



105 E. Center Street
Sikeston, MO 63801
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TENTATIVE AGENDA

CITY COUNCIL REGULAR MEETING
CITY HALL
COUNCIL CHAMBERS
105 E. Center St.

Thursday, July 22, 2021
5:00 P.M.

- I. CALL TO ORDER
- II. RECORD OF ATTENDANCE
- III. OPENING PRAYER
- IV. PLEDGE OF ALLEGIANCE
- V. ITEMS OF BUSINESS
 - A. 3rd Reading & Consideration, Bill #6221, Designating Scott County & New Madrid County Circuit Courts as Municipal Court for City of Sikeston
 - B. 1st and 2nd Reading & Consideration, Bill #6237, Authorizing the Purchase of Certain Real Property Located at 919 E. Malone
 - C. Other Items As May Be Determined During the Course of the Meeting
- VI. ADJOURNMENT

NOTE: Discussion on the use of funds from the American Rescue Plan has been deferred due to newly released information.

Dated this 19th day of July 2021.

Rhonda Council
Rhonda Council, City Clerk

Council Letter

Date of Meeting: 21-06-28

Originating Department: Governmental Services

To the Mayor and City Council:

Subject: Transfer of Municipal Court Functions to the Scott County Circuit Court.

Attachment(s):

1. Ordinance Number 6221
2. Frequently Asked Questions
3. Changes to Comply with State Statutes
4. News From the Bench – Supreme Court Rule 37
5. MO Courts Guide to Municipal Divisions in Cities and Towns

Action Options:

1. Approval of Ordinance Number 6221.
2. Other action Council may deem appropriate.

Background:

In the state court organization, municipal courts are a component of the state court system and operate under the direct jurisdiction of the presiding judge of the respective circuit courts. Sikeston Municipal Court operates under the jurisdiction of the Presiding Judge of 33rd Circuit Court.

Municipal courts in the state have undergone major changes in the wake of Senate Bill 5, a sweeping court reform law enacted in 2015. Senate Bill 5 sought to end alleged abusive practices by some municipal courts and lighten the burden on defendants, the reforms have had some unintended consequences. Senate Bill 5 imposed new restrictions on how much municipal courts could charge violators in fines and penalties and prohibited those courts from sentencing violators to confinement for failure to pay a fine. It also stripped away a municipal court's ability to suspend the driver's license for defendants who fail to appear in court. As a result, many of the cases are no-shows, mirroring the experience other cities are reporting.

Due to these changes, the City anticipates increased costs associated with operating a municipal court and continued decreased revenues. Staff has proposed transferring of the city's municipal court to the circuit courts of Scott and New Madrid counties. The Office of the State Court Administrator has advised they can accommodate both counties.

Ordinance 6221 was presented for a first reading on April 5th and a second reading on April 26th. A council work session to discuss municipal court was held on June 24th.

THIS BILL AS APPROVED SHALL BECOME ORDINANCE NUMBER 6221 DESIGNATING THE SCOTT AND NEW MADRID COUNTY CIRCUIT COURTS AS MUNICIPAL COURT FOR SIKESTON, MISSOURI.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI AS FOLLOWS:

SECTION I. This Ordinance shall not be codified in the City Municipal Code.

SECTION II. The City of Sikeston has found the cost of operating a separate Municipal Court to be excessive and the City believes that having the Circuit Courts hear municipal cases will improve the public's perception of the seriousness of municipal violation charges and perception of the fairness of the court. Missouri Statute specifically allows the City to choose to operate its separate Municipal Court or to request the state court system to hear municipal cases.

SECTION III. Division 33 of the Circuit Court of Scott County, Missouri and Division 34 of the Circuit Court of New Madrid County, Missouri are hereby designated as the Municipal Court of Sikeston, Missouri.

SECTION IV. The Municipal Court shall transfer all of its records, and the court shall be established in the Circuit Courthouse of each division, effective at the Circuit Court's earliest convenience but not later than November 16, 2021.

SECTION V. General Repealer Section: Any other ordinance or parts thereof inconsistent herewith, are hereby repealed.

SECTION VI. Severability: Should any part or parts of this ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall be severable and shall continue in full force and effect.

SECTION VII: Record of Passage:

A. Bill Number 6221 was introduced and read the first time this 5th day of April 2021.

B. Bill Number 6221 was read the second time and discussed on this 28th day of June 2021.

C. Bill Number 6221 was read the third time and discussed on this 22nd day of July 2021, and was voted as follows:

Baker _____, Evans, _____, Merideth, _____,

Self, _____, Sparks, _____, Williams, _____,

Turnbow, _____, thereby being

_____,

becoming ordinance 6221.

C. Ordinance 6221 shall be in full force and effect from and after August 21, 2021.

Greg Turnbow, Mayor

Approved as to form:

SEAL/ATTEST:

Tabatha Thurman, City Counselor

Rhonda Council, City Clerk

Sikeston Municipal Court

Transfer of Municipal Court Functions to the County Circuit Courts Frequently Asked Questions

If the court moves to Benton, won't citizens have to take off during the day because court is held during the day?

