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 *(Revised 11/13)*

**Chapter 7**

**COURTS**

**ARTICLE I**

**COURT**

**DIVISION 1. MUNICIPAL COURT**

**Sec. 7-1. Establishes the municipal court as a Division of the Twenty-Fourth judicial Circuit**

 **of the State of Missouri.**

There is hereby established in this city a municipal court, to be known as the "Potosi Municipal Court, a Division of the 24th 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". (Ord. 537, §1.)

**Sec. 7-2. Jurisdiction.**

The jurisdiction of the municipal court shall extend to all cases involving alleged violations of the ordinances of the city. (Ord. 537, §2.)

**Sec. 7-3. Superintending authority.**

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 Missouri 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. Ord. 537, §3.)

**Sec. 7-4. Clerk of municipal court.**

The Municipal Court Administrator is hereby designated as the clerk of the municipal court. The duties of said 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.

 (4) Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas ducus tecum.

**CROSS REFERENCES:**

**General penalty for violation of Code, §7-43; administration, Ch. 2; municipal judge, Ch. 7, Art. II; city attorney, §§2-11 and 7-32; traffic violations bureau, Ch. 24, Art. I, Div. 15.**

**STATE LAW REFERENCE:**

**Courts in fourth class cities, RSMo. §98.500.**

*(Revised 11/06)*

 (5) Accept the appearance, waiver of trial and plea of guilty and payment of fine and costs in traffic violation bureau cases or as directed by the municipal judge; generally act as violation clerk of the traffic violation bureau.

 (6) Perform all other duties as provided 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 city clerk, a complete copy of the ordinances of the city of the municipality which shall constitute prima facia 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. (Ord. 537, §24; Ord. 935, §1)

**Sec. 7-5. Certification of ordinance.**

The city clerk is directed to file a certified copy of this ordinance with the circuit clerk of this county, the same to serve as official notification of the city's intention to retain its municipal court. (Ord. 537, §28.)

**Sec. 7-6. Effective date.**

This ordinance shall take effect January 1, 1979, provided, however, that the sections relating to the selection, qualifications, and tenure of the municipal judge shall take effect upon conclusion of the present police judge's term of office. (Ord. 537, §29.)

**Secs. 7-7 to 7-9. Reserved.**

**DIVISION 2. COURT COSTS**

**Sec. 7-10. Tax refund intercept program.**

 (a) The Clerk of the Potosi Municipal Court is hereby authorized to participate in the State program to collect unpaid and delinquent fines, costs, fees and restitution and other sums ordered by the Municipal Court by interception of any delinquent person’s Missouri State income tax refunds. The Clerk is instructed to comply with the requirements set out in Section 488.5028 RSMo, and report such delinquent persons to the State Courts Administrator and Department of Revenue.

 (b) All other portions of the existing Ordinances remain in full force and effect, and participation in the State intercept program does not restrict or prohibit the Court from enforcing its orders via other legal remedies and the power of the Court..

 (c) This Ordinance shall be in full force and effect from and after the date of its passage and approval, or August 28, 2003, whichever is later. (Ord. 838, §§1-3)

**Sec. 7-11. Reserved.**

 *(Revised 11/06)*

**ARTICLE II**

**MUNICIPAL JUDGE**

**DIVISION 1. GENERALLY**

**Sec. 7-12. Selection of judge.**

The judge of the city's municipal court shall be known as a municipal judge of the 24th Judicial Circuit Court, and shall be appointed by the Mayor and approved by a majority vote by the Board of Aldermen, pursuant to written contract, for a term specified herein. (Ord. 537, §3; Ord. 935, §1; Ord. 1001, §1)

**Sec. 7-13.**  **Term of office.**

The municipal judge shall hold his office for a period of four years and shall take office on July 1, 2009 and quadrennially on the first of July thereafter. (Ord. 537, §4; Ord. 1001, §2)

**Sec. 7-14.**  **Vacation of office.**

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; or

 (2) Upon attaining his 75th birthday; or

 (3) Should he fail, within 6 months of his selection, to satisfactorily complete a course of instruction for municipal judge as prescribed by the State Supreme Court. (Ord. 537, §5.)

