

## Chapter 125

### MUNICIPAL COURT

#### ARTICLE I

#### General Provisions

##### **Section 125.010. Court Established.**

There is hereby established in the City of Diamond a Municipal Court, to be known as the "Diamond Municipal Court, a Division of the 40th Judicial Circuit Court of the State of Missouri". In the event a Police Court existed prior to the establishment of a Municipal Court, this Court is a continuation of the Police Court of the City as previously established and is termed herein "The Municipal Court".

##### **Section 125.020. Jurisdiction.**

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

##### **Section 125.030. Selection of Municipal 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 selected by appointment to the position by the Mayor with approval of a majority of the members of the Board of Aldermen for a term as specified herein.

##### **Section 125.040. Municipal Judge—Term of Office.**

The Municipal Judge shall hold his/her office for a period of two (2) years. 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 125.050. Municipal Judge—Vacation of Office.**

- A. The Municipal Judge shall vacate his/her office under the following conditions:
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/her seventy-fifth (75th) birthday.

##### **Section 125.060. Municipal Judge—Qualifications For Office.**

- A. The Municipal Judge shall possess the following qualifications before he/she shall take office:
1. He/she need not reside within the City.
  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.
  4. He/she may serve as a Municipal Judge for any other municipality.
  5. He/she may not hold any other office within the City Government.
  6. The Municipal Judge shall be considered holding a part-time position and as such may accept other employment.

**Section 125.070. 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/her directives.

**Section 125.080. Report To Board of Aldermen.**

The Municipal Judge shall cause the Court Clerk to prepare, within the first (1st) ten (10) days of every month, a report indicating the following:

A list of all 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 an application for trial de novo, respectively. The Court Clerk or the Judge shall verify such lists and statements by affidavit and shall file the same with the City Clerk, who shall lay the same before the Board of Aldermen of the City 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 Municipal Treasurer the full amount of all fines collected during the preceding month, if not previously paid to the Municipal Treasurer.

**Section 125.090. Docket and Court Records.**

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 Newton County. The Municipal Judge shall deliver said docket, records and all books and papers pertaining to his/her office to his/her successor in office or to the Presiding Judge of the Circuit.

**Section 125.100. Municipal Judge—Powers and Duties Generally.**

- 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. 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.

**Section 125.110. Compensation.**

The Municipal Judge for the City of Diamond shall be paid a sum as fixed by ordinance from time to time.

**Section 125.120. Violations Bureau.**

Should the Municipal Judge determine that there shall be a Violations Bureau, the City shall provide all expenses incident to the operation of the same. The City Clerk is hereby designated as the Violations Clerk for said Bureau, if established, and may appoint or designate such persons as are necessary to conduct said office.

**Section 125.130. 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 warrants shall be executed by the Chief of Police, Police Officer or Sheriff at 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 125.140. 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/her presence, but such officer shall,

before the trial, file a written complaint with the Judge hearing violations of municipal ordinances.

**Section 125.150. 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 Court Judge. Whenever a defendant accused of a violation of a municipal ordinance has a right to and demands such trial by jury, the Municipal Court shall certify the case to the Presiding Judge of the Circuit Court for reassignment.

**Section 125.160. Duties of The City's Prosecuting Attorney.**

It shall be the duty of an attorney designated by the City 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 number of cases tried, the number of guilty verdicts reached, or the amount of fines imposed or collected.

**Section 125.170. 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 Court 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 names of such witnesses on his/her docket, which oral notice shall be valid as a summons.

**Section 125.180. Transfer of Complaint To Associate Circuit Judge.**

If, in the progress of any trial before the 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 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 Court Judge of the County.

**Section 125.190. 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 by law to such Sheriff for the keeping of other prisoners in his/her custody. The same shall be taxed as cost.

**Section 125.200. Parole and Probation.**

- 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 125.210. Right of Appeal.**

In any case tried before the Municipal Judge, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of trial de novo before a Circuit Court Judge or upon assignment before an Associate Circuit Court 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.

**Section 125.220. Appeal From Jury Verdicts.**

In any case tried with a jury before an Associate Circuit Judge, a record of the proceedings shall be made, and appeals may be had upon that record to the appropriate Appellate Court.

