

**CHAPTER 72-MUNICIPAL COURT****SECTION 1****72.010 ESTABLISHMENT OF A MUNICIPAL COURT - DIVISIONS**

1. Pursuant to 479.020 RSMo, as amended, there shall be established for the City of Moscow Mills, a Municipal Court. There shall be two divisions established, those being denominated as Municipal Division I and Municipal Division II. The Municipal Court shall be known as "The City of Moscow Mills Municipal Court", a Division of the 45<sup>th</sup> Judicial Circuit Court of the State of Missouri.
2. Each Judge of Division I and II shall be selected by the Board of Alderman, a majority vote of all members being required for his or her selection. The Municipal Judge may serve as Municipal Judge for any other municipality. The Municipal Judge shall be considered as holding a part-time position and may accept other employment within the requirements of the Code Judicial Conduct, Missouri Supreme Court Rule 2. The Municipal Judge may be removed from office for cause in the manner provided for removal by the City or by State statute. Selection shall be made for a term of two years and he or she shall serve until his or her successor is selected and qualified. The Municipal Judge shall be at least 28 years of age and have been licensed to practice law in the State of Missouri for at least two years. No person shall serve as Municipal Judge after he or she has reached his 70<sup>th</sup> birthday. The Municipal Judge shall not hold any other office in the City of Moscow Mills. The Municipal Judge need not be a resident of the City of Moscow Mills or of the Circuit in which he or she serves but shall be a resident of Missouri. The Municipal Judge shall be a member and attend the annual conference, absent exigent circumstances, of the Missouri Municipal and Associate Circuit Judges Association. Membership fees and reasonable costs of attendance of the conference shall be paid by the City.
3. The jurisdiction of the Municipal Court shall extend to all cases involving alleged violations of the Ordinances of the City of Moscow Mills, State of Missouri.
4. The Municipal Court shall be subject to the rules of the Circuit Court of Lincoln County 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 of Lincoln County and the Judge and Court personnel of the Municipal Court shall obey such Circuit Judges directives.
5. The salary of a Municipal Judge shall be established from time to time by Ordinance.

**SECTION 2****72.020 MUNICIPAL JUDGE POWERS AND DUTIES GENERALLY**

1. The Municipal Judge of the City of Moscow Mills Municipal Court:
  - a. Shall administer oaths and enforce due obedience to all orders, rules and judgments made by him/her and fine and imprison for contempt committed before him/her while holding Court, in the name manner and to

the same extent as a Circuit Judge.

- b. May 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 manner that may be pending in the Municipal Court.
  - c. Shall 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.
  - d. Shall periodically review the data entry function of the Court's automated Court docketing; the preparation of the monthly reports of the Court's cases and dispositions, fines, costs, training fees and crime victims' compensation; and the accounting for all funds collected by the Municipal Court and maintenance of appropriate records of the Court's fiscal activities. Requirements necessary to fulfill the obligations of this Chapter shall be documented and communicated to the Court Clerk and the Mayor for implementation.
  - e. May assist in preparation of annual budgetary proposals relating to the operations of Municipal Court and presentation to the City in conjunction with the City Clerk for submittal to the Board of Aldermen.
  - f. May provide annual evaluations of all judicial and non-judicial employees in the Court Clerk's office and other Court support personnel, and any written recommendations relating to personnel issues to the appropriate supervisor. All such communications shall be taken into account prior to personnel action. Unresolved issues shall be submitted to the Mayor who shall be responsible to ensure the requirements of the Municipal Court are attained.
  - g. Shall make and adopt such rules of practice and procedure as are necessary to implement and carry out the provisions of this Chapter, and make and adopt such rules of practice and procedure as are necessary to hear and decide matters pending before the Municipal Court, and implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts. Any rules made or adopted hereunder shall be consistent with the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts. Any 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 law.
- 2. The Municipal Judge shall have such other powers, duties, and privileges as prescribed by State law or other ordinances of the City.
  - 3. Municipal Judge - Monthly Report To Board of Aldermen - Payment of Fines To Treasurer:

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The Municipal Judge shall cause to be prepared within the first ten (10) days of every month a report containing 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. 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 Alderman for examination at its first (1<sup>st</sup>) session thereafter. The Municipal Court shall, within the ten (10) days after the first (1<sup>st</sup>) of the month, pay to the Municipal Treasurer the full amount of all fines collected during the preceding month, if they have not previously been paid.