Sikeston Municipal Court begins at 2:30 p.m. for prisoners and the general public at 3 p.m. Court is typically over by 5 p.m. Sikeston Municipal Court has not been held in the evening since January 2020.

What if I get stopped and do not have proof of insurance?

The County Prosecutor's Office will accept proof of insurance via fax, email or in person. You will not be required to drive to Benton or New Madrid.

Will public safety officers spend more time on the road, going back and forth to two (2) circuit courts?

Two officers must drive to Benton to transport prisoners, stay with them during court and then transport them back to Benton twice a month. Sikeston Municipal Court conducts very few trials. During 2018 municipal court held three (3) trials, in 2019 there were five (5) trials and in 2020 there were another four (4). There have been no trials in 2021. Based on these statistics, we use more personnel transporting prisoners to routine court hearings in one year than we would have in the prior 3 ½ years of trials. The circuit courts have bailiffs to provide security and escort prisoners. It is unknown if we will have to transport prisoners to New Madrid County as they do not have a jail.

What is the financial impact of keeping a municipal court?

In FY2021, the city subsidized Municipal Court \$42,644. Due to increased demands, decrease fines and requirements of the Office of the State Courts Administrator, we anticipate that amount being in excess of \$108,000 in FY22. The Associate Circuit Court would retain court costs, but the City of Sikeston would receive the fine revenue, which is estimated to be \$100,000, down from \$204,676.69 in FY2015.

By transferring municipal court to the circuit courts, the City of Sikeston will realize a savings in excess of \$158,000 this year, with the amount increasing each year thereafter.

General Information

Trials are held once a month, generally on the fourth Thursday.

From January 1, 2021, through May 31, 2021, Sikeston Department of Public Safety has filed 902 cases with Municipal Court. 437 of the tickets issued by DPS were paid (48%). 75 appeared before Judge Marshall (8%). One was referred to county court, 25 were closed with Suspended Imposition of Sentence, 34 presented proof of insurance and case was dismissed. The judge dismissed 31 cases and the prosecutor dismissed 73. The judge waived the fine/cost balance on 1 case and 9 were voided from the docket. 216 remain pending. During this period, 158 warrants were issued and 136 were cleared.

Code Enforcement filed 42 cases during that same time frame. Four paid their fine, 8 appeared before the judge. Five of the cases were dismissed by the claimant (City), 29 were dismissed by the prosecutor, a warrant was issued for one and a warrant was cleared for one.

The Sikeston Public Library filed one case before Judge Marshall and it was dismissed by him. Three warrants were cleared.

CHANGES NEEDED TO COMPLY WITH STATE STATUTES

Unless otherwise stated, these changes were brought about by Supreme Court of Missouri Rule 37.04 Supervision of Courts Hearing Ordinance Violations and Minimum Operating Standards for Missouri Courts: Municipal Divisions, September 20, 2016.

SUBJECT	CURRENT PROCEDURE	PROPOSED CHANGE
Bank Accounts	<p>All court revenues and bonds are collected by the court clerks. They prepare deposits which are confirmed (recounted) by finance staff. The deposits are given to the city collector who transports them to the bank for deposit, daily. At the end of the month, municipal court staff submit a summary of all financial activity. Often, finance staff discovers that fines and bonds are out of balance. Funds are not missing, but they have been deposited into the incorrect account or bonds were not used to pay fines as recorded. This is an issue most months.</p> <p>Twice in prior years, when municipal court clerks maintained full control of the bond account, they could not reconcile what was on hand and to who it belonged. Since this has come under the control of the Finance Department, this has not been an issue.</p> <p>Currently all expenditures for municipal court fall under the guidance of the City's purchasing policy. We maintain a distinct separation of duties. The employees receiving money, spending money and balancing the accounts are all different.</p> <p>No division of the City is allowed to maintain their own financial records.</p>	<p>Section 483.075.1 RSMo requires a new municipal division bank account be used only for Show-Me Courts receipts and disbursements. The authorized signatures on the account will be the court clerks. There will be no separation of duties.</p> <p>Most of the court costs that are assessed are forwarded to the State of Missouri.</p> <p>The municipal court staff are responsible for the correct disbursement of court costs, bond settlements and fines. They must reconcile receipts to deposits. They must perform monthly bank reconciliations. Court staff has never had this responsibility.</p> <p>Will the circuit court perform any financial review and if so, how often? Will they be included in the circuit court audit? Do the circuit courts undergo an annual audit? Neither the circuit judge nor the municipal judge have ever requested a review of municipal court's financial records.</p>
Budgeting	<p>The City Finance Director meets with the municipal court clerk and inquires of any special needs or budgetary requirements needed for the new fiscal year. The personnel services budget for all city departments is prepared by the city's human resources department.</p>	<p>The municipal judge develops the budget and presents it to the city manager and city council for approval. However, no city official will have control of approving the court's expenditures. I'm not sure what the requirements are if there is a budget shortfall.</p>

