

AN ORDINANCE AMENDING ORDINANCE NO. 4788, "THE MUNICIPAL CODE OF THE CITY OF RICHMOND HEIGHTS, MISSOURI" CHAPTER 140: MUNICIPAL COURT; IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH A NEW CHAPTER TO COMPLY WITH NEW CHANGES IN STATE LAW REGARDING MUNICIPAL COURT AND RELATED POLICE PROCEDURES.

WHEREAS, CHAPTER 140: MUNICIPAL COURT of the Municipal Code governs municipal court procedures; and

WHEREAS, changes in state law (2016 SB 572) require revisions to the City's ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, as follows:

SECTION 1. Chapter 140: MUNICIPAL COURT of the Municipal Code of the City of Richmond Heights, Missouri is hereby repealed in its entirety and replaced with a new Chapter to read as follows:

ARTICLE I. GENERAL PROVISIONS

Section 140.010 Jurisdiction.

Violations of Ordinances of the City of Richmond Heights shall be tried before the Richmond Heights Municipal Division of the St. Louis County Circuit Court.

[CC 1984 §2-80; Ord. No. 3140 §2-49; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988]

Section 140.020 Failure to Appear.

A. Any person who willfully fails to appear in the City's Municipal Court in connection with a summons or notice issued to him/her by the Municipal Court to appear in the Municipal Court on a specified date shall be guilty of failure to appear. This Section shall not apply to any minor traffic violation, as defined by Section 300.010 in the Richmond Heights Municipal Code of Ordinances.

B. If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a uniform traffic ticket affixed to such motor vehicle within a period of five (5) days, the Violations Bureau shall send to the owner of the motor vehicle to which the traffic ticket was affixed a letter informing him/her of the violation and

warning him/her that in the event such letter is disregarded for a period of five (5) days a warrant of arrest will be issued.

[CC 1984 §2-81; Ord. No. 3140 §2-50; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988; Ord. No. 5308 §2, 11-2-2015]

Section 140.030 Court Costs, Generally.

A. In addition to any fine that may be lawfully imposed by the Municipal Judge, there shall be assessed as costs in all cases, except cases in which charges of a minor traffic violation as defined in Section 479.350 RSMo., are dismissed and cases in which the Municipal Court finds the defendant to be indigent pursuant to applicable standards, the following:

1. Costs of Court in the amount of twelve dollars (\$12.00).
2. Actual costs assessed against the City by the County Director of Justice Services or any other operator of a Jail facility for apprehension or confinement in the County Jail pursuant to Section 221.070, RSMo.
3. In addition to any other costs of Court pursuant to Section 488.5336, RSMo., an assessment of two dollars (\$2.00) on all ordinance violations (including infractions, moving and non-moving traffic violations), but excluding cases dismissed by the Court or when the costs are to be paid by the City, such additional assessment to be used for the training of Law Enforcement Officers.
4. Pursuant to the authority granted by Section 488.607, RSMo., an assessment of an additional Court cost of two dollars (\$2.00) on all ordinance violations, except when the proceedings or defendant have been dismissed by the Court or when costs are to be paid by the City. Such costs shall be collected by the Clerk of the Court and disbursed to St. Louis County for the purpose of providing operating expenses for shelters for battered persons as defined by Section 455.200 et seq., RSMo.
5. In addition to any other costs of Court pursuant to Section 488.5336, RSMo., an assessment of one dollar (\$1.00) on all ordinance violations (including infractions, moving and non-moving traffic violations), but excluding cases dismissed by the Court or when the costs are to be paid by the City, such additional assessment to be used for the Peace Officer's Standards and Training Commission (P.O.S.T.) Fund created by Section 590.178, RSMo.
6. In addition to any other costs of Court pursuant to Sections 488.5339 and 595.045, RSMo., an assessment of seven dollars fifty cents (\$7.50) on all ordinance violations (including infractions, moving and non-moving traffic violations), except when the proceedings or defendant have been dismissed by the Court or when the costs are to be paid by the City, such additional assessment to be used for the Crime Victims' Compensation Fund. Ninety five percent shall be paid to the Director of Revenue for the State of Missouri and five percent shall be paid to the City General Revenue account.
7. Upon plea of guilty or a finding of guilty for an offense of violating the provisions of municipal ordinances 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 City pursuant to Section 488.5334, RSMo., for the reasonable costs associated with the arrest, including the cost of any chemical test made under Chapter 577, RSMo., 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. The Police Department may establish a schedule of such costs, but the Court may order the costs reduced if it determines them to be excessive.

