ORDINANCE NO. 251071

..title
Sponsor:

Amending Chapter 2, Code of Ordinances, by repealing and replacing Sections 2-1403, 2-1404, 2-1406, 2-1411, 2-1412, 2-1413, 2-1415, 2-1442, 2-1443, 2-1451, 2-1452, 2-1463, 2-1464, 2-1465 and repealing Sections 2-1416, 2-1460 and 2-1461 for the purpose of updating the ordinances governing the operations of the Municipal Court.

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WHEREAS, the City is beginning the process of a full municipal code modernization project; and

WHEREAS, many of Chapter 2, Article X ordinances have not been updated in excess of 50 years, and

WHEREAS, the Kansas City Municipal Court en banc has reviewed Chapter 2, Article X for the purpose of modernization and alignment with current practices and Rules of the Missouri Supreme Court; and

NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2, Code of Ordinances of the City of Kansas City, is hereby amended by repealing Section 2-1403, Sessions generally, Section 2-1404, Hours and sessions of housing court; salary of judge of housing court; Section 2-1406, Distribution of business of court, Section 2-1411, Meetings of court en banc, Section 2-1412, Selection and term of presiding judge; presiding judge pro tem, Section 2-1413, Duties of presiding judge, Section 2-1415, Traffic violations bureau, Section 2-1442, Continuance, Section 2-1443, Records, Section 2-1451, Posting of appearance bond, Section 2-1452, Forfeiture of appearance bond or cash deposit, Section 2-1463, Costs and fees generally, Section 2-1464, Additional costs, and Section 2-1465, Collection costs, and enacting in lieu thereof new sections of like number and subject matter, to read as follows:

Section 2-1403. Court Operations and sessions.

(a) The Presiding Judge of the 16th Judicial Circuit Court shall have general administrative authority over the judges and court personnel of the Kansas City Municipal Division.

(b) The Court shall be deemed always open for the purpose of filing proper papers, the issuance and return of process and for the making of motions, applications and orders.

(c) All divisions of the municipal court, except Division 209, shall be in session on each day of the year except Saturdays, Sundays and legal holidays; provided further, however:

(1) The presiding judge of the municipal court may excuse a division from session for good cause when the docket of the division may otherwise be accommodated.

(2) The presiding judge of the municipal court may, at his or her election, authorize the closure of the municipal court upon the consultation and approval of the presiding judge of the 16th judicial circuit.

(3) The court may hold sessions, upon request of the mayor or by the assignment of the presiding judge of the municipal court on any Saturday or legal holiday.

(4) Failure of the court or any division thereof to be in session as provided in this section shall not affect any pending cases or proceedings.

Section 2-1404. Hours and sessions of housing court; salary of judge of housing court.

(a) The housing court judge of Division 209 of the municipal court shall be a part-time judge, shall be in session for a minimum of four dockets per week, and shall otherwise maintain exclusively the business of the court as enumerated in section 2-1406 and 2-1407. The number of hours and sessions may be enlarged to accommodate workload volume from time to time as designated by the council. As a part-time judgeship, the housing court judge's annual salary shall be set pursuant to section 2-1081.

(b) In no event shall Division 209 be open on Sundays and legal holidays.

Section 2-1406. Distribution of business of court.

The municipal court may classify, arrange, distribute and assign the business thereof and the causes instituted therein among the several judges thereof, in such manner and at such time as the majority of such judges may from time to time prescribe by rules or orders; except that Division 209 shall be assigned exclusively cases arising under ordinances of the city concerning residential and nonresidential property maintenance, nuisances, zoning, land use, fire prevention and protection, buildings and building regulations, hazardous or toxic substances, unlawful activities of landlords and tenants of residential premises, regulation of animals, and other matters designated from time to time by ordinance. Each of the judges shall, at regular sessions in division, attend to such business as may under such rules or orders be assigned to such division. The court en banc may, by general rules, further provide for the hearing of certain motions and applications for relief, or other special proceedings and matters as may from time to time come before the court, and for the assignment for trial, the reassignment and transfer of cases from one division to another of the court by the sole action of either the presiding judge or other judges of the court if designated by the court en banc.

Section 2-1411. Meetings of court en banc.

(a) *Generally*. The court en banc of the municipal court shall have regular meetings at a place and time so designated by the presiding judge not less than four times per year.

(b) *Special meetings*. Special meetings of the court en banc shall be held at such time as may be designated by the presiding judge or upon the written request of a majority of the judges at a time and place designated by the presiding judge.

(c) *Notice to judges*. Notice of meetings shall be given to each judge in person, or by electronic communication. Notice of meetings shall be given not less than 24 hours in advance of such meeting; provided, however, any business may be conducted at any meeting with a majority of judges present.

(d) *Quorum*. A majority of the judges shall constitute a quorum at any regular or special meeting. A majority of all judges shall be necessary to pass any motion or resolution.