CHANGES NEEDED TO COMPLY WITH STATE STATUTES

SUBJECT	CURRENT PROCEDURE	PROPOSED CHANGE
Court Security	The city currently provides at least 2 bailiffs for municipal court on Thursday night. In the past the bailiffs have consisted of current public safety officers.	The judge is responsible for assessing and bringing about reasonable and adequate procedures, technology, security staffing and architectural features to provide a safe environment. Neither the municipal judge nor the circuit court judge has previously indicated any issues with current practice.
Court Clerks are not employees of the City	<p>Except for the City Manager, City Clerk and Finance Director, all city employees are hired/fired by the city manager. A department head makes recommendations, however final determination rests with the city manager.</p> <p>Municipal Court falls under the oversight of the Finance Director. During evaluation of personnel, both the municipal judge and city prosecutor are contacted for comments. The municipal judge does not provide daily monitoring of municipal court staff.</p> <p>Regardless of the council's decision, this will result in changes.</p>	<p>City authority over the municipal division is limited since the court, once established, is not part of the city or town administration subject to the supervision of city officials or managers.</p> <p>The Missouri Constitution mandates that all state courts are part of the judicial branch of state government, and ultimately accountable to the Supreme Court of Missouri. By law, municipal courts are divisions of the circuit court and therefore subject to the direct oversight of the presiding judges of the circuit courts.</p> <p>How can the judge supervise an employee he only sees 4 hours per week? I am not aware of Judges Dolan or Reeves overseeing any activities of the municipal court previously.</p>
Officer attendance at trials	<p>It has been suggested that officers will have to be on the road more than they are now for court hearings. Officers are only required to be in court for trials. In 2018, Sikeston Municipal Court held 3 trials, in 2019 there were 5 and in 2020 there were 4. There have been no trials in 2021.</p> <p>Currently, 2 officers must drive to and from Benton, or wherever our prisoners are being held, as we do not have a jail. The transport of prisoners is more time consuming than court appearances.</p>	If subpoenaed, officers will attend court. If there is no trial, they will not be required to attend.

SUPREME COURT RULE 37 AND NEW MUNICIPAL COURT MINIMUM OPERATING STANDARDS

The Missouri Supreme Court recently issued its Order amending subdivision 37.04 of Missouri Supreme Court Rule 37, adding an appendix establishing minimum operating standards for municipal courts. The amended Rule reaffirms the importance of maintaining divisions between the judicial and executive/legislative branches of the City or town, i.e., elected and appointed officials, and in particular the Police Department and the Prosecuting Attorney's Office, on the one hand, and the municipal court on the other.

Much of the amended Rule 37.04 and the minimum standards merely restate the law currently in effect. However, there are a number of new requirements that municipalities need to be aware of and begin implementing as quickly as possible. The key changes involve:

- a. separation of court personnel from other municipal functions;
- b. clear identification of court operations and space as distinctly judicial (at least when it is being used by the court); and
- c. maintaining nearly full-time court clerk availability.

Municipalities should not wait until July before beginning to make the necessary changes to achieve compliance. In fact, despite the Rule's effective date being July 1, 2017, OSCA has indicated that the appendix and, therefore, the minimum standards, became effective immediately. As such, it would be prudent for municipal judges to submit to the presiding judge of their circuit the certification of compliance with minimum operating standards as set forth in the appendix by Jan. 1, 2017.

THE NEW MINIMUM STANDARDS

The Supreme Court adopted ten "Minimum Standards" along with numerous other requirements through the amended Rule 37 and its appendix. Much is merely a restatement of existing rules and state statutes¹ that have previously been

“... it would be prudent for municipal judges to submit to the presiding judge of their circuit the certification of compliance with minimum operating standards as set forth in the appendix by Jan. 1, 2017.”

adopted. The new Rule 37.04 provides that the presiding judge of the circuit shall have the superintending authority over the municipal courts within its circuit. The appendix to the Rule adopts the substantive material relative to municipal court operations.

Standard #1: “Municipal divisions shall ensure that when individuals must be held in jail in the interests of justice, this is done strictly in accordance with the principles of due process of law.”

Pursuant to this provision, municipal courts are required to comply with Section 479.360.1 RSMo, which mandates the following:

1. Procedures are in place to prevent defendants from being held longer than 48 hours on minor traffic violations and 72 hours on other violations without being heard by a judge in person, by telephone or via video conferencing.
2. The Municipal Court must make “reasonable efforts” to communicate to the Police Department the “24-hour rule,” i.e. Defendants are not to be held more than 24 hours without a warrant after arrest. See 544.170.1 RSMo.
3. No jail to coerce payment of fines and costs unless the Court has found the Defendant in contempt pursuant to the procedure prescribed by Rule 37.65.
4. No additional charge of Failure to Appear for a minor traffic violation.
5. The municipal court must have a duty judge available at all times.
6. Bond schedules may only be used under certain circumstances, which is where an individual is arrested without a warrant and held less than 24 hours pursuant to Sections 479.360.1(2) and 544.170(1) RSMo, and Rule 37.17.
7. Warrants may only be issued upon a finding that reasonable grounds exist to believe that the Defendant

will not appear upon a summons or that the accused poses a danger to a crime victim, the community, or any other person. Rule 37.43(b).