8. Mileage, in the same amount as provided to the County 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, 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 and any and all other costs, assessments and surcharges as required by applicable law.

9. Other fees as lawfully determined by the Court, including credit card fees and probation deterrent fees.

10. A surcharge of two dollars (\$2.00) pursuant to the provisions of Section 488.5026, RSMo., shall be collected in all cases, except where the proceeding is dismissed by the Court or when the costs are to be paid by the City. All fees collected pursuant to this Subsection shall be transmitted monthly to the City of Richmond Heights for deposit into the Inmate Security Fund. All funds collected pursuant to this Subparagraph shall be used only to acquire, develop, maintain, repair, and replace biometric verification systems and information sharing systems to ensure that inmates, prisoners or detainees in a holding cell facility or other detention facility or area which holds persons detained only for a shorter period of time after arrest or after being formally charged can be properly identified upon booking and tracked within the local law enforcement administration system, criminal justice administration system, or the local jail system, and to pay for any expenses related to detention, custody and housing and other expenses for inmates, prisoners and detainees.

11. Pursuant to Section 488.650 RSMo., there shall be assessed as costs a surcharge in the amount of one hundred dollars (\$100.00) on all petitions for expungement filed under the provisions of Section 610.140 RSMo., in the Municipal Court. Such surcharge shall be collected and disbursed by the Clerk of the Court as provided by Sections 488.010 to 488.020, RSMo. Monies collected from this surcharge shall be payable to the City's General Fund. Such surcharge shall increase to two hundred and fifty dollars (\$250.00) effective January 1, 2018.

12. The municipal court may establish a judicial education fund and an appointed counsel fund, each in separate accounts under the control of the municipal court to retain one dollar (\$1.00) of the fees collected on each case, except in cases where the charges are dismissed or to be paid by the City. The fees collected shall be allocated between the two funds as determined by the court. The judicial education fund shall be used only to pay for:

(1) The continuing education and certification required of the municipal judges by law or supreme court rule; and

(2) Judicial education and training for the court administrator and clerks of the municipal court. The appointed counsel fund shall be used only to pay the reasonable fees approved by the court for the appointment of an attorney to represent any defendant found by the judge to be indigent and unable to pay for legal representation, and where the supreme court rules or the law prescribes such appointment. Provided further, that the municipal court shall not retain more than one thousand five hundred dollars (\$1500.00) in the judicial education fund for each judge, administrator or clerk of the municipal court and no more than five thousand dollars in the appointed counsel fund. Any excess funds shall be transmitted quarterly to the general revenue fund of the City.

B. No refund shall be required for overpayments of Court costs of five dollars (\$5.00) or less, nor shall the Clerk be required to pursue unpaid amounts less than five dollars (\$5.00) as provided in Section 488.014, RSMo.

Section 140.040 Fines — Installments Allowed.

When a fine is assessed for violation of the provisions of an ordinance of the City, 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 the Judge may deem appropriate. [CC 1984 §2-83; Ord. No. 3140 §2-52; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988]

Section 140.045 Bail and Release.

A. Any person in custody pursuant to an initial arrest warrant issued by the Municipal Court shall have an opportunity to be heard by the Municipal Judge in person, by telephone, or video conferencing as soon as practicable and not later than forty-eight (48) hours after being taken into custody, and if not given that opportunity shall be released. Any person in municipal custody shall not be held more than twenty-four (24) hours without a warrant after arrest. Any person arrested for violation of any ordinance and not released by an arresting officer either pursuant to the bail schedule furnished by the Municipal Judge or otherwise, shall be released from custody pending trial or other proceedings on personal recognizance, unless the Municipal Judge determines in the exercise of discretion that such a release is not sufficient reasonably to assure the appearance of the person as required, or the person poses a danger to a victim, the community or any other person. When such a determination is made, the Municipal Judge may impose any combination of the following conditions of release which will reasonably assure the appearance of the person as required, taking into account available information, without regard to rules of admissibility of evidence, concerning the nature and circumstances of the charged offense, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, length of residence in the community, record of convictions, and record of appearances at court proceedings or flight to avoid prosecution or failure to appear:

1. Place the person in the custody of a designated person or organization agreeing to supervise the person;
2. Place restriction on the travel, association, or place of abode of the person during the period of release;
3. Require the execution of a bail bond with sufficient solvent sureties, or in lieu thereof the deposit in cash or negotiable bonds of the United States or the State of Missouri or any political subdivision thereof;
4. Require the person to report regularly to some officer of the court, or Peace Officer, in such manner as the Municipal Judge directs;
5. Require the execution of a bond in a stated amount and the deposit in the registry of the Court of ten percent (10%), or such lesser sum as the Municipal Judge directs, of such sum in cash or negotiable bonds of the United States or the State of Missouri or any political subdivision thereof;
6. Place the person on house arrest with electronic monitoring, with all costs associated therewith to be charged to the person, provided the Municipal Judge does not find the person unable to afford such costs;

7. Any other condition deemed reasonably necessary to assure appearance as required, including a condition that the person return to custody after specified hours.

B. When authorizing the release of a person under this Section, the Municipal Judge shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform the person of the penalties applicable to violations of the conditions of release and shall advise him that a warrant for arrest will be issued immediately upon any such violation. When issuing a warrant for arrest, the Municipal Judge shall likewise set the conditions for release, which shall be stated on the warrant.

C. A person for whom conditions of release are imposed who continues to be detained after twenty-four (24) hours from the time of the release hearing as a result of inability to meet the conditions of release, or who has been ordered to return to custody after specified hours, shall upon application be entitled to have the conditions reviewed by the Municipal Judge who imposed them, which application shall be determined promptly.

D. The Municipal Judge may amend an order of release by imposing additional or different conditions, subject to the other provisions of this Section and applicable Court rules. The Court shall review such conditions when it enters a judgment.

E. In accordance with this Section, a person shall be admitted to bail by executing a bond to the City, with sufficient security to be approved by the Municipal Judge in a sum not to exceed one thousand dollars (\$1,000.00), conditioned that such person will appear on the day therein stated before the Municipal Court to answer to the charge against them and all bonds so taken shall forthwith be filed with the Municipal Judge or the Clerk of the Court by the officer approving and taking the same.

F. If the person is not released or does not meet the conditions of release, they shall be committed to jail until discharged by due course of law. There shall be a presumption that releasing the person under any conditions shall not reasonably assure the appearance of the person as required if the Judge reasonably believes that the person is an alien unlawfully present in the United States. If such presumption exists, the person shall be committed to the County Jail until such person provides verification of their lawful presence in the United States or otherwise rebuts such presumption. If the person adequately proves their lawful presence or otherwise rebuts such presumption, the Judge shall review the issue of release, without regard to previous issues concerning whether the person is lawfully present in the United States. If the person cannot prove their lawful presence or otherwise rebut such presumption, the person shall continue to be committed to the jail and remain until discharged by due course of law.

Section 140.046 Driver's License Presented in Lieu of Bail — Offenses Requiring Posting of Bail.

A. Any person arrested and charged with violating any of the traffic ordinances of the City may at the discretion of the officer authorized by law or rule of court to accept bail, deposit his/her chauffeur's or operator's license issued by the State with the officer demanding bail in lieu of any other security for an appearance in court to answer any such charge except:

1. When directed under law to take a person immediately before a judge;
2. When the violation involves death;
3. When the violation involves a person who is an habitual user of drugs or who is under the influence of intoxicating liquor or drugs or one who permits another person who is an habitual user of drugs or under the influence of intoxicating liquor or drugs to operate a motor vehicle owned by the defendant or in his/her custody or control;

4. When the violation involves leaving the scene of an accident;
5. When the violation involves driving with a suspended or revoked driver's license or a driver's license which has been expired for more than sixty (60) days;

6. When the violator is not a resident of the State of Missouri, does not live within fifty (50) miles of the City of Richmond Heights, or it appears doubtful the violator will appear pursuant to a written summons; or

7. When bail is ordered by the court or by court rule.

B. The Law Enforcement Officer requiring security for an appearance may accept the deposit of the driver's license in lieu of bail, and if the driver's license is accepted, shall issue a receipt to the licensee for the license upon a form approved by the Municipal Court. The licensee may, until he/she has appeared at the proper time and place as stated in the receipt to answer the charge placed against him/her, operate motor vehicles while in possession of the receipt. If a continuance is requested and granted, the licensee shall be given a new receipt for his/her license or the Municipal Court Clerk may return the license.