Section 2-1412. Selection and term of presiding judge; presiding judge pro tem.

(a) No later than October 31, the judges of the municipal court shall select one of their number as presiding judge to serve for the next 12-month period from January 1 through December 31, or until their successor is designated by the judges of the municipal court every succeeding 12 months thereafter. A presiding judge may be removed from such office at a special meeting called and noticed for that purpose by a vote of the majority of the judges.

(b) The presiding judge shall, in writing, designate one of the judges as presiding judge pro tem to act during his or her absence or inability to act. If the presiding judge shall have failed to designate a presiding judge pro tem or if the judge so designated shall be absent or unable to act, the senior judge in length of service shall act as presiding judge pro tem during such absence or disability.

Section 2-1413. Duties of presiding judge.

The presiding judge of the municipal court shall perform the following duties:

(1) *Administration*. Faithfully supervise the administrative business of the court and the work of the attaches thereof, and see that the administrative work of the court is courteously and expeditiously performed.

(2) *Liaison*. Provide for proper liaison between the court and other governmental agencies.

(3) *Appointment of committees*. Appoint such standing and special committees of judges and other people as may be advisable, to assist in the proper duties and functions of the court.

(4) *Calling of meetings to amend rules*. Call meetings of the judges at such times as he deems appropriate to consider amendments to the rules of the court.

(5) *Calling of meetings for court business*. Call meetings of the judges at such times as he deems appropriate to consider business of the court.

(6) *Assignment of judges*. Assign judges to the divisions of the court.

(7) *Hearing of summary proceedings*. Hear and determine all summary proceedings, or, at his or her discretion, assign such proceedings to a judge of another division, in addition to the hearing of other cases retained in their division. The term "summary proceedings," as used in this section, shall mean those proceedings which require immediate and instant action.

(8) *Assignment of cases*. Assign cases from his or her or other divisions to another division for appropriate disposition.

(9) *Presiding at meetings of court en banc*. Preside at all meetings of the judges of the municipal court en banc and determine all disputes and supervise the administrative work of the judges.

Section 2-1415. Violations bureau.

(a) The presiding judge of the Kansas City Municipal Division may establish by court order a local violations bureau, which shall be subject to the supervision of the circuit court.

(b) The order shall designate a clerk. The clerk shall perform the duties designated by the court, including accepting appearance, waiver of trial, plea of guilty, and payment of fines and costs for the designated violations, entering the plea on the record, and transmitting the violation record as required by law.

(c) The violations within the authority of the bureau shall be designated by the order and shall include all those violations as provided by Missouri Supreme Court Rules.

Section 2-1442. Continuance.

The prosecution and defense in each case shall have the right to a speedy trial. Continuances may be granted for good cause shown.

Section 2-1443. Records.

The records of the Kansas City Municipal Division shall be kept and maintained in accordance with Supreme Court Rules governing the maintenance of court records.

Section 2-1451. Posting of appearance bond.

Any person arrested for violation, failure, neglect, or refusal to comply with any provision, regulation, or requirement of any ordinance may be allowed bail as provided by Missouri Supreme Court Rules.

Section 2-1452. Forfeiture of appearance bond or cash deposit.

If there is a breach of the condition of the bond, the court may declare a forfeiture of the bond. The court may direct that a forfeiture be set aside upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture. When a forfeiture has not been set aside, the court on the prosecutor's motion may enter a judgement of default and execution may issue thereon.

Section 2-1463. Costs and fees generally.

(a) For each municipal ordinance violation case filed before a municipal judge or processed in violations bureau wherein the defendant pleads guilty or is found guilty, the judge shall assess costs in the amount of $12.00 against the defendant, except in those cases where the defendant is found by the judge to be indigent and unable to pay costs.

(b) In addition to any costs which may be assessed by the court pursuant to subsection (a) of this section or pursuant to other statute, ordinance or court rule, the court administrator is authorized to establish a schedule of fees designed to reflect the cost of providing other services, including the preparation of surrender papers, a certified copy of any record, a copy of any information, pleading or other document. No charge may be imposed under this subsection for the preparation of any such document for a governmental agency.

(c) Such costs as shall be assessed as part of the judgment or as otherwise provided in this section shall be collected by the court administrator and be paid into the city treasury as provided by law; however, in no case shall the city be liable for any costs assessed in the municipal division courts.

Section 2-1464. Additional costs.

(a) *Costs for use in training of law enforcement officers*. In addition to any cost which may be assessed by the municipal division pursuant to statute, ordinance or court rule, in every proceeding filed in the municipal division, for violation of an ordinance, a surcharge of $2.00 shall be assessed. Such surcharge shall also be assessed in cases in which pleas of guilty are processed in the violations bureau. No such surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court, when costs are to be paid by the state, county or municipality, or in cases where the defendant is found by the court to be indigent and unable to pay the surcharge. Such surcharge shall be collected by the court administrator and transmitted monthly to the city treasurer. Funds collected under this subsection shall be used by the

city only to pay for the training of peace officers and law enforcement officers as provided by RSMo § 590.140.