8. Warrants must be signed by the Judge, unless the Clerk is authorized to sign them consistent with Rule 37.45(b)(6).
9. The Municipal Court must have a procedure in place to ensure that when a case is dismissed or otherwise finally resolved, or when the circumstances authorizing the issuance of a warrant no longer exist, the Judge recalls and cancels any outstanding warrants as soon as practicable.
10. No confinement for "minor traffic violations" or "municipal ordinance violations" as defined in 479.350 RSMo with limited exceptions.
11. Strict adherence to procedures before allowing confinement for non-payment of fines and costs. Rule 37.65 details the procedure that must be followed.

Standard #2: "Municipal divisions shall inquire of defendants and allow them to present information about their financial condition when assessing their ability to pay and establishing payment requirements for monies due."

The Municipal Court must be in compliance with several of the requirements set forth in Section 479.360.1 RSMo, namely: a. Procedures exist to conduct indigency hearings; b. Alternative payment plans are utilized, and; c. a Community

Service option is offered with no fees. The Court must have procedures in place to stay execution of fines and costs or utilize installment payment plans. If probation fees are assessed, the Court must consider defendant's financial status when assessing probation fees and advise defendants of their rights to have individualized consideration of ability to pay.

Standard #3: "Municipal Divisions shall not condition an indigent defendant's access to a judicial hearing or the granting of probation upon the payment of fines or fees."

No fee for trial de novo fee to be assessed if defendant is indigent. No prepayment of any fee is to be charged to a defendant requesting a jury trial. Probation may not be conditioned upon defendant's ability to pay authorized probation fees and surcharges.

Standard #4: "Municipal Divisions shall neither assess nor collect unauthorized fines, costs, or surcharges."

1. Fines and costs assessed on "minor traffic violations" cannot exceed \$225.
2. Fines and costs assessed on "municipal ordinance violations" must comply with the schedule in 479.353(1) (b) RSMo, which is: (1) \$200 for a first offense; (2) \$275 for a second offense; (3) \$350 for the third offense; and (4) \$450 for the fourth and any subsequent offense within any 12 month period.
3. Fines shall not exceed the amounts authorized by law.



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requirements for all municipal judges (including provisional and special judges). Judges who are lawyers are required to complete (and provide documentation of completion to the presiding judge): An orientation course completed within 12 months of beginning to serve as a Judge, 5 hours of judicial CLE annually, and 2 hours of judicial ethics CLE annually. There is also specific study for non-lawyer judges.

7. Municipal Judges, including substitute or provisional, are to provide a copy of their CLE compliance form to the Presiding Judge of the Circuit Court.

Standard #6: "Municipal divisions shall be operated in a manner reasonably convenient to the public and in facilities sufficient to the purpose."

1. Courtrooms must be open to the public and large enough to reasonably accommodate the public, parties and attorneys.

2. Procedures must exist for payment of fines and costs electronically online or by mail for all minor traffic violations.

3. Must make available free online access to information regarding pending cases, warrants and dockets or must be actively pursuing court automation.

Standard #7: "Municipal divisions shall be operated in a manner that upholds the constitutional principles of separation of powers and integrity of the judiciary as a separate and independent branch of government."

This is probably the most significant Standard under the new Rule 37, and the one that requires the greatest amount of consideration to ensure compliance.

1. Court personnel cannot perform any other functions for the municipality that constitute an actual or apparent conflict of interest. Work for the police or prosecutor by the court clerk is specifically described as such a conflict. In its November revision, the Court stated that the clerk can perform other work for the municipality so long as there is no actual or apparent conflict. This should involve a specific consideration as to whether other tasks required of clerks cause the appearance of a conflict. This may require a major reorientation of clerks and duties compared to what may be present practice.

2. Court personnel when performing court-related functions work solely under the direction and supervision of the judge.

3. Judges and court personnel are not subject to informal pressure, discipline, firing or threats of non-retention or non-reappointment resulting from the performance of judicial duties in a manner that upholds independence of the judiciary.

4. Only court costs authorized by state law are permitted. Comment - The Rule allows for the OSCA Bench Card on municipal court costs to be used as a reference, which is available at <http://www.courts.mo.gov/file.jsp?id=38954>.

5. No Dismissed on Payment of Costs (DPC) permitted.

6. Court costs are not assessed against indigent defendants. Comment - The Supreme Court has already issued a model local rule 69.01 designed to determine indigent status.

7. Courts must offer "no fee" community service.

Standard #5: "All municipal judges shall be lawfully selected, lawfully authorized to act in specific cases, and adequately prepared for their duties through appropriate training and continuing education."

1. All municipal judges, including provisional judges, must be selected pursuant to municipal ordinance or charter.

2. Mechanism must be in place to check for judicial conflicts by Rule 37.53(b)(2).

3. The Municipal Judge must comply with Rule 37.53(d) and Section 479.230 RSMo when a change of judge request is granted or the judge recuses him or herself.

4. Once a motion to disqualify, motion for jury trial or motion for trial de novo is filed, the Judge complies with all rules relative to the limitation of their authority and only acts within the scope of their powers and when they have subject matter jurisdiction.

