

Chapter 135

MUNICIPAL COURT

Section 135.010. Established. [R.O. 2012 §135.010; CC 1979 §18.1-1; Ord. No. A-4015 §1, 12-11-1978]

There is hereby established in this City a Municipal Court, to be know as the "Monett Municipal Court, a Division of the 39th Judicial 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".

Section 135.020. Jurisdiction. [R.O. 2012 §135.020; CC 1979 §18.1-2; Ord. No. A-4015 §2, 12-11-1978]

The jurisdiction of the Municipal Court shall extend to all cases involving alleged violations of the ordinances of the City.

Section 135.030. Judge — Selection. [R.O. 2012 §135.030; CC 1979 §18.1-3; Ord. No. A-4015 §3, 12-11-1978]

- A. The Judge of the City's Municipal Court shall be known as Municipal Judge of the 39th Judicial Circuit Court and shall be selected as follows.
- B. He/she shall be appointed to his/her position by the City Council for a term as specified herein.

Section 135.040. Judge — Term of Office. [R.O. 2012 §135.040; CC 1979 §18.1-4; Ord. No. A-4015 §4, 12-11-1978]

The Municipal Judge shall hold his/her office for a period of two (2) years and shall take office biannually from January 1, 1979. If for any reason a Municipal Judge vacates his/her office, his/her successor shall complete that term of office, even if the same be for less than two (2) years.

Section 135.050. Judge — Vacation of Office. [R.O. 2012 §135.050; CC 1979 §18.1-5; Ord. No. A-4015 §5, 12-11-1978; Ord. No. A-4566 §1, 8-9-1984; Ord. No. 7690, 8-21-2006; Ord. No. 7888 §1, 11-20-2008]

- A. The Municipal Judge shall vacate his/her 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/her seventy-fifth (75th) birthday;
3. Should he/she fail, within six (6) months of his/her selection, to satisfactorily complete a course of instruction for Municipal Judges as prescribed by the State Supreme Court; provided, that this provision shall not apply to any Municipal Judge who is licensed to practice law in the State; or
4. He/she resigns.
5. Removal at will, by the Mayor, with the consent of a majority of all the members elected to the City Council, or by a two-thirds (2/3) vote of all the members elected to the Council, independently of the Mayor's approval or recommendation, pursuant to Section 77.340, RSMo.

Section 135.060. Judge — Qualifications. [R.O. 2012 §135.060; CC 1979 §18.1-6; Ord. No. A-4015 §6, 12-11-1978; Ord. No. A-4566 §2, 8-9-1984; Ord. No. A-6311 §1, 7-10-1996; Ord. No. 7690, 8-21-2006]

- A. The Municipal Judge shall possess the following qualifications before he/she shall take office:
 1. He/she must be a licensed attorney, qualified to practice law within the State of Missouri;
 2. He/she must be a resident of the State of Missouri;
 3. He/she must be between the ages of twenty-one (21) and seventy-five (75) years of age;
 4. He/she may not hold any other office within the City Government;
 5. He/she must, within six (6) months after his/her selection to the position, satisfactorily complete a course of instruction for Municipal Judges as prescribed by the State Supreme Court; provided that this provision shall not apply to any person who is licensed to practice law in the State; and
 6. The Municipal Judge shall be considered holding a part-time position and as such may accept (within the requirements of the Code of Judicial Conduct, Missouri Supreme Court Rule 2) other employment.

Section 135.070. Judge — Powers and Duties Generally. [R.O. 2012 §135.070; CC 1979 §18.1-7; Ord. No. A-4015 §10, 12-11-1978; Ord. No. A-6866 §1, 9-29-1999]

- A. The Municipal Judge shall be and is hereby authorized to:
 1. Establish a Violations Bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and Section 479.050, RSMo.
 2. Administer oaths and enforce due obedience to all orders, rules and judgments made by him/her, and may fine and imprison for contempt committed before

him/her 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 to 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 ordinances of this City.

