

BILL NO. 1038ORDINANCE NO. 1023

THE SAME BEING AN ORDINANCE OF THE CITY OF NEOSHO, MISSOURI, ESTABLISHING THE MUNICIPAL COURT AS A DIVISION OF THE FORTIETH JUDICIAL CIRCUIT OF THE STATE OF MISSOURI

WHEREAS, the voters of the State of Missouri did adopt a new judicial article to the Missouri Constitution designed to reform the judicial system of the state, and

WHEREAS, the state legislature has passed a new statute designed to amplify the new judicial article, a portion of which statute relates to municipal courts, and

WHEREAS, the city has the option of continuing its present municipal court as a division of the circuit court of this county or of abolishing its municipal court and allowing the state maintained court system to handle the city's municipal ordinance violations, and

WHEREAS, the City of Neosho desires to retain its court, re-constituting the same as a division of the Circuit Court of Newton County, Missouri,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEOSHO, MISSOURI, AS FOLLOWS:

SECTION 1. The following provisions among the ordinances of the City of Neosho, Missouri, are hereby repealed:

Sections 19-1, 19-2, 19-6 through 19-14, 19-16 through 19-18, 19-20, 19-21, 19-29, 19-30, 19-32, 19-34 through 19-41, 19-43 through 19-46, 19-48, and 19-50 of Chapter 19, entitled "Municipal Court" .

SECTION 2. The "Neosho, Missouri, Ordinance Code" is amended by the adoption of new provisions to be added to Chapter 19 and to read as follows:

"CHAPTER 19 - MUNICIPAL COURT

Sec. 19-51. Court established.

There is hereby established in this city a municipal court, to be known as the "Neosho Municipal Court, a Division of the 40th Judicial Circuit Court of the State of Missouri." This court is a continuation of the municipal court of the city as previously established by Article VIII of the Home Rule Charter and is termed herein "the municipal court".

Sec. 19-52. Jurisdiction .

The jurisdiction of the municipal court shall be as set out in Section 8.01 of the Home Rule Charter of the City of Neosho.

Sec. 19-53. Selection of judge.

The judge of the city's municipal court shall be known as a municipal judge of the 40th Judicial Circuit Court, and shall be appointed by the City Manager.

Sec. 19-54. Term of office.

The municipal judge shall hold his office for a period of two years and shall take office biannually from January 1 and shall hold office until a successor is duly appointed and qualified. If for any reason a municipal judge vacates his office, his successor shall complete that term of office, even if the same be for less than two years.

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Sec. 19-55. 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. If he should lose his license to practice law within the State of Missouri.

Sec. 19-56. Qualifications for office. The municipal judge shall possess the following qualifications before he shall take office:

1. He must be a licensed attorney, qualified to practice law within the State of Missouri.
2. He need not reside within the city.
3. He must be a resident of the State of Missouri.
4. He must be between the ages of 21 and 75 years.
5. He may serve as municipal judge for any other municipality.
6. He may not hold any other office within the city government

Sec. 19-57. 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 State Supreme Court. The municipal court shall be subject to the general administrative authority of the presiding judge of the circuit court, and the judge and court personnel of said court shall obey his directives.

Sec. 19-58. Report to City Manager.

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 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 shall be filed with the City Manager. The municipal court shall, within the ten days after the first of the month, pay to the municipal collector the full amount of all fines collected during the preceding months, if they have not previously been paid.

Sec. 19-59. 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 Newton 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 presiding judge of the circuit.

Sec. 19-60. Municipal judge; powers and duties generally.

The municipal judge shall be and is hereby authorized to:

1. Establish a Traffic Violations Bureau if he deems necessary 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, except as limited by Section 8.01 of the Home Rule Charter.

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.

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.

Sec. 19-61. 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.

Sec. 19-62. Arrests without warrants.

The Chief of Police, or other police officer of the city may, without a 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.

Sec. 19-63. 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.

Sec. 19-64. Duties of the city's prosecuting attorney.

It shall be the duty of an attorney designated by the City Manager 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.

Sec. 19-65. 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 a 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.

Police officers shall attend as witnesses against persons whom they have arrested without summons, and if they fail to answer at the time of the trial, they may be attached and punished for contempt in like manner as witnesses summoned.

Sec. 19-66. 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 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.

Sec. 19-67. 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.

Sec. 19-68. 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.

19-69. Right of appeal.

In all cases tried before the municipal court, except where there has been a plea of guilty, the defendant shall have a right of trial de novo, before a circuit judge or on assignment before an associate circuit judge. An application for a trial de novo shall be filed within ten days after judgment and shall be filed in such form and perfected in such manner as provided by Supreme Court rules.

Sec. 19-70. Appeal from jury verdicts.

In all cases in which a jury trial has been demanded, and the case certified as provided for herein, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate appellant court.

Sec. 19-71. 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.

Sec. 19-72. 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.

Sec. 19-73. Temporary municipal judge.

If a municipal judge be absent, sick or disqualified from acting, the City Manager may designate some competent, eligible person to act as municipal judge until such absence or disqualification shall cease.

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.

Sec. 19-74. Clerk of municipal court.

The City Manager shall designate a 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 duces tecum.
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, if one be established.
6. Perform all other duties as provided for by ordinance, by 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 facie evidence of such ordinance before the court. Further, to maintain a similar certified copy on file with the clerk serving the circuit court of this county.

Sec. 19-75. Court costs.

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 five dollars, except there shall be no costs in overtime parking cases.
2. In all cases of moving traffic violations costs for the training of police officers in the amount of two dollars.
3. Other costs such as for the issuance of a warrant, a commitment, summons, and witness fees, 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.

Sec. 19-76. Same, assess against prosecuting witness.

The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him that he pay the same and stand committed until paid in any case where it appears to the satisfaction of the municipal judge that the prosecution was commenced without probable cause or from malicious motives.

Sec. 19-77. Installment payment of fine.

When a fine is assessed for violating an ordinance, it shall 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.

Sec. 19-78. Prosecutions based on information only.

All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. No proceedings shall be dismissed or a defendant discharged by reason of any informality or irregularity in any complaint or information, but the complaint may, by leave of court, at any time before or during the trial, prior to the finding of the municipal judge, be amended without prejudice to the proceeding.

Sec. 19-79. Marshal of Municipal Court.

The municipal judge shall be authorized to appoint a marshal of the municipal court to preserve order in the court and enforce the rules and orders of the municipal judge.

SECTION 3. 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.

SECTION 4. This ordinance shall be in full force and effect 15 days following final passage and approval.

Richard Bass
Mayor pro tem

ATTEST:

Odile M. Martin
City Clerk

Approved after final passage this 6th day of February, 1979.

Richard Bass
Mayor pro tem

ATTEST:

Odile M. Martin
City Clerk