5. All trial de novo requests must be certified to Circuit Court within 15 days.

6. Specific minimum training and continuing education

4. Judges and court personnel are not subject to informal pressure, discipline, firing or threats of non-retention or non-reappointment that are designed to encourage or require the court to operate in such a way as to maximize revenue or to meet specified revenue targets, whether stated or not.
5. Municipal court facility must be designed in such a way as to convey an appearance that it is a separate and independent branch.

Standard #8: “Municipal divisions shall be operated in accordance with the constitutional principles and legal requirements of open courts and open records.”

1. Again, the courtroom needs to be large enough to reasonably accommodate the parties, attorneys and the public. Also, must be open to people of all ages.
2. Municipal Court must maintain a clerk’s office that is open and accessible to the public at least 30 hours per week during regular business hours for the purpose of paying fines and providing information. This was revised in November to provide that the Clerk may provide service up to 15 of the 30 hours per week by telephone, email or other electronic communication, if the Court does not have sufficient staff.
3. Municipal Court must allow access to open court records in accordance to Supreme Court Operating Rules 2 and 4.

Standard #9: “Municipal divisions shall advise litigants of their rights in court.”

Defendants must be advised of all their rights and a “Notice of Rights in Municipal Division,” in a form approved by or substantially similar to that approved by the Supreme Court must be provided to all defendants. The notice must also be prominently displayed at the Clerk’s office and in the courtroom. The notice must be printed as a handout and on the city’s website. The Judge’s announcements must be heard in the courtroom and to those waiting outside.

Standard #10: “Municipal divisions shall be well-managed and accountable to the law, with appropriate oversight of municipal division operations provided by the circuit court presiding judge of the judicial circuit.”

This standard restates early requirements but also requires:

1. By January 1st and July 1st of every year (starting 2017), every Municipal Judge must certify that they are in compliance with the minimum operating standards and must complete and submit a “Minimum Operating Standards Form” to the presiding judge.
2. Municipal Courts must maintain a Clerk’s office that



organizes and preserves judicial records and that handles bookkeeping and money handling obligations in compliance with recommendations from the Office of State Courts Administrator (OSCA) and the Missouri State Auditor’s Office.

3. The Judge must certify substantial compliance with 479.301.1(subsections 1 to 10) RSMo.

Additional Requirements: The appendix to Rule 37 also spells out that the Municipal Court must be aware of the following statutory and rule requirements, which are summarized as follows: *Chapter 479 RSMo*:

- Municipal Courts in certain larger charter cities (St. Louis City, Kansas City and Springfield only²– see Section 479.011 RSMo) can hold administrative hearings in limited circumstances.
- Judges cannot serve as Judge in more than 5 municipalities.
- The municipality must notify the Circuit Clerk of the Court’s existence.
- Municipal Courts must employ their own staff.
- Fines and costs must be paid into the municipality’s treasury at least on a monthly basis.
- A monthly list of cases must be provided to the municipality within 10 days of the end of each month.
- The Judge must receive instruction on the laws related to intoxication-related traffic offenses.
- A written policy for reporting intoxication-related traffic offenses to the central repository must be adopted and provided to OSCA and the highway patrol.
- A Semi-annual disposition report of intoxication-

related traffic offenses must be provided to the Circuit Court en banc.

Supreme Court Rule 37:

1. All informations must be signed by the Prosecutor.
2. The violations bureau schedule of fines and costs must be prominently posted.
3. The Municipal Division must take reasonable steps to ensure that, where applicable, the accused is advised of the fine schedule at the time of receiving a violation notice.
4. If a violations bureau has been adopted, it must process only those violations authorized.
5. The Municipal Court must utilize a written "Waiver of Counsel" form.

Open Records and Other Recordkeeping Matters (Article I, Section 14 of the Missouri Constitution; Court Operating Rules 2, 4 and 8, and Sections 483.065, 483.075 and 483.082 RSMo)

1. The Municipal Court must maintain complete and accurate records.
2. The Municipal court must ensure proper disposition of all cases are documented and signed by the Judge, if required by law.
3. An information must be signed by the Prosecutor and filed in each case prosecuted. The Prosecuting attorney must review and sign all tickets and review and approve all amended and dismissed tickets.
4. All warrants must be signed by the Judge or the Clerk at the Judge's specific direction and issued timely.
5. The Municipal Court must have procedures in place to generate monthly reports of Court activity and submit such reports timely to OSCA and to the municipality.
6. The Municipal Court must regularly back up computer data and ensure it is stored in a secure off-site location and its recovery is tested on a regular basis.
7. The Municipal Court must require unique user IDs and passwords for each employee. User access must be periodically reviewed.

Financial and Bookkeeping (Section 483.075.1 RSMo):

1. The Municipal Court should segregate accounting duties to the extent possible. If not possible, then there must be periodic independent review of court records.
2. Accurate records must be maintained to account for all payments received and deposited. Receipts must be used and documented in all cases.
3. The Municipal Court must reconcile receipts to deposits.
4. The Municipal Court must perform monthly bank reconciliations.
5. The Municipal Court must develop procedures to ensure monthly distributions are made accurately and timely.