**Section 125.230. Breach of Recognizance.**

In the case of a breach of any recognizance entered into before a Municipal Judge or an Associate Circuit Court 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 Court Judge or Associate Circuit Court 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 Municipal Treasury to the General Revenue Fund of the municipality.

**Section 125.240. Disqualification of Municipal Judge From Hearing A Particular Case.**

A Municipal Judge shall be disqualified to hear any case in which he/she is in any way 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 or disqualification in the same case.

**Section 125.250. Absence of Judge—Procedure.**

- A. If a Municipal Judge be absent, sick or disqualified from acting, the Mayor of the Board of Aldermen 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 of the Board of Aldermen 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 of the Board of Aldermen for a special Municipal Judge.
- C. The Governing Body of the municipality shall provide by ordinance for the compensation of any person designated to act as Municipal Judge under the provisions of this Section.

**Section 125.260. Failure To Appear in Municipal Court.**

- A. A person commits the offense of failure to appear in Municipal Court if:

1. He/she has been issued a summons for a violation of any ordinance of the City of Diamond and fails to appear before the Judge of the Municipal Court at the time and on the date on which he/she was summoned, or at the time or on the date to which the case was continued;
  2. He/she has been released upon recognition of bond and fails to appear before the Judge of the Municipal Court at the time and on the date on which he/she was summoned, or at the time or on the date to which the case was continued;
  3. He/she has been placed on Court supervised probation and fails to appear before the Judge of the Municipal Court at the time specified by said Judge as a condition of the probation.
- B. Nothing in this Section shall prevent the exercise of the Municipal Court of its power to punish for contempt.

## ARTICLE II Court Clerk

### **Section 125.270. Office Established.**

There is hereby established the office of Court Clerk for the City of Diamond Municipal Division of the Newton County Circuit Court.

### **Section 125.280. Selection and Term of Court Clerk.**

The Court Clerk shall be appointed by the Mayor with the consent of a majority of the members of the Board of Aldermen to serve for an unspecified term at the will of the Mayor and Board of Aldermen.

### **Section 125.290. Hours and Authorization of Compensation.**

The position of Court Clerk shall be a part-time position. The Court Clerk shall attend all sessions of the Diamond Municipal Division of the 40th Judicial Circuit Court and may be required to be present at the Diamond City Hall to perform the duties of the office at such additional times as the Mayor or Board of Aldermen may specify. Compensation for the Court Clerk shall be established by ordinance from time to time.

### **Section 125.300. Duties.**

- A. The Court Clerk's duties shall include the following:
1. To prepare and maintain the Municipal Court docket;
  2. To log and file all tickets, information, complaints, summonses, bonds, bond receipts and reports;
  3. To prepare all warrants, REGIS sheets, summonses, bonds, bond forfeitures and notices pertaining to same;

4. To receipt and account for all bonds, fines, costs or other monies paid to the Municipal Court;
5. To deliver monies collected in Court to the City Clerk for deposit into appropriate City accounts;
6. To maintain and respond to all correspondence directed to the Municipal Court;
7. To prepare and forward to the Director of Revenue all records of moving violations as required by law;
8. To report to City Treasurer each month on the amount of Crime Victims' Compensation (CVC) Fund and any other funds collected for distribution to parties or entities other than the City in association with Court proceedings;
9. To serve as the Violations Clerk for the Diamond Municipal Division of the 40th Judicial Circuit Court and receive entries of appearance, waivers of appearance, pleas of guilty and payments of fines and costs in accord with the Laws of the State of Missouri and the Rules of the Circuit Court for Newton County; and
10. To perform such other duties as may be directed by the Judge of the Municipal Division.

**Section 125.310. Bond.**

Within fifteen (15) days after appointment, and before entering upon the discharge of the above described duties of office, the Court Clerk shall give bond to the City in the sum of twenty thousand dollars (\$20,000.00) conditioned upon the faithful performance of said duties and the said Court Clerk will pay over all monies belonging to the City, as provided by law, that may come into the Court Clerk's hands.

ARTICLE III  
**Fines and Court Costs**

**Section 125.320. Fines—Installment Payment of Fine.** [Ord. No. 295, 11-12-2007; Ord. No. 303, 8-11-2008]

- A. 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.
- B. Further, the following are the assessed fine amounts:
  1. Illegally parked or inoperable vehicles: \$ 100.00
  2. Animal violations:
    - a. Prohibited: \$50.00.