Section 135.080. Superintending Authority. [R.O. 2012 §135.080; CC 1979 §18.1-8; Ord. No. A-4015 §7, 12-11-1978]

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 such Court shall obey his/her directives.

Section 135.090. Report To City Council. [R.O. 2012 §135.090; CC 1979 §18.1-9; Ord. No. A-4015 §8, 12-11-1978]

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 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 City Council for examination at its first (1st) session thereafter. The Municipal Court shall, within the ten (10) days after the first (1st) of the month, pay to the City Treasurer the full amount of all fines collected during the preceding months, if they have not previously been paid.

Section 135.100. Docket and Court Records. [R.O. 2012 §135.100; CC 1979 §18.1-10; Ord. No. A-4015 §9, 12-11-1978]

The Municipal Judge shall be a conservator of the peace. He/she shall keep a docket in which he/she shall enter every case commenced before him/her and the proceedings therein and he/she shall keep such other records as may be required. Such docket and records shall be records of the Circuit Court of Barry County, Missouri. The Municipal Judge shall deliver the docket and records of the Municipal Court, and all books and papers pertaining to his/her office, to his/her successor in office or to the Presiding Judge of the Circuit Court.

Section 135.110. Issuance and Execution of Warrants. [R.O. 2012 §135.110; CC 1979 §18.1-12; Ord. No. A-4015 §12, 12-11-1978]

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 Chief of Police, Police Officer or Sheriff of 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 135.120. Arrests Without Warrants. [R.O. 2012 §135.120; CC 1979 §18.1-13; Ord. No. A-4015 §13, 12-11-1978]

The Chief of Police or other Police Officer of the City, shall without a warrant, make arrest 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 municipal ordinances.

Section 135.130. Jury Trials. [R.O. 2012 §135.130; CC 1979 §18.1-14; Ord. No. A-4015 §14, 12-11-1978]

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 ordinance violations 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.

Section 135.140. Duties of City's Prosecuting Attorney — Compensation. [R.O. 2012 §135.140; CC 1979 §18.1-15; Ord. No. A-4015 §15, 12-11-1978]

It shall be the duty of an attorney designated by the municipality to prosecute the violations of the City's ordinances before the Municipal Judge or before any Circuit Judge hearing violations of the City's ordinances. The salary or fees of the attorney and his/her necessary expenses incurred in such prosecutions shall be paid by the City. The compensation of such attorney shall not be contingent upon the result in any case.

Section 135.150. Summoning of Witnesses. [R.O. 2012 §135.150; CC 1979 §18.1-16; Ord. No. A-4015 §16, 12-11-1978]

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

Section 135.160. Transfer of Complaint To Associate Circuit Judge. [R.O. 2012 §135.160; CC 1979 §18.1-17; Ord. No. A-4015 §17, 12-11-1978]

- A. 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/her as a Municipal Judge, he/she shall immediately stop all further proceedings before him/her as Municipal Judge and cause the complaint to be made before some Associate Circuit Judge within the County.
- B. For purposes of this Section, any offense involving the operation of a motor vehicle in an intoxicated condition as defined in Section 577.001, RSMo., shall not be cognizable in Municipal Court, if the defendant has been convicted, found guilty, or pled guilty to two (2) or more previous intoxication-related traffic offenses as defined in Section 577.023, RSMo., or has had two (2) or more previous alcohol-related enforcement contacts as defined in Section 302.525, RSMo.

Section 135.170. Jailing of Defendants. [R.O. 2012 §135.170; CC 1979 §18.1-18; Ord. No. A-4015 §18, 12-11-1978]

If, in the opinion of the Municipal Judge, the City has no suitable or 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 not or hereafter be allowed to such Sheriff for the keeping of such prisoner in his/her custody. The same shall be taxed as cost.