6. If payment plans are utilized, they must be in writing and signed by defendant.
7. The Municipal Court must maintain bond coverage for all personnel with access to Municipal Court monies.
8. The Municipal Court must ensure that all bond receipts are recorded and deposited in a timely manner.
9. The Municipal Court must develop procedures to identify and calculate the information required by 479.359 RSMo regarding limits on revenues derived from minor traffic and municipal ordinance violations.

Although the Rule and appendix is lengthy, most municipalities will find that they may already be in compliance with many aspects. Municipal courts and municipalities should begin working immediately on obtaining compliance with those provisions that do require changes in the way the municipal court is currently operating. Municipalities need to ensure that there is separation of Court personnel from other functions, clear identification of Court operations and space as distinctly judicial (at least when it is being used by the Court), and nearly full-time Court Clerk availability. 🍋

Kenneth J. Heinz , Keith Cheung and Ed Sluys are Principals with Curtis, Heinz, Garrett & O'Keefe, P.C. Heinz serves as general counsel for several communities. Cheung concentrates his practice in the areas of civil and commercial litigation, workers compensation, municipal and criminal law, as well as serving as general counsel to many small and mid-sized businesses. Sluys concentrates in the areas of municipal, public election, public utilities, commercial litigation and appellate law, as well as handling a variety of business transactions. Contact the firm at 314-725-8788 or www.chgolaw.com.

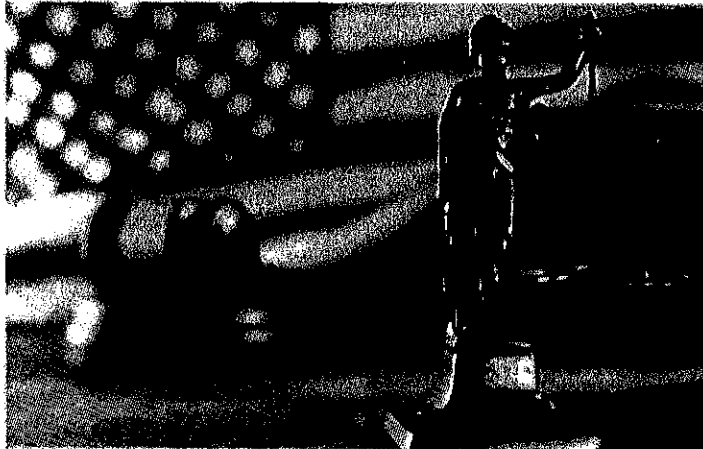
(Endnotes)

1 *Much of these statutory requirements stem from items enacted by Senate Bill 5 (2015), as amended by Senate Bill 572 (2016). Several of the provisions of Senate Bill 5 are subject to legal challenge, which is currently being considered by the Missouri Supreme Court.*

2 *There is a fourth category of Home Rule City that can hold administrative hearings, which are cities having a population between 73,500 and 75,000 inhabitants. As of the 2010 census, no city in Missouri fell within that range. This range was adopted after the 2000 census, but before the 2010 census. The City of St. Joseph had a population of 74,078 as of the 2000 census, so it appears as if this was intended to be the fourth municipality that can hold administrative hearings in limited circumstances.*



Missouri Courts A Guide to Municipal Divisions in Cities and Towns



Questions & Answers for City Officials

- Legal Status of Municipal Divisions
- Responsibility and Authority of Judges
- Fines, Fees, and Bail Determination
- Management of Staff by the Court
- Minimum Operating Standards
- Courthouse Facilities and Security
- Police, Prosecutor, Court Interaction

Working with Municipal Divisions of the Circuit Court

LEGAL STATUS: The Missouri Constitution mandates that all state courts are part of the judicial branch of state government, and ultimately accountable to the Supreme Court of Missouri. By law, municipal courts are divisions of the circuit court and therefore subject to the direct oversight of the presiding judges of the circuit courts.

JUDGE AUTHORITY: Municipal judges are required to administer their divisions as independent courts of law. In that role, judges are obligated to monitor and manage the operations, staff, budget, space, records, and security of the court. They cannot delegate those duties to city officials.

FINES, FEES: Municipal divisions can only collect fines, fees and surcharges for traffic and ordinance violations as permitted by law. For minor traffic violations, fines and fees cannot exceed \$225 per charge. Courts should be entirely and sufficiently funded from general revenue sources apart from fines and fees levied and collected by the court. Under no circumstances should judicial or court performance be measured by or related to revenue generation.

BAIL: Municipal divisions should use a certified risk assessment questionnaire to aid in pretrial release decisions. No one should remain in custody because they are indigent and cannot afford to post bail. Release decisions must be made by a judge within 24 hours of an arrest if the arrest is not the result of a warrant. According to law, if an arrest is the result of a warrant, the defendant must be brought "as soon as practicable" before the court that issued it.

BUDGETING: The municipal division budget should be developed by the presiding municipal judge and chief court clerk or court administrator and submitted to city management in the same fashion as other major city agencies. The presiding municipal judge should be given the opportunity to formally present the court's budget to the mayor and city council. The city has the responsibility to conscientiously fund the court without regard to the fines and fees generated by the court.