(b) *Peace officer standards and training commission fund*. Pursuant to RSMo § 590.140, an additional surcharge in the amount of $1.00 shall be assessed to be paid to the state treasury to the credit of the peace officer standards and training commission fund. No such surcharge shall be collected in any proceeding in which the proceeding or defendant has been dismissed by the court, when costs are to be paid by the state, county or municipality, or in cases where the defendant is found by the court to be indigent and unable to pay the surcharge. This surcharge shall be collected by the court administrator and transmitted monthly as provided by law.

(c) *Costs for use in funding of shelters for battered persons*. In addition to all other court costs for municipal ordinance violations, a surcharge of $4.00 shall be assessed and used only for the purpose of providing operating expenses for shelters for battered persons as defined in RSMo §§ 455.200—455.230. No such surcharge shall be collected in any proceeding in which the proceeding or defendant has been dismissed by the court, the costs are to be paid by the state, county or municipality, or in cases where the defendant is found by the court to be indigent and unable to pay the surcharge. The surcharge shall be collected by the court administrator and transmitted at least monthly to the city treasurer.

(d) *Costs for use in a court information and records management system*. For each municipal ordinance violation case wherein the defendant pleads guilty or is found guilty, the court shall assess a surcharge in the amount of $5.00 against the defendant, except in those cases where the defendant is found by the judge to be indigent and unable to pay costs. The surcharge shall be collected by the court administrator, transmitted monthly to the city treasury, and used only for the procurement, installation, maintenance, consulting services, and upkeep of a court information and records management system.

(e) *Costs for use in developing a biometric identification system*. In addition to any cost which may be assessed by the municipal division pursuant to statute, ordinance or court rule, in every proceeding filed in the municipal division, for violation of an ordinance a surcharge of $2.00 shall be assessed as costs. Such surcharge shall also be assessed in cases in which pleas of guilty are processed in the violations bureau. No such surcharge shall be collected in any proceeding when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. Such surcharge shall be collected by the court administrator and transmitted to the city treasurer. The city treasurer shall deposit all such funds generated pursuant to this subsection in an "inmate security fund", which is hereby created. Such funds collected under this subsection shall be used by the city only to pay for the development of biometric identification systems as provided by RSMo § 488.5026.

(f) *Costs for certain specialized courts*. Pursuant to RSMo § 488.2230, an additional surcharge in the amount of $7.00 for ordinance violations shall be assessed to fund

special mental health, drug, and veterans courts, including indigent defense and ancillary services associated with such specialized courts. No such surcharge shall be collected in any proceeding in which the proceeding or defendant has been dismissed by the court, when costs are to be paid by the state, county or municipality, or in cases where the defendant is found by the court to be indigent and unable to pay the surcharge. This surcharge shall be collected by the court administrator and transmitted at least monthly to the city treasurer.

(g) *Costs for municipal courthouse renovation, maintenance, and upkeep*. Pursuant to RSMo § 488.2235, an additional surcharge in the amount of $5.00 for ordinance violations shall be assessed only to fund the restoration, maintenance and upkeep of the municipal courthouse of the Kansas City Municipal Division of the Sixteenth Judicial Circuit. No such surcharge shall be collected in any proceeding in which the proceeding or defendant has been dismissed by the court, when costs are to be paid by the state, county or municipality; or in cases where the defendant is found by the court to be indigent and unable to pay the surcharge. This surcharge shall be collected by the court administrator and transmitted at least monthly to the city treasurer.

(h) *Missouri statewide court automation program surcharge*. In addition to any cost which may be assessed by the municipal division pursuant to statute, ordinance, or court rule, in every proceeding filed in the municipal division for violation of an ordinance, a surcharge of $7.00 shall be assessed. Such surcharge shall also be assessed in cases in which pleas of guilty are processed in the violations bureau. Such surcharge shall only be applied in cases disposed of utilizing the statewide court automation system. No such surcharge shall be collected when the proceeding or defendant has been dismissed by the court, when costs are waived, or when costs are to be paid by the city. Such surcharge shall be collected by the court administrator and transmitted monthly to the office of state court.

Section 2-1465. Collection costs.

If a defendant fails to pay any amount over $25.00 of an assessed fine or fee, the municipal division shall assign the collection of the amount due to the approved statewide collection agency. The fee for collection shall be added to the total amount due, but such fees shall not exceed 20 percent of the amount collected.

Section 2. That Chapter 2, Code of Ordinances of the City of Kansas City, is hereby amended by repealing Section 2-1416, General violations bureau, Section 2-1460, Same – cash deposit pending appeal, and Section 2-1461 Affidavit and recognizance for appeal.

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