Section 135.180. Parole or Probation, When Granted — Conditions of Probation — Modification of Conditions. [R.O. 2012 §135.180]

- 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 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 135.190. Appeals, Trial De Novo. [R.O. 2012 §135.190]

- A. In any case tried before a Municipal Judge who is not licensed to practice law in this State, the defendant shall have a right to trial de novo, even from a plea of guilty, before a Circuit Judge or an Associate Circuit Judge.
- B. In any case tried before a Municipal Judge who is licensed to practice law in this State or before an Associate Circuit 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.
- C. 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.
- D. The Supreme Court may provide by rule what record shall be kept and may provide that it be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

Section 135.200. Appeal From Jury Verdicts. [R.O. 2012 §135.200; CC 1979 §18.1-21; Ord. No. A-4015 §21, 12-11-1978]

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.

Section 135.210. Breach of Recognizance. [R.O. 2012 §135.210; CC 1979 §18.1-22; Ord. No. A-4015 §22, 12-11-1978]

In the case of a breach of any recognizance entered into before the 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 before the 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 135.220. Disqualification of Judge From Hearing Particular Case. [R.O. 2012 §135.220; CC 1979 §18.1-23; Ord. No. A-4015 §23, 12-11-1978]

The Municipal Judge shall be disqualified to hear any case in which he/she 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 (1) affidavit of disqualification in the same case.

Section 135.230. Absence of Judge, Procedure. [R.O. 2012 §135.230]

- A. If a Municipal Judge be absent, sick or disqualified from acting, the Mayor may request the Presiding Judge of the Circuit Court to designate a special Municipal Judge as provided in Subsection (B) of this Section or the Mayor may designate some competent, eligible person to act as Municipal Judge until such absence or disqualification shall cease; provided however, that should a vacancy occur in the office of an elected Municipal Judge more than six (6) months before a general municipal election, then a special election shall be held to fill such vacancy; and in case of vacancy in the office of an elected Municipal Judge within less than six (6) months of a general municipal election, the office may be filled by a competent, eligible person designated by the Mayor or as provided in Subsection (B) of this Section.
- B. The Presiding Judge of the Circuit Court may appoint any other Municipal Judge within the circuit to act as a special Municipal Judge for a Municipal Judge of the circuit who is absent, sick or disqualified from acting. The Presiding Judge shall act only upon request of the Mayor for a special Municipal Judge.

- C. The City Council shall provide by ordinance for the compensation of any person designated to act as Municipal Judge under the provisions of this Section.

Section 135.240. Clerk of Court — Duties and Responsibilities of Clerk. [R.O. 2012 §135.240; CC 1979 §18.1-25; Ord. No. A-4015 §25, 12-11-1978]

- A. The City Council shall appoint a Clerk of the Municipal Court. The duties of such Clerk shall be as follows:
1. To collect such fines for violations of such offenses as may be described, 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/her.
 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 Violations Bureau cases or as directed by the Municipal Judge; generally act as violation Clerk of the 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.

Section 135.250. Court Costs — Generally. [R.O. 2012 §135.250; CC 1979 §18.1-26; Ord. No. A-3986 §1, 9-6-1978; Ord. No. A-4015 §26, 12-11-1978; Ord. No. A-4974 §1, 4-15-1988; Ord. No. A-5660 §I, 2-10-1993; Ord. No. A-6425 §1, 12-30-1996; Ord. No. A-6867 §1, 12-29-1999; Ord. No. A-7073 §1, 8-29-2001]

- A. 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. Costs of Court in the amount of twelve dollars (\$12.00).
 2. A fee up to two dollars (\$2.00) as costs in each Court proceeding filed in any Court in the State for violations of general criminal laws of the State, including infractions or violations of general criminal laws of the State, including infractions or violations of municipal ordinances. These funds should be used only for the training of Peace Officers.
 3. A fee of one dollar (\$1.00) as costs in each Court proceeding to be used only for the training of Peace Officers. This fee shall be deposited with the City Treasurer in the Peace Officer Standards and Training Commission Fund for the Training Commission Fund. The checks should be payable to the "Treasurer, State of Missouri", address and mail check on or before the fifteenth (15th) of each month to: Budget Director, Department of Public Safety, P.O. Box 749, Jefferson City, Missouri, 65102.