The city should provide funding for the court in a manner that allows the presiding municipal judge budgetary discretion similar to the city manager or the chief executive officer of a municipality. This will prevent placing a city official in the role of approving the court's expenditures.

COURT EMPLOYEES: Full, part-time and temporary court employees are subject to the control of the court. The presiding municipal judge or designee should have exclusive authority to employ, supervise, discipline or remove court employees under applicable city policies that do not conflict with the independence of the court.

POLICE AND PROSECUTORS': It is essential that the court function independently from other city justice system agencies, most notably the police department and prosecutor's office. Therefore, no court employee is allowed to job share, split duties or work for a city agency, office or individual that is directly involved in the city's justice system other than the court. In small cities where there may not be full-time work for all court employees, court staff may be permitted to also work part-time for a non-justice system city agency (e.g. public works, planning and zoning, parks and recreation, etc.). Prior to allowing such an arrangement, however, the presiding municipal judge should formally approve any such employment in advance and in writing.



**More than 73% of all criminal and traffic cases filed in Missouri State and local trial courts in FY 2017 were filed in municipal divisions.
Source: Missouri Office of the State Courts Administrator (OSCA)**

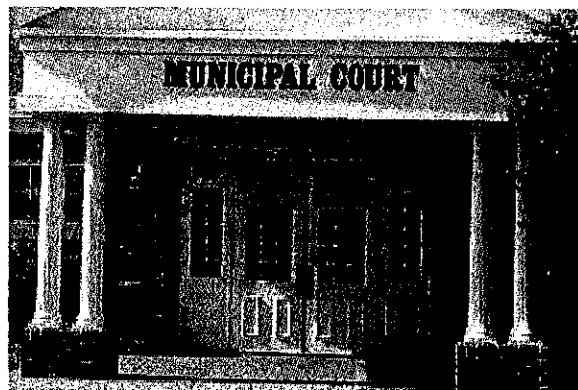
CITY ADMINISTRATION: City authority over the municipal division is limited since the court, once established, is not part of the city or town administration subject to the supervision of city officials or managers. Rather, it is part of the Judicial Branch of Missouri and required to operate as an impartial, unbiased tribunal. Any actions that interfere or may be perceived as interfering with the court's impartial performance of its duties such as improper contact with judges or court staff regarding pending court matters are prohibited.

JUDICIAL PERFORMANCE REVIEW: Where municipal judges are appointed by city officials rather than elected, it is recommended that such appointments and reappointments be based upon merit after a formal, objective review process. During an appointed judge's contractual term of office, the judge may only be removed with sufficient cause. At the end of a term, an appointed judge may be removed without cause.

CONFLICTS OF INTEREST: Clerks of the court, court administrators, and other full-time, part-time, or temporary nonjudicial court employees are governed in their behavior on or off their jobs by a Code of Conduct for Municipal Division Employees established by the Missouri Supreme Court (Rule 37.04, Appendix B). It prohibits any conduct that could constitute an actual or apparent conflict with the impartial performance of their court duties.

COURT FACILITIES: The court facility's exterior and interior design, functionality and signage must clearly convey an appearance that it is a separate and independent branch of government operating under the authority of the Missouri Supreme and Circuit Courts. Court offices should normally be open and available for public business at least 30 hours per week. Where cities are small and sparsely populated, court offices may be permitted more reduced hours of operation upon the formal approval of the presiding circuit court judge of the district in which the municipality is located.

COURT SECURITY: The city is responsible for providing court facilities and other resources to ensure a safe environment for judges, staff and the public. The presiding municipal judge is duty bound to assess and bring about reasonable and adequate procedures, technology, security staffing and architectural features that provide for a safe environment.



Although judges may be appointed by city governments, they are not agents of the city. They are officers of the courts of the State of Missouri. They, and the court staff under their control, are required to operate impartially while maintaining a cooperative relationship with the city. This means municipal divisions are not subject to the supervision of city management in their judicial and court related duties or activities.

Council Letter

Date of Meeting: July 22, 2021

Originating Department: City Manager

To the Mayor and City Council:

Subject: Purchase of 919 E Malone

Attachment(s):

1. Emergency Bill Number 6237
2. Contract for Sale of Real Estate

Action Options:

1. First and Second Reading, and Adoption, of Emergency Bill 6237
2. Other Action Council May Deem Necessary

Background:

For many years, the replacement of Fire Station 2 on North Main St has been identified as an urgent need. The interior of the building floods on a regular basis and the ability of the structure to survive a significant earthquake is doubtful. This centrally located station houses a full fire crew at all times, as well as crucial firefighting equipment and vehicles. In the FY22 budget, the city began budgeting the equivalent of an annual estimated debt service payment (\$212,808) to pay for a new station. To kick off the process we planned to obtain a preliminary architectural report and begin looking at potential properties for a new fire station location. The vacant lot at 919 E Malone was identified as an ideal location by Public Safety Department staff and the City Council authorized the mayor and staff to negotiate and enter into a contract to purchase the property. By adopting Emergency Bill 6237, the City Council will finalize authorization to purchase the property for a price of \$350,000 plus closing costs. The unbudgeted portion of the purchase price will be paid from the city's reserves, but will also reduce the amount that is ultimately debt financed.

