuit Judge. All monies recovered in such action shall be paid over to the City Treasury to the General Revenue Fund of the City.

**Section 125.170. City Ordinances — Evidence — Judicial Notice of.**

In the trial of violations of the ordinances of the City, a copy of a City ordinance which is certified by the Clerk of the City shall constitute prima facie evidence of such ordinance. If such certified copy is on file with the Clerk of the Municipal Division and readily available for inspection by the parties, the Judge may take judicial notice of such ordinance without further proof.

ARTICLE II  
**Fines and Court Costs**

**Section 125.180. Installment Payment of Fine.**

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/she may deem appropriate.

**Section 125.190. Court Costs.**

- A. In addition to any fine that may be imposed by the Municipal Judge in any case filed in the Mound City Municipal Division of the 4th Judicial Circuit Court, and in addition to all other fees authorized or required by law, there shall be assessed as costs the following:
1. Costs of Court in the amount of fifteen dollars (\$15.00).
  2. *Police Officer training fee.* A fee of three dollars (\$3.00) is hereby established and assessed as additional Court costs in each Court proceeding, except that no such fee shall be collected when the proceedings against the defendant have been dismissed.
    - a. Two dollars (\$2.00) of each such Court cost shall be transmitted monthly to the Treasurer of the City and used to pay for Police Officer training as provided by Sections 590.100 to 590.180, RSMo. The City shall not retain for training purposes more than one thousand five hundred dollars (\$1,500.00) of such funds for each certified Law Enforcement Officer or candidate for certification employed by the City.

Any excess funds shall be transmitted quarterly to the City's General Fund.

- b. One dollar (\$1.00) of each such Court cost shall be sent to the State Treasury to the credit of the Peace Officers Standards and Training Commission Fund created by Section 590.178, RSMo.
3. *Crime Victims' Compensation Fund.* An additional sum of seven dollars fifty cents (\$7.50) shall be assessed and added to the basic costs in Subsection (1) of this Section, provided that no such cost shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the Court. All sums collected pursuant to this Subsection shall be paid at least monthly as follows:
  - a. Ninety-five percent (95%) of such fees shall be paid to the Director of Revenue of the State of Missouri for deposit as provided in Section 595.045.5, RSMo.
  - b. Five percent (5%) shall be paid to the City Treasury.
4. There shall be assessed a seven dollar (\$7.00) surcharge for the Statewide Court Automation Fund.
5. Other costs, such as for the issuance of a warrant, a commitment or a summons, as provided before the Associate Circuit Judge in criminal prosecutions.
6. Actual costs assessed against the City by the County Sheriff for apprehension or confinement in the County Jail or costs assessed against the City by any other detention facility.
7. 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.
8. Any other reasonable cost as may be otherwise provided by ordinance including, but not limited to, costs of confinement, including any necessary transportation related thereto, medical costs incurred by the City while a defendant is in City custody, and costs related to the arrest and testing of any person for any intoxication-related traffic offense as set out in Subsection (9) hereof.
9. *Reimbursement of certain costs of arrest.*
  - a. Upon a plea or a finding of guilty of violating the provisions of Sections 342.020 or 342.030 of this Code or any ordinance of the City of Mound City 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 Police Department for the costs associated with such arrest.

- b. Such costs hereby authorized shall include the reasonable cost of making the arrest, including the cost of any chemical test made as authorized or required by law or ordinance 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.
  - c. The Chief of Police may establish a schedule of such costs hereby authorized and shall submit the same to the Municipal Judge. However, the Court may order the costs reduced if it determines that the costs are excessive.
  - d. Upon receipt of such additional costs authorized by this Subsection, the City Treasurer shall retain such costs in a separate fund to be known as the "DWI/Drug Offense Cost Reimbursement Fund". Monies with such fund shall be appropriated by the Board of Aldermen to the Police Department in amounts equal to those costs so collected and shall be used by such department specifically to enhance and support the enforcement and prosecution of alcohol- and drug-related traffic laws within the City.
10. A surcharge of three dollars (\$3.00) shall be assessed and collected payable to the Sheriff's Retirement Fund created in Section 57.955, RSMo.

ARTICLE III  
**Administrative Search Warrants**

**Section 125.200. Administrative Search Warrants.** [Ord. No. 1011 §1, 12-5-2002]

A. *Administrative Search Warrants.*

- 1. An "*administrative search warrant*" is a written order of the Municipal Court Judge commanding the search or inspection of any property, place or thing and the seizure, photographing, copying or recording of property or physical conditions found thereon or therein to determine or prove the existence of violations of any ordinance or code of the City of Mound City relating to the use, condition or occupancy of property or structures located within the City of Mound City or to enforce the provisions of any such ordinance or code Section.
- 2. The Municipal Court Judge having original and exclusive jurisdiction to determine violations against the ordinances of the municipality may issue an administrative search warrant when the property or place to be searched or inspected or the thing to be seized is located within the City limits of the City of Mound City at the time of the making of the application and the owner or occupant of the property or place to be searched or inspected or the thing to be seized has refused to allow same after an official request.
- 3. Any such warrant shall be directed to any Law Enforcement Officer of the City of Mound City and shall be executed within the City limits of the City of Mound City.