**Sec. 7-15.**  **Qualifications for office.**

The municipal judge shall possess the following qualifications before he shall take office:

 (1) He shall be a licensed attorney, qualified to practice law within the State of Missouri.

 (2) He must be a resident of the State of Missouri.

 (3) He must be between the ages of 21 and 75 years.

 (4) He may not hold any other office within the city government.

 (5) He must, within six months after his selection to the position, satisfactorily complete a course of instruction for municipal judges as prescribed by the State Supreme Court.

 (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. (Ord. 537, §6; Ord. 799, §2; Ord. 935, §1)

*(Revised 07/09)*

**Secs. 7-16 to 7-19. Reserved.**

**Sec. 7-20. Term of office of City Prosecuting Attorney.**

 The City Prosecuting Attorney shall hold his office for a period of four years and shall take office on July 1, 2009 and quadrennially on the first of July thereafter. (Ord. 1001, §3)

 *(Revised 07/09)*

**ARTICLE II**

**MUNICIPAL JUDGE**

**DIVISION 2. POWERS AND DUTIES**

**Sec. 7-21. Powers and duties generally.**

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 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. (Ord. 537, §10.)

**Sec. 7-22. Report to board of aldermen.**

The municipal judge shall cause to be prepared within the first ten 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 in 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 ten days after the first of the month, pay to the municipal treasurer the full amount of all fines collected during the preceding months, if they have not previously been paid. (Ord. 537, §8.)

**Sec. 7-23.**  **Docket and court records.**

 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 of Washington County. The municipal judge shall deliver the docket and records of the municipal court, and all books and papers pertaining to his office, to his successor in office or to the preceding judge of the circuit. (Ord. 537, §9.)

**Sec. 7-24.**  **Issuance and execution of warrants.**

 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. (Ord. 537, §11.)

**Secs. 7-25 to 7-29. Reserved.**

**ARTICLE III**

**TRIAL**

**Sec. 7-30. Arrests without warrants.**

The chief of police or other police officer of the city may, 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. (Ord. 537, §12.)

**Sec. 7-31.**  **Jury trials.**

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. (Ord. 537, §13.)

**Sec. 7-32.**  **Duties of city prosecuting attorney.**

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 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. (Ord. 537, §14.)

**Sec. 7-33.**  **Summoning of witnesses.**

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. (Ord. 537, §15.)

**Sec. 7-34.**  **Transfer of complaint to associate circuit judge.**

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 non 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. (Ord. 537, §16.)

**Sec. 7-35. 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. (Ord. 537, § 21.)

**Sec. 7-36. Disqualification of municipal judge from hearing particular case.**

A municipal judge shall be disqualified to hear any case in which he 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 affidavit or disqualification in the same case. (Ord. 537, §22.)

**Sec. 7-37. Acting municipal judge.**

If the municipal judge be absent, sick or disqualified from acting, the board of aldermen 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 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 months of a general municipal election, the office may be filled by a competent, eligible person designated by the board of aldermen, and who shall receive the same compensation for his services as the prior municipal judge. (Ord. 537, §23.)

**Sec. 7-38. Failure to appear.**

 (a) Any defendant who has previously been admitted to bail after arrest or summons who fails to appear before the Municipal Court of Potosi, Missouri at a stipulated time and from time to time as required by the court or who departs from the process of the court without leave, shall be deemed guilty of an offense and upon conviction thereof, shall be punished as provided in Subsection (b) of this Section.

 (b) ***Penalties***: Any defendant found guilty of violating this Section shall be punished by a fine not exceeding five hundred dollars ($500) and or imprisonment not exceeding ninety (90) days. (Ord. 618, §§1-2)

**Secs. 7-39 to 7-42. Reserved.**

**ARTICLE IV**

**JUDGMENT**

**Sec. 7-43. Empowers and authorizes the municipal judge to assess fines in**

 **accordance with Section 79.470 RSMo.**

(a) The municipal judge of the city of Potosi, Missouri, shall, from and after the passage and approval of this ordinance, have the authority to assess a penalty and fine of up to five hundred dollars ($500.00) for violation of the ordinances of the city of Potosi.