- b. Cruelty: \$80.00.
  - c. Run at large: \$35.00.
  - d. Defecate on property: \$20.00.
  - e. Unlicensed: \$10.00.
- 3. Trash:
    - a. Improper burning: \$25.00.
    - b. Improper disposal: \$25.00.
  - 4. High grass and weeds: \$50.00.
  - 5. Littering: \$20.00.
  - 6. Littering by handbills: \$20.00.
  - 7. Noise:
    - a. General: \$50.00.
    - b. Vehicular: \$50.00.
    - c. Animal: \$30.00.
  - 8. Disorder by conduct: \$100.00.
  - 9. Trespassing/loitering: \$80.00.
  - 10. Improper watering: \$60.00.
  - 11. Warrant fee: \$50.00.

**Section 125.330. Court Costs.**

- A. In addition to any fine that may be imposed by the Municipal Judge in any case filed in the Diamond Municipal Division of the 40th 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 twelve dollars (\$12.00).
  - 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. *Motorcycle Safety Trust Fund.*
  - a. Any person who violates a municipal ordinance when the Court finds that the violation occurred when the defendant was the operator of a motorcycle or motortricycle shall have a judgment assessed against the defendant of five dollars (\$5.00) in the favor of the State of Missouri Motorcycle Safety Trust Fund. Any motor vehicle operator who violates a municipal ordinance where the violation involves a motorcycle or motortricycle or where the operator causes an accident involving a motorcycle or motortricycle shall have a judgment assessed against the defendant of five dollars (\$5.00) in the favor of the State of Missouri Motorcycle Safety Trust Fund.
  - b. Each Court cost assessed under this Section shall be doubled if the operator at fault violated any State law or local ordinance relating to the consumption of alcohol.
  - c. The Court costs collected under this Section by the Clerk of the Court shall be paid into the State Treasury to the credit of the Motorcycle Safety Trust Fund created in Section 302.137, RSMo.
5. There may also be assessed a two dollar (\$2.00) cost for the purpose of providing operating expenses for shelters for battered persons as set out in Section 488.607, RSMo.
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. 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 (10) hereof.
10. *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 Diamond 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 shall 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.
11. *Spinal Cord Injury Fund.* Any person convicted of an intoxication-related offense, as provided in Section 577.023 RSMo., shall have a judgement of twenty-five dollars (\$25.00) assessed. Collections by the Court shall be paid to the State Department of Revenue to the credit of the Spinal Cord Injury Fund, to the following address:

Missouri Department of Revenue County Tax Section P.O. Box 453 Jefferson  
City, MO 65105-0453

12. *Work/Construction Zone.* Any person who is convicted or pleads guilty to a speeding violation or passing/overtaking a vehicle in a work/construction zone when there was any person present performing duties in the work/construction zone and appropriate signs were posted stating "Warning: \$250 fine for speeding or passing in this work zone" shall be assessed a fine of two hundred fifty dollars (\$250.00) in addition to any other fine assessed; except that any person assessed the two hundred fifty dollar (\$250.00) fine shall not also be assessed the thirty-five dollar (\$35.00) fine for any of the following offenses in a construction or work zone: any moving violation or violation of speeding, leaving the scene, careless and imprudent driving, operating without a valid license, operating with a suspended or revoked license, obtaining a license by misrepresentation, driving while intoxicated, under the influence or BAC, any felony offense involving the use of a vehicle, or failure to maintain financial responsibility.
13. *Sheriff's Retirement System Fee.* There shall be assessed and collected a surcharge of three dollars (\$3.00) in all civil actions filed in the court of this State and in all criminal cases, including violations of any County 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 costs in civil and criminal cases shall collect and disburse such amounts as provided by Sections 488.010 to 488.020, RSMo. Such funds shall be payable to the Sheriff's Retirement Fund. Moneys credited to the Sheriff's Retirement Fund shall be used only for the purpose provided for in Sections 57.949 to 57.997 RSMo. and for no other purpose. [Ord. No. 392, 8-12-2013]