C. Notwithstanding the foregoing, any person arrested and charged with violating a traffic ordinance of the City may, if afforded the opportunity to deposit his motor vehicle operator's license pursuant to this Section in lieu of bail, decline to do so and instead post bail of \$50.00 per traffic offense allegedly committed as provided in Section 135.120.

[1] State Law References — See §§544.455 and 544.470, RSMo.

Section 140.047 Arrests Without Warrants. [1]

The Chief of Police or other Police Officer of the City may, without a warrant, make arrest of any person who commits an ordinance violation in their presence, but such officer shall promptly file a written complaint with the Court hearing violations of municipal ordinances.

[1] State Law Reference — Similar provisions, §479.110, RSMo.

ARTICLE II. MUNICIPAL JUDGE

Section 140.050 Municipal Judge.

A. *Appointment And Qualifications.* The Council shall appoint an officer who shall have the title of Municipal Judge and who shall serve at the pleasure of the Council. The person appointed to such position must have the following qualifications:

1. Licensed to practice law in the State of Missouri.
2. Not otherwise an officer or employee of the City.

B. 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 Chapters 300 and 479, RSMo.

2. Administer oaths and enforce due obedience to all rules and judgments made by the Court and fine and imprison for contempt committed before the Judge while holding Court, in the same manner and to the same extent as a Circuit Judge.

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. Make use of a public or private probation program of the Court's choice if such program or programs are available for the referral of defendants for any of the following purposes: To conduct a pre-sentence investigation and prepare a report thereof for the Court; to enroll the defendant in a counseling program or short-term educational program appropriate to the offense for which the defendant has been charged; to supervise defendants placed on probation by the Court; and for such other purposes as the Municipal Judge may direct. A report of a pre-sentence investigation shall not be submitted to the Court or its contents disclosed to anyone unless the defendant has pleaded guilty or has been found guilty. The report of a pre-sentence investigation shall contain any prior record of the defendant and such information about their characteristics, their financial condition, their social history and the circumstances affecting their behavior as may be helpful in imposing sentence or in recommending probation or in the correctional treatment of the defendant. The Probation Officer shall secure such other information as may be required by the Court and whenever it is practicable and requested by the Court, investigation may include a physical and mental examination of the defendant by a licensed physician, psychiatrist or psychologist.

6. The Municipal Judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this State or other ordinances of this City.

C. *Provisional Municipal Judge.* The Mayor shall appoint a person or persons to the position of Provisional Municipal Judge who shall have the same qualifications as the Municipal Judge. The Provisional Municipal Judge shall serve as Municipal Judge in the event the Municipal Judge is unable to perform such duties of office due to absence, illness or disqualification to hear certain matters.

D. *Compensation.* The Council shall by resolution fix the compensation of the Municipal Judge and Provisional Municipal Judge.

E. *May Serve As Judge For Other Municipalities and Accept Other Employment.*

1. The Municipal Judge may serve as Municipal Judge for up to four other municipalities.

2. The Municipal Judge shall be considered as holding a part-time position and as such may accept (within the requirements of the Code of Judicial Conduct, Missouri Supreme Court Rule 2) other employment.

F. *When disqualified [2]*

A Municipal Judge shall be disqualified to hear any case in which they are in anywise interested or otherwise disqualified by law, 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, except that no party shall be precluded from requesting any change of Judge for cause at any time pursuant to applicable Court rule.

[CC 1984 §2-85; Ord. No. 3140 §2-54; Ord. No. 3502 §1, 12-4-1978; Charter §3.9; Ord. No. 4218 §1, 7-5-1988; Ord. No. 4526 §5, 1-18-1994; Ord. No. 4906 §1 — 3, 8-2-2004]

[1] State Law Reference — Similar provisions, §479.070, RSMo; [2] State Law Reference — Similar provisions, §479.220, RSMo.; rule 37.53.

Section 140.060 Administrative Search Warrants.