4. **Municipal Judge - Docket and 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 he 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 the County. 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.
5. **Municipal Judge - Disqualifications From Hearing:**  
A Municipal Judge shall be disqualified to hear any case in which he/she is in anyway interested or if, before the trial is commenced, the Defendant or the Prosecutor files an Affidavit that the Defendant or the City, 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 City shall be entitled to file more than one (1) Affidavit or disqualification in the same case.
6. **Disqualification and Assignment:**  
The Municipal Judge of Division II of the Municipal Court of the City of Moscow Mills shall only hold Court when the Judge in Division I is disqualified; or the Municipal Judge in Division I can not be present; or if there is a vacancy in Division I until such time as the Board of Aldermen selects a replacement Judge for Division I.
7. **Court Sessions - Cancellations:**  
The Municipal Judge of Division I of the Municipal Court of the City of Moscow Mills shall hold at least one (1) Court session per month on a date and time as specified by the Municipal Judge, however, the Municipal Judge shall have the authority to cancel Municipal Court for a date certain by giving proper notice to the Court personnel, the City Prosecutor and to the City Clerk when he or she determines that the judicial business on the said date will be light and rescheduling cases will create no hardship on any party.
8. **Transfer to Associate Circuit Judge:**  
If, in the progress of any trial before the Municipal Judge, it shall appear to the Judge that the accused should be put upon trial for an offense against the

criminal laws of the State, not cognizable before him or her as Municipal Judge, he or she shall immediately stop all further proceedings before him or her as Municipal Judge and cause the complaint to be made to the Prosecuting Attorney of Lincoln County for State prosecution.

9. **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 force their attendance by attachment if necessary. The fees for the witnesses shall be the same as those fixed for witnesses in trials before Associate Circuit Judges and shall be cost as other costs in the case. When a trial shall be continued by the 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 or her set for trial to testify in the case and enter the names of such witnesses on his or her docket, which oral notice shall be valid as a summons.

**SECTION 3**

**72.030 CLERK OF MUNICIPAL COURT**

1. The Municipal Court Clerk is designated as the clerk of the Municipal Court, the duties of the Clerk shall be as follows:
  - a. To collect such fines for violations of such offenses as may be described, and the Court costs thereof, and to pay all fines and costs into the City Treasury.
  - b. To take oaths and affirmations.
  - c. To accept signed complaints, and allow the same to be signed and sworn to or affirmed before him.
  - d. Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas *duces tecum*.
  - e. 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.
  - f. 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.
  - g. Maintain, properly certified by the City Clerk, a complete copy of this code and any other ordinance of the City which shall constitute prima facie evidence of such code or ordinance before the Court. Further, to maintain

a similar certified copy on file with the Clerk serving the Circuit Court of the County.

- h. The Clerk of the Municipal Court of the City is authorized to issue warrants and summons as the result of complaints or information filed by the City Attorney, provided, that no such summons or warrants shall be issued without the authority of the Municipal Judge.