 (b) The provisions of this ordinance shall not apply to any cases presently pending in the municipal court, but shall be prospective only, and applied to all cases, of any nature, filed in the municipal court after the passage and approval of this ordinance.

 (c) Any and all ordinances of the city of Potosi specifying a maximum fine of $100.00 shall be and the same are hereby amended, by the provisions of this ordinance, to increase said maximum fine to $500.00. (Ord. 479, §§1-3.)

**Sec. 7-44.**  **Jailing of defendants.**

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. (Ord. 537, §17.)

**Sec. 7-45.**  **Parole and probation.**

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. (Ord. 537, §18.)

**Sec. 7-46. Right of appeal.**

The defendant shall have a right to a trial de novo, even from a plea of guilty, before a circuit judge or an associate circuit judge. 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. (Ord. 537, §19.)

**Sec. 7-47.**  **Appeals from jury verdicts.**

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 appellant court. (Ord. 537, §20.)

**Sec. 7-48. Court costs.**

 (1) Costs of court in the amount of eighteen dollars and fifty cents ($18.50).

(Ord. 1070 §1)

*(Revised 11/13)*

 (2) A fee of seven dollars and fifty cents ($7.50) for the "Crime Victims' Compensation Fund", as provided for by Section 595.045 Revised Statutes of Missouri; except that no such fee shall be collected for violations of any provision of Chapter 252, Revised Statutes of Missouri, or any rule or regulation adopted under Chapter 252, Revised Statutes of Missouri, for any nonmoving traffic violations, except violations of weight limit and safety laws, and no such fee shall be collected in any proceeding when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality on behalf of an indigent defendant. (Ord. 791, §1)

 (3) 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.

 (4) Actual costs assessed against the city by the county sheriff for apprehension or confinement in the county jail.

 (5) 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.

 (6) All violations, except nonmoving traffic violations, an additional fee of $2.00 to be sent to the city treasurer as and for police officer training pursuant to Section 590.140, Revised Statutes of the State of Missouri.

 (7) For any violation, except nonmoving traffic violations an additional fee of $1.00 to be assessed as court costs, such fees to be transmitted to the treasurer to be credited to the Police Officer Standards & Training Commission Fund pursuant to Section 590.140, Revised Statutes of Missouri.

 (8) For all pleas of guilty, findings of guilty or convictions for driving while intoxicated, driving with blood alcohol content in excess of 0.08 percent by weight, vehicular manslaughter and vehicular assault, the City Court shall assess and collect a Spinal Cord Injury Fund Judgment in the amount of twenty-five dollars ($25.00), to be paid into the State Treasury to the credit of the Spinal Cord Injury Fund and not into the general revenue fund.

 (9)

1. A surcharge of two (2) dollars shall be assessed as costs in each court proceeding filed in the Municipal Court in all criminal violations of City Ordinances and traffic offenses, including infractions; except that no such fee shall be collected in any proceeding where the cases is dismissed by the Court or when the costs are to be paid by the City.
2. The Court Clerk shall collect and disburse this surcharge in accordance to state statutes and the sums generated by the surcharge shall be deposited in to the “Inmate Security Fund” of the Washington County Sheriff’s Department, and shall be used for those purposes allowed pursuant to Section 488.5026 RSMo.

 (Ord. 1031, §1)

 (10) In all cases where the Court either sentences a defendant to actually serve jail time and in all cases where the defendant is incarcerated by warrant or failure to make bond, a jail board fee in the sum of thirty-five dollars ($35.00) shall be added for each day of incarceration as part of the Court cost.

*(Revised 03/2020)*

 (11) Court cost assessed upon conviction of violation of any city ordinance, including nonmoving traffic violations, shall be increased by a surcharge of seven dollars ($7.00) for the benefit and use of the Missouri Court Automation Fund established pursuant to RSMo. 476.055(1) and shall be accounted for, remitted and disbursed monthly by the Municipal Clerk to that person officially designated by the Missouri Court Automation to receive such funds.