A. Warrant Defined — Who May Issue, Execute.

1. An "administrative warrant" is a written order of the Municipal Judge permitting the entry of City officials on or into private property to enforce the City's housing, zoning, health and safety regulations when government entry on or into such private property is otherwise authorized by Missouri law. A warrant may issue only in conformance with this Section and only for the enforcement of the City's housing, zoning, health and safety regulations, specifically:

a. To inspect private property to determine or prove the existence of physical conditions in violation of a specified regulation;

b. To seize, photograph, copy or record evidence of such physical conditions;
and

c. To abate such physical conditions.

2. The Municipal Judge, having original and exclusive jurisdiction to determine violations against the ordinances of the municipality, may issue an administrative warrant when:

a. The property or place to be entered, searched or inspected or the thing to be seized is located within the City at the time of the making of the application; and

b. The owner or occupant of the property or place to be entered, searched or inspected or the thing to be seized:

(1) Has refused to allow same after official request by the City; or

(2) Is not available, after reasonable investigation and effort, to

consent to such search or inspection.

3. Any such warrant shall be directed to the Chief of Police or any other Police Officer of the City and shall be executed by the Chief of Police or said Police Officer, in conjunction with Code Enforcement Officer or other appropriate City Official, within the City limits and not elsewhere.

B. Who May Apply For Warrant — Contents Of Application.

1. Any Code Enforcement Officer, Police Officer or attorney of the City may make application to the Municipal Judge for the issuance of an administrative warrant.

2. The application shall:

a. Be in writing;

b. State the time and date of the making of the application;

c. Identify the property or places to be entered, searched, inspected or seized in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;

d. State that the owner or occupant of the property or places to be entered, searched, inspected or seized:

(1) Has been requested by the City to allow such action and has refused to allow such action; or

(2) is not available, after reasonable investigation and effort, to consent to such search or inspection;

e. State facts sufficient to show probable cause for the issuance of a warrant:

(1) To search or inspect for violations of an ordinance or Code Section specified in the application; or

(2) To show that entry or seizure is authorized and necessary to enforce an ordinance or Code Section specified in the application and that due process has been afforded prior to the entry or seizure;

- f. Be verified by the oath or affirmation of the applicant; and
- g. Be signed by the applicant and filed in the Municipal Court.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a warrant and in filling out any deficiencies in the description of the property or place to be searched or inspected. Oral testimony shall not be considered. The application may be submitted by facsimile or other electronic means.

C. *Hearing And Procedure — Contents Of Warrant — — Execution And Return.*

1. *Hearing and procedure.*

a. The Municipal Judge shall determine whether probable cause exists to inspect or search for violations of any City ordinance or Code Section or to enforce any such ordinance or Code Section.

b. In doing so the Municipal Judge shall determine whether the action to be taken by the City is reasonable in light of the facts stated. The Municipal Judge shall consider the goals of the ordinance or Code Section sought to be enforced and such other factors as may be appropriate, including, but not limited to, the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant City ordinance or Code Section, the passage of time since the property's last inspection and the authority authorizing government entry onto private property. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of a City ordinance or Code Section.

c. If it appears from the application and any supporting affidavit that there is probable cause to inspect or search for violations of any City ordinance or Code Section or to enforce any such ordinance or Code Section, a warrant shall immediately be issued.

d. The warrant shall issue in the form of an original and two (2) copies and the application, any supporting affidavit and one (1) copy of the warrant as issued shall be retained in the records of the Municipal Court.

2. *Contents of warrant.* The warrant shall:

- a. Be in writing and in the name of the City;
- b. Be directed to any Police Officer in the City;
- c. State the time and date the warrant was issued;
- d. Identify the property or places to be searched, inspected or entered upon in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
- e. Command that the described property or places be searched or entered upon and that any evidence of any suspected City ordinance violations or any pertinent property conditions found therein or thereon be seized, recorded or photographed and a description of such property be returned, within ten (10) days after filing of the application, to the Clerk of the Municipal Court, to be dealt with according to law;

- f. Be signed by the Judge, with his title of office indicated.

3. *Execution and return.*

a. A warrant issued under this Section shall be executed only by a City Police Officer, provided however, that one (1) or more designated City Officials may accompany the officer and the warrant shall be executed in the following manner:

- (1) The warrant may be issued by facsimile or other electronic means.

(2) The warrant shall be executed by conducting the search, inspection, entry or seizure as commanded and shall be executed as soon as practicable and in a reasonable manner.

