

## CHAPTER IX. MUNICIPAL COURT

### Article 1. General Provisions

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#### ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Horton, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1992)
- 9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 *et seq.* and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 1992)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates. (Code 1992)
- 9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The city commission shall appoint the judge of the municipal court. The municipal judge shall be a licensed attorney. (Ord. 840, Sec. 1; Code 1992)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.  
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed. (K.S.A. 12-4107; Code 1992)
- 9-106. SAME; POWERS AND DUTIES. The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto. (Code 1992)
- 9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by ordinance. (Code 1992)
- 9-108. COURT CLERK. The office of the court clerk shall be filled by appointment by the municipal judge of the municipal court. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:

(a) The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him, her or a departmental justice on such forms furnished by the judicial administrator, and approved by the supreme court.

(b) The court clerk shall be one of the communications department personnel and clerk duties will be a part of his or her job.

(c) A majority of all members of the council may remove the clerk appointed under the authority of this section, or for good cause the mayor may temporarily suspend any such appointed clerk.

(Ord. 999, Sec. 1)

9-109. PAYMENT OF FINE. Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine. (Code 1992)

9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 1992)

9-111. FAILURE TO APPEAR. (a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

(b) For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after his or her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of this state.

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.

(Code 1992)

9-112. COURT COSTS. No person shall be assessed costs for the administration of justice in any municipal court case, except for cases docketed for court appearance. In such cases where the accused person pleads guilty or nolo contendere, or is found guilty, the court costs shall be assessed against him or her, they shall be and remain a judgment against him or her which may be

enforced as a judgment for payment of money in civil cases. The amount of the court costs to be assessed by the municipal court shall be reviewed annually by the city judge and recommendation forwarded to the governing body for adoption. Court costs will be set per case. Mileage, subpoena and witness costs will be set and approved by the city judge.

If it appears to the court that the prosecution was instituted without probable cause and from malicious motives, the court may require the person initiating the prosecution to appear and answer concerning the motives of such person for instituting the prosecution. If, after such hearing, the court determines that the prosecution was instituted without probable cause and from malicious motives, all costs in the case shall be assessed the complaining witness or other person initiating the prosecution. (C.O. No. 7, Sec. 2; Ord. 1007, Sec. 1)