#### **SECTION 4**

### **72.040 INFORMATIONS, COMPLAINTS AND WARRANTS**

1. **Prosecution:**  
All prosecutions for the violation of a Municipal Ordinance shall be instituted by information and may be based upon a complaint. Proceedings under Informations shall be in accordance with the Missouri Supreme Court Rules.
2. **Arrest by Law Enforcement Officer:**  
The City Marshall, or Chief of Police or other Police Officer of the City shall, without a warrant, make an arrest of any person who commits an offense in his or her presence, but such Officer shall, before the trial, file a written Complaint with the City Prosecuting Attorney.
3. **Warrants:**  
All Warrants issued by the Municipal Judge shall be directed to the City Marshall, Chief of Police or any other Police Officer of the City, or to the Sheriff of the County. The Warrant shall be executed by the City Marshall, 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 and criminal cases.
4. **Service of Notices:**  
Notices and process arising in Municipal Court which are necessary to be served on the City shall be served on the City Prosecutor.
5. **Breach of Recognizance and Forfeiture of Bond:**  
In the case of a breach of any recognizance entered into before a Municipal Judge, the same shall be deemed forfeited, and the Judge shall cause the same to be prosecuted against the principal and surety, or any of them in the name of the Municipality as Plaintiff. Such action shall be prosecuted before a Circuit Judge or an Associate Circuit Judge and in the event cases caused to be prosecuted by a Municipal Judge, such shall be on the transcript of the proceedings before the Municipal Judge. All money recovered in such action shall be paid over to the City Treasurer to the General Revenue Fund of the City of Moscow Mills.
6. **Place of Imprisonment:**

In all cases where any person is in the charge of or in the custody of the Chief of Police or members of the Police Department, either before or after trial, such person shall be kept and held at the County Jail or such other place as the Chief of Police may designate, except as otherwise provided by law or ordinance.

**7. Trial by Jury, Trial de Novo and Appeal:**

Any person charged with a violation of any Ordinance of the City shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an Associated Circuit Judge. Whenever a Defendant accused of a violation of any City Ordinance demands trial by jury, the Municipal Court shall certify the case to the presiding Judge of the Circuit Court for reassignment.

**SECTION 5**

**72.050 TRIAL BY JURY, TRIAL DE NOVO, AND APPEALS**

**1. Trial By Jury:**

Any person charged with a violation of any Ordinance of the City shall be entitled to a trial by jury, as in prosecutions for misdemeanors before an Associated Circuit Judge. Whenever a Defendant accused of a violation of any City Ordinance demands trial by jury, the Municipal Court shall certify the case to the presiding Judge of the Circuit Court for reassignment. Proceedings in the case shall be had as if the case was originally commenced under the practice and procedure applicable before Circuit Judges with there being no right of trial de novo.

**2. Trial De Novo:**

In all cases tried before the Municipal Court, 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 Judge or on 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 matter as provided by Missouri Supreme Court Rules.

- a. In the event there is an application for a case to be sent to Lincoln County Circuit Court for a trial de novo there shall be an additional fee of \$45.00. The Defendant shall issue two money orders or cashier's checks or an acceptable personal check, one made payable to the City of Moscow Mills for the amount of \$15.00 and one payable to Lincoln County Circuit Court in the amount of \$30.00.

**3. Appeals for Jury Verdicts:**

In all cases in which a jury trial has been demanded and obtained, a record of the proceeding shall be made, and appeals may be had upon that record to the appropriate Appellate Court.

**SECTION 6**

**72.060 PAROLE OR PROBATION AND VICTIM RESTITUTION**

1. The Municipal Judge may, when in his judgment it may deem 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 shall be given a certificate explicitly stating the conditions on which he is being released.
2. In addition to such other authority as exist to order conditions of probation, the Municipal Judge may order conditions which the Judge 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:
  - a. Restitution to the victim or any dependent of the victim, in an amount to be determined by the Judge; and
  - b. The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the Judge.
3. A person may refuse probation condition on the performance of free work. If he or she does so, the Judge shall decide the extent or duration of sentences or other disposition to be imposed and rendered judgment accordingly. The City of Moscow Mills or any employee of the City or 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 if such cause of action arises from such supervision or 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.
4. The Court may modify or enlarge the conditions of probation at anytime prior to the expiration or termination of the probation term.  
(Authority 479.190 RSMo)

**SECTION 7**

**72.070 FINES AND COSTS**

1. In all cases where a conviction is had which is brought before the Judge of the Moscow Mills Municipal Court for violation of any of the Ordinances of the City the following costs shall be taxed:
  - a. Court costs for all misdemeanors, traffic offenses and municipal violations - \$12.00
  - b. Cost for the training of Police Officers - \$ 2.00
  - c. Cost for training law enforcement officers, statewide for all Ordinance violations