(3) The officer shall give the owner or occupant of the property searched, inspected or entered upon a copy of the warrant.

(4) *Itemized receipt for seized property.*

(a) If any property is seized incident to the search, the officer shall give the person from whose possession it was taken, if the person is present, an itemized receipt for the property taken. If no such person is present, the officer shall leave the receipt at the site of the search in a conspicuous place.

(b) A copy of the itemized receipt of any property taken shall be delivered to an attorney for the City within two (2) working days of the search.

(c) The disposition of property seized pursuant to a warrant under this Section shall be in accordance with an applicable City ordinance or Code Section, but in the absence of same, then with Section 542.301, RSMo.

(5) The officer may summon as many persons as he deems necessary to assist him in executing the warrant and such persons shall not be held liable as a result of any illegality of the search and seizure.

(6) An officer making a search pursuant to an invalid warrant, the invalidity of which is not apparent on its face, may use such force as he would be justified in using if the warrant were valid.

(7) A warrant shall expire if it is not executed and the required return made within ten (10) days after the date of the making of the application.

4. *After execution — return to be delivered to the Court.*

a. After execution of the warrant, the warrant, with a return thereon signed by the officer making the search, shall be delivered to the Municipal Court.

b. The return shall show the date and manner of execution and the name of the possessor and of the owner, when not the same person, if known, of the property or places searched or seized.

c. The return shall be accompanied by any photographs, copies or recordings made and by any property seized, along with a copy of the itemized receipt of such property required by this Section; provided however, that seized property may be disposed of as provided herein and in such a case a description of the property seized shall accompany the return.

d. The Court Clerk, upon request, shall deliver a copy of the return to the possessor and the owner, when not the same person, of the property searched or seized.

D. *Warrant Invalid, When.* A warrant shall be deemed invalid:

1. If it was not issued by the Municipal Judge;
2. If it was issued without a written application having been filed and verified;
3. If it was issued without sufficient probable cause in light of the goals of the ordinance to be enforced and such other factors as provided in Subsection (C)(1)(b) hereof;
4. If it was not issued with respect to property or places in the City;
5. If it does not describe the property or places to be searched, inspected, entered upon or seized with sufficient certainty;
6. If it is not signed by the Judge who issued it; or

7. If it was not executed and the required return made within ten (10) days after the date of the making of the application.
[CC 1984 §2-90; Ord. No. 4556 §1, 6-6-1994; Ord. No. 4950 §1, 9-19-2005]

Section 140.070 Position of Court Clerk Established — Appointment of Deputies or Assistants.

The position of Clerk of the Richmond Heights Municipal Division of the St. Louis County Circuit Court is hereby established. The City Manager may appoint such deputies or assistants to the Court Clerk as he/she may deem necessary. They shall hold office at the discretion of the City Manager.

[CC 1984 §2-95; Ord. No. 3140 §2-63; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988; Ord. No. 4255 §1, 1-3-1989]

Section 140.090 Duties of Clerk Generally.

The Clerk of the Richmond Heights Municipal Division of the St. Louis County Circuit Court shall perform such duties and have such authority as may be prescribed by Statute, ordinance and Court rule, or as may be otherwise prescribed by the Presiding Judge of the St. Louis County Circuit Court, by the Municipal Judge or by the City Manager.

[CC 1984 §2-97; Ord. No. 3140 §2-65; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988]

Section 140.100 Fines, Court Costs and Fees.

The Court Clerk shall collect all fines, costs and fees assessed by the Court; and, within the first (1st) ten (10) days of every month, shall pay to the City Treasury the full amount of all fines, costs and fees collected during the previous month, except such sums as shall be due and payable to the State of Missouri, the County or P.O.S.T. or other applicable fund, which shall be paid wherever applicable.

[CC 1984 §2-98; Ord. No. 3140 §2-66; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988]

Section 140.110 Monthly Report.

Until modified or otherwise provided by a Supreme Court rule, the Court Clerk shall, upon request of the City Clerk, make a list of all cases heard or tried before the Municipal Judge during the preceding month, giving in each case the name of the defendant, the fine imposed, if any, the amount of costs and fees, the names of defendants committed and the cases in which there was an application for trial de novo, respectively. Such list shall be verified by affidavit of the Court Clerk or the Municipal Judge and the City Clerk shall lay the same before the City Council at its first meeting thereafter.