B. *Application Procedures.*

1. The City Attorney of the City of Mound City, the City Prosecuting Attorney for the City of Mound City or any Law Enforcement Officer of the City of Mound City may make application to the Municipal Court Judge for the issuance of an administrative search 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, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
  - d. State that the owner or occupant of the property or places to be entered, searched, inspected or seized has been requested by the City of Mound City to allow such action and has refused to allow such action;
  - e. State facts sufficient to show probable cause for the issuance of a search warrant, as provided herein, to search or inspect for violations of an ordinance or code Section specified in the application or show that entry or seizure is authorized and necessary to enforce an ordinance or code Section specified in the application and that any required due process has been afforded prior to the entry or seizure;
  - f. Be verified by the oath or affirmation of the applicant; and
  - g. Be signed by the applicant and filed with the Mound City Municipal Division of the Circuit Court of Holt County, Missouri.

C. *Search Warrant Hearing Procedure.*

1. The Municipal Judge shall hold a non-adversary hearing to determine whether probable cause exists to inspect or search for violations of any City of Mound City ordinance or code Section or to enforce any such ordinance or code Section.
2. In doing so, the Municipal Judge shall determine whether the action to be taken by the City of Mound City is reasonable in light of the facts stated. The Municipal Judge shall consider the goals of the ordinance or code Section sought to be enforced and such other factors as may be appropriate including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant City of Mound City ordinance or code Section and the passage of time since the property's last inspection. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a Mound City ordinance or code Section.

3. If it appears from the application and any supporting affidavit that there is probable cause to inspect or search for violations of any City of Mound City ordinance or code Section or to enforce any such ordinance or code Section, a search warrant shall immediately be issued.
4. The application, any supporting affidavit and one (1) copy of the warrant as issued shall be retained in the records of the Municipal Court.

D. *Contents Of Search Warrant.* The search warrant shall:

1. Be in writing and in the name of the City of Mound City;
2. Be directed to any Law Enforcement Officer of the City of Mound City;
3. State the time and date the warrant was issued;
4. Identify the property or places to be searched, inspected or entered upon in sufficient detail and particularity that the Law Enforcement Officer executing the warrant can readily ascertain it;
5. Command that the described property or places be searched or entered upon and that any evidence of any City of Mound City ordinance or code violations found therein or thereon or any property seized pursuant thereto or a description of such property seized be returned within ten (10) days after filing of the application to the Municipal Judge who issued the warrant to be dealt with according to law;
6. Be signed by the Judge, with his/her title of office indicated.

E. *Search Warrant Execution And Return.*

1. A search warrant issued under this Section shall be executed only by a City of Mound City Law Enforcement Officer. It is provided however, that one (1) or more designated officials including the Building Inspector, Code Enforcement Officers, employees of the Mound City Water, Sewer or Street Departments or other appropriate individuals may accompany the Law Enforcement Officer and the warrant shall be executed in the following manner:
  - a. The warrant shall be executed by conducting the search, inspection, entry or seizure as commanded and shall be executed as soon as practicable and in a reasonable manner.
  - b. The officer shall give the owner or occupant of the properly searched, inspected or entered upon a copy of the warrant.
  - c. If any property is seized incident to the search, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place.

- d. A copy of the itemized receipt of any property taken shall be delivered to the City Attorney or City Prosecuting Attorney within two (2) working days of the search.
  - e. The disposition of property seized pursuant to a search warrant under this Section shall be in accordance with an applicable City of Mound City ordinance or code Section, but in the absence of same, then with Section 542.301, RSMo.
2. The officer may summon as many persons as he/she deems necessary to assist him/her in executing the warrant and such persons shall not be held liable as a result of any illegality of the search and seizure.
  3. An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he/she would be justified in using if the warrant were valid.
  4. A search warrant shall expire if it is not executed and the required return made within ten (10) days after the date of the making of the application.
  5. After execution of the search warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the Municipal Court. The return shall show the date and manner of execution and, if known, the name of the possessor and of the owner, when not the same person of the property or places searched or seized.
  6. Upon request, the Court Clerk shall deliver a copy of the return to the possessor and the owner, when not the same person of the property searched or seized.
- F. *Invalidity Of Search Warrant.* A search warrant executed under this Section shall be held to be invalid in the following circumstances:
1. If it was not issued by the Municipal Judge;
  2. If it was issued without a written application having been filed and verified;
  3. If it was issued without sufficient probable cause in light of the goals of the ordinance to be enforced and such other factors as provided herein;
  4. If it was issued with respect to property or places not in the City of Mound City;
  5. If it does not describe the property or places to be searched, inspected, entered upon or seized with sufficient certainty;
  6. If it is not signed by the Judge who issued it; or
  7. If it was not executed and the required return made within ten (10) days after the date of the making of the application.

#### ARTICLE IV

### **Failure To Appear**

**Section 125.210. Failure To Appear.** [Ord. No. 1130, 11-6-2008]

- A. It shall be unlawful for any person who has been released upon recognizance or bond to willfully fail to appear before any Court or any Judicial Officer as required.
- B. The punishment for violation of this Section shall be in addition to the forfeiture of any security which was given or pledged for the person's release.
- C. Nothing in this Section shall prevent or limit any Court's exercise of its power to punish for contempt.