(Ord. 603, §A; Ord. 657, §3; Ord. 791, §1; Ord. 801, §1; Ord. 922, §1; Ord. 935, §1; Ord. 977, §1; Ord. 1151, §1)

**Sec. 7-49. Fees to be assessed in all cases before the municipal court; assessment of such**

 **fees as costs.**

There shall be assessed against the unsuccessful party as a part of the costs of any action in the police court of the city of Potosi, the following fees:

 For serving a warrant of arrest $1.00

 For each commitment to the city jail 1.00

 For summoning a panel of prospective jurors 2.00

 For subpoenaing each witness within city limits .20

 For subpoenaing each witness outside of city limits .07 per mile

 For witness fee, per witness 1.00

 For each person summoned and actually appearing

 as prospective juror .50

 For each person summoned and actually serving

 as juror 1.00 per day of

 such actual service

 The aforesaid costs shall be collected by the Municipal Court Administrator and witness and jury fees paid by him upon claim being made. All costs becoming payable by reason of service of warrants or summons by the city police, shall be deposited to the credit of the general revenue fund and shall not be payable to the members of the city police force for such service duty they shall receive a compensation therefore only their regular salaries. (Ord. 340, §§1-2; Ord. 449, §1; Ord. 935, §1)

**Sec. 7-50. Costs assessed 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. (Ord. 537, §26.)

**Sec. 7-51. Installment payment of fine.**

When a fine is assessed for violating any 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 may deem appropriate. (Ord. 537, §27.)

**Sec. 7-52. Nonpayment of fines.**

 (a) When an offender sentenced to pay a fine by the City of Potosi Municipal Court defaults in the payment of the fine, or any installment thereof, the court upon motion of the city prosecutor or

*(Revised 03/2020)*

upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.

 (b) Following an order to show cause under Subsection (a), unless the offender shows that his default was not attributable to an intentional refusal to obey the sentence of the court, or not attributable to a failure on his part to make a good faith effort to obtain the necessary funds for

payment, the court may order the defendant imprisoned for a term not to exceed thirty (30) days. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to his release from such imprisonment or after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

 (c) If it appears that the default in the payment of a fine is excusable under the standards set forth in Subsection (b), the court may enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.

 (d) When a fine is imposed on a corporation it is the duty of the person or persons authorized to make disbursement of the assets of the corporation and their superiors to pay the fine from the assets of the corporation. The failure of such persons to do so shall render them subject to imprisonment under Subsections (a) and (b).

 (e) Any ordinance in whole or in part which is in conflict with this ordinance is hereby repealed and revoked. (Ord. 619, §§1-5)

**Sec. 7-53. Two dollar ($2.00) additional fees and costs for support of a**

 **Shelter for Victims of Domestic Violence.**

 (a) In addition to other court costs as set out herein above, in every case, the court may impose an additional cost of two dollar, which sum shall be collected and disbursed for the purpose of providing for the operating expenses for shelters for battered persons as defined in Sections 455.200 to 455.230, RSMo.

 (b) For purposes of this section, the city council of the City of Potosi, Missouri, is hereby designated as the "designated authority" as called upon in 455.200 to 455.230. Said designated authority shall have all of the powers and responsibilities set forth in Section 455.200 to 455.230, RSMo. (Ord. 673, §1; Ord. 935, §1)

**Sec. 7-54. Sheriff’s Retirement Fund.**

There shall be assessed and collected a surcharge of three dollars in all criminal cases including violation of any county and/or city ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county, or municipality or when a criminal proceeding or the defendant has been dismissed by the court. The clerk responsible for collecting court shall collect and disburse such amounts as provided by Sections 488.010 to 488.020, RSMo. Said surcharge will be collected beginning August 28, 2013 and such funds shall be payable to the sheriff’s retirement fund.

(Ord. 1070, §2)

**Secs. 7-55 to 7-56. Reserved.**

*(Revised 03/2020)*