[CC 1984 §2-99; Ord. No. 3140 §2-67; Ord. No. 3502 §1, 12-4-1978; Ord. No. 4218 §1, 7-5-1988; Ord. No. 5015 §1, 3-5-2007]

Section 140.111 Judgment. [1]

If the defendant pleads or is found guilty, the Municipal Judge shall declare and assess the punishment prescribed or allowed by ordinance and Statute according to such finding and render a judgment accordingly. Prior to rendering such judgment, the Municipal Judge shall allow a

defendant to present evidence of their financial condition and shall take such evidence into account when determining fines and costs and establishing any related payment requirements. Additionally, the Municipal Court shall use alternative payment arrangements and community service alternatives as and when required or appropriate for a particular defendant. For violation of ordinances involving alcohol- or drug-related traffic offenses, the Municipal Judge shall order the person to participate in and successfully complete a substance abuse traffic offender program under Section 577.001, RSMo., and the person shall pay the fees for such program as determined by the State Department of Mental Health. In the event a sentence of confinement is ordered executed, the Municipal Judge may order that a person serve all or any portion of such sentence on electronic monitoring with all costs associated therewith to be charged to the person, provided the Municipal Judge does not find the person unable to afford such costs.

[1] State Law Reference — Similar provisions, §577.049, RSMo. (302.580 eff 1-1-2017)

Section 140.112 Jailing of Defendants. [1]

If, in the opinion of the Municipal Judge, the City has no suitable and safe place of confinement, the Municipal Judge may commit a defendant who is to be confined to the County Jail and it shall be the duty of the Director of Justice Services, 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 City shall pay the board of such prisoner at the same rate as may now or hereafter be allowed to such Director of Justice Services for the keeping of such prisoner in their custody. The same shall be taxed as costs. No person shall be placed in confinement for failure to pay a fine or court costs unless such non-payment violates terms of probation. No person shall be detained in order to coerce payment of fines and costs.

[1] State Law Reference — Similar provisions, §479.180, RSMo.

Section 140.113 Parole and Probation. [1]

Any Judge hearing violations of municipal ordinances may, when in their 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 on such conditions as may be imposed, all in accordance with Section 479.190, RSMo.

[1] State Law Reference — Similar provisions, §479.190, RSMo.

Section 140.114 Right of Appeal. [1]

In all cases tried before the Municipal Court, except where there has been a plea of guilty or a jury trial, the defendant shall have a right to 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 manner as provided by Supreme Court rules and the rules of the Circuit Court of St. Louis County.

[1] State Law Reference — Similar provisions, §479.200(2), RSMo.

Section 140.115 Failure To Appear — Driver's License Suspension.

Pursuant to Section 302.341.1 RSMo., if a Missouri resident charged with a moving traffic violation under City ordinance, other than a minor traffic violation as defined by Section 479.350 RSMo., fails to dispose of the charges through authorized payment of fine and court costs and fails to appear on the return date or at any subsequent date to which the case has been continued,

or without good cause fails to pay any fine or court costs assessed against him or her for any such violation within the period of time specified or in such installments as approved by the Municipal Court or as otherwise provided by law, the Municipal Court shall proceed to provide notice to the defendant and otherwise follow the procedures set forth in Section 302.341.1 RSMo., to suspend the person's driver's license.

Section 140.116 Breach of Recognizance. [1]

In the case of a breach of any recognizance entered into before the Municipal Judge, the same shall be deemed forfeited and if necessary 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 General Revenue Fund of the City.

[1] State Law Reference — Similar provisions, §479.210, RSMo.

Section 140.117 Public Defender.

The duties of a public defender shall be to serve as counsel when appointed by the Municipal Judge to represent persons appearing before the Municipal Court and accused of a violation of the ordinances of the City for which the prosecutor intends to seek a sentence of confinement who demonstrate to the satisfaction of the Municipal Judge that they are unable to employ counsel on their own behalf and desire to have counsel appointed to represent them. No such person shall be sentenced to any period of confinement unless they are represented by counsel.

SECTION 2. It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

SECTION 3. This ordinance shall be in full force and effect on the 31st day after its passage as provided by law.

ADOPTED this 19th day of December, 2016

JIM THOMSON
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First Reading: December 5, 2016
Second Reading: December 19, 2016