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except non-moving traffic violations, to be deposited with the Treasury of the State, the Peace Officers Standards and Training Commission Fund - \$ 1.00

d. Crime Victims Compensation Fund, \$7.13 transmitted monthly to the State, Missouri Department of Revenue and 37 cents remitted to the City Treasurer of the City of Moscow Mills, Missouri - \$ 7.50

e. Two Dollars (\$2.00) for the purpose of providing operating expenses for shelters of battered persons.

f. Three Dollars (\$3.00) for the Sheriff's Retirement fund.

g. Two Dollars (\$2.00) for the Inmate Prisoner Detainee Security Fund.

2. In all cases where a conviction is had which is brought before the Judge of the Moscow Mills Municipal Court for violation of any of the Ordinances of the City the following costs may be taxed:

a. Witness fees for witnesses residing outside of the City limits of Moscow Mills, Missouri, other than the informant - \$ 3.00 per day plus 7 cents per mile traveled

b. Alcohol or Drug related traffic offenses: Alcohol or Drug related traffic offenses, the Court may, in addition to imposition of any penalties provided by law, order the person to reimburse the City of Moscow Mills Law Enforcement Authority for the costs associated with such arrest; such costs shall include the reasonable costs of making arrest, and including the costs of any chemical tests to determine the alcohol or blood content of the person's blood, and the costs of processing, charging, booking and holding such person in custody. The Moscow Mills Law Enforcement Authority may establish a schedule of such costs, however, the Court may order the costs reduced if it determines the cost are excessive.

c. If the City of Moscow Mills incurs costs as a result of utilizing equipment owned and operated by the Sheriff's Department of the County of Lincoln, such as a breathalyzer, and the defendant is found guilty as charged, then the Court may assess against the defendant the costs incurred by the City of Moscow Mills.

d. If the defendant is found guilty as charged, and the City of Moscow Mills has incurred or will incur incarceration fees from the Sheriff of the County of Lincoln, or any other Law Enforcement Agency or Jail facility, then such fees or costs shall be assessed against the Defendant and shall be paid by the Defendant according to the Order of the Municipal Judge.

e. If a defendant is required to receive hospital treatment for any reason in connection with the defendant's arrest and there are costs connected therewith, the defendant shall be responsible and pay such costs as ordered by the Court.

f. If the defendant is charged and found guilty of an offense where a victim has incurred medical expenses or property damage as a result of the acts of the defendant, then the Court may order the defendant to make restitution to the victim or victims in an amount as specified by the Court.



3. Waiver

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.

4. Payment of Fine and Costs on Installment Basis

When a fine is assessed for violation of any Ordinance, it shall be within the discretion of the Judge assessing the fine and costs to provide for the payment of the fine and costs on an installment basis under such terms and conditions he or she may deem appropriate.

5. Driving School

The Municipal Court may, in connection with the disposition of any offense which is a "point offense" resulting in the assessment of up to 4 points by the State Director of Revenue under the provisions of Section 302.302 (1), (2), or (4), RSMO., order the staying of the assessment of points upon satisfactory completion of a driver improvement program approved by the State by the State Director of the Department of Public Safety, as provided by Section 302.302.4, RSMo.

6. Policeman or Other Officer as Witness

In prosecution before the Municipal Judge for violations arising under Ordinances of the City, any Policeman or other executive officer shall be a competent witness in the case; but no such Policeman or executive officer shall be entitled to any witness fee in such case. Officers shall attend upon as witnesses against persons whom they have caused to be arrested, without being summoned to do so; and, upon their failure to appear at the time of trial, may be attached and punished for contempt as witnesses summoned.

*Adopted by Ordinance #102, 12/13/99. Amended by: Ordinance #170, 9/16/02. Ordinance #171-A, 10/15/02. Ordinance #252, 10/12/04. Ordinance #275, 5/9/05. Ordinance #321, 5/8/06. Ordinance #363, 11/20/06. Ordinance #737, 2/8/16.*