4. Pursuant to Section 488.607, RSMo., municipalities are permitted to add additional Court costs for shelters for battered persons. In addition to any fine imposed and costs assessed pursuant to law, an additional cost of two dollars (\$2.00) shall be assessed as costs in each Municipal Court case. The Judge may waive assessment of the costs in those cases where the defendant is found by the Judge to be indigent and unable to pay the costs. Costs collected pursuant to this Section shall be collected by the Clerk of the Municipal Court and transmitted at least monthly to the City Treasurer for deposit in a fund for the provision of operating expenses for shelters for battered persons, pursuant to Section 479.261, RSMo. Said funds shall stand appropriated upon receipt for use in furtherance for the purposes of this Section, which is only for the purpose of providing operating expenses for shelters for battered persons as defined in Sections 455.200 to 455.230, RSMo. The Governing Body of the City of Monett shall designate an appropriate board, commission, agency or other body of the City of Monett as the authority to administer the allocation and distribution of the funds to shelters for victims of domestic violence in the manner provided in Sections 455.200 to 455.230, RSMo. The members of the designated authority may be reimbursed from the special fund for monies actually and necessarily expended in the performance of their duties under the provisions of Sections 455.200 to 455.230, RSMo., but no more than five percent (5%) of the fees collected pursuant to Section 455.205, RSMo., may be used for such purpose.
5. Crime Victims' Compensation Fund in the amount of seven dollars fifty cents (\$7.50).
6. 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.
7. Actual costs assessed against the City by the County Sheriff for apprehension or confinement in the County Jail.
8. 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.
9. *Alcohol-related traffic offenses.*
 - a. In addition to any other penalties and costs provided by law or ordinance, the Court may order any person convicted of an alcohol- or drug-related traffic offense to reimburse the City for the costs associated with the arrest of such person. Such costs shall include the reasonable costs of making the arrest, including the cost of any chemical test made 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. A schedule of such costs shall be established by the Monett Police Department and filed with the Clerk of the Municipal Court, and the Court may impose costs in accordance with the schedule; provided

the Court may also order the costs reduced in a case if the Court determines the costs are excessive.

- b. Any person who is convicted of or pleads guilty to a drug-related offense pursuant to the provisions of Chapter 195, RSMo., or an intoxicated-related traffic offense, as defined in Section 577.023, RSMo., shall be assessed as costs, a victims' services fee in the amount of five dollars (\$5.00). Such fee shall be collected by the Clerk of the Court and paid at least monthly to the Director of Revenue and placed to the credit of the Independent Living Center Fund. This cost shall abate as of June 31, 1997.

Section 135.260. Court Costs — Assessment Against Prosecuting Witness. [R.O. 2012 §135.260; CC 1979 §18.1-27; Ord. No. A-4015 §27, 12-11-1978]

The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him/her that he/she 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.

Section 135.270. Installment Payment of Fine. [R.O. 2012 §135.270; CC 1979 §18.1-28; Ord. No. A-4015 §28, 12-11-1978]

When a fine is assessed for violating an ordinance, it should be within the discretion of the Judge assessing the fine to provide for the payment of a fine on an installment basis under such terms and conditions as he/she may deem appropriate.

Section 135.280. Collection of A Boarding Fee For The City Jail. [R.O. 2012 §135.280; Ord. No. A-6276 §§1 — 2, 5-10-1996]

- A. In addition to any fine or other costs that may be imposed by the Municipal Judge, there shall be assessed as a boarding fee for the keeping of the prisoner in the City of Monett's custody a charge equivalent to the same rate as may now or hereafter be allowed to the Sheriff.
- B. This fee shall be deposited with the Treasurer of the City in the Monett City Jail Boarding Fee Fund.