AN EMERGENCY ORDINANCE AUTHORIZING THE CITY OF SIKESTON, MISSOURI TO ENTER INTO A CERTAIN REAL ESTATE CONTRACT WITH W & Z REAL ESTATE LLC AND FURTHER PROCEED WITH THE REAL ESTATE CLOSING ON SAID PROPERTY.

WHEREAS, the City Council finds and determines that it is necessary and desirable to purchase from W & Z REAL ESTATE LLC. certain property for future city use.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIKESTON, MISSOURI, AS FOLLOWS:

SECTION I: Authorization of Documents. The City is hereby authorized to enter into the following documents (the “City Documents”), in substantially the form presented to the City Council and attached to this Ordinance, with such changes therein as are approved by the officials of the City executing the documents, such officials’ signatures thereon being conclusive evidence of their approval thereof:

- (a) Contract for Sale of Real Estate.
- (b) Settlement Statement, Title Affidavits, and any and all other necessary closing documents to facilitate a clear title transfer of the property.

SECTION II: Execution of Documents. Upon the compliance by all parties, which includes the payment of the purchase price and any closing costs by the City of Sikeston, with the terms of the contract and any associated closing documents the Mayor is hereby authorized to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the closing of the contract and the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION III. Further Authority. The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the City Documents.

SECTION IV. Any other ordinance or parts thereof inconsistent herewith are hereby repealed.

SECTION V. Should any part or parts of this Ordinance be found or held to be invalid by any court of competent jurisdiction, the remaining part or parts shall continue in full force and effect.

SECTION VI: This Bill is being presented as an emergency bill so that it becomes effective upon its passage to comply with the Seller’s timetable for closing.

SECTION VII: Record of Passage:

A. Bill Number 6237 was introduced and read the first time this 22nd day of July, 2021.

B. Bill Number 6237 was read the second time and discussed on this 22nd day of July, 2021, and was voted as follows:

Sparks _____, Merideth _____, Teachout _____,
Williams _____, Baker _____, Self _____,
and Turnbow _____,
thereby being _____.

C. Upon passage by the City Council, this bill shall become Ordinance 6237 and shall be in full force and effect from and after its passage

GREG TURNBOW, Mayor

Approved as to Form:

SEAL/ATTEST:

TABATHA J. THURMAN, City Counselor

RHONDA COUNCIL, City Clerk

CONTRACT FOR SALE OF REAL ESTATE

This Contract made this 19 day of July, 2021, by and between **W & Z Real Estate LLC**, an Limited Liability Company organized and existing in the State of Missouri, of Scott County, Missouri, hereinafter referred to as "**Seller**", and **The City of Sikeston**, Missouri, hereinafter referred to as "**Buyer**".

WITNESSETH:

For and in consideration of the mutual covenants and obligations of the parties hereto, Seller does hereby agree to sell and Buyer do hereby agree to buy, on the terms and conditions hereinafter set out, the following described real property located in Scott County, Missouri, to wit:

A tract or parcel of land out of the center of Block Numbered Three (3) of the Chamber of Commerce Addition in the City of Sikeston, Scott County, Missouri, described by metes and bounds as follows: Beginning at an iron pipe which lies North 71 degree 15 minutes East, 146.1745 feet from an iron pipe at the Northwest corner of Block 3 in Chamber of Commerce Addition to the City of Sikeston, Missouri; thence continuing North 71 degrees 15 minutes East a distance of 257.651 feet to an iron pipe; thence South 18 degrees 45 minutes East a distance of 298.0 feet to an iron pipe; thence South 71 degrees 15 minutes West a distance of 257.651 feet to an iron pipe; thence North 18 degrees 45 minutes West a distance of 298.0 feet to the point of beginning, as shown by official plat of said addition filed in the Recorder's Office of said County and recorded in Plat Book 5 at Page 24 thereof.

Subject to all rights of way and easements, if any, affecting the same.

PROPERTY IS MOST COMMONLY KNOWN AS:

919 East Malone Street, Sikeston, Missouri 63801

TERMS AND CONDITIONS

1. **Purchase Price:** The purchase price of the property shall be the sum of \$350,000.00 payable by the Buyer to the Seller.

2. **Marketable Title:** The Buyer shall provide prior to the date of closing a commitment to issue a standard ALTA owner's policy of title insurance, if they so choose to order it. The commitment made hereunder shall be in the amount of the purchase price of the property, naming the Buyer as the insured and issued by a title insurance company licensed to write title insurance in Missouri, which policy shall insure the owner's title to be marketable in fact as called for by this Contract and shall provide that a policy shall be issued immediately after the Seller's general warranty deed to the Buyer place of record. Seller shall satisfy all title requirements on or before closing (exclusive of requirements pertaining to an obligation of the Buyer which shall be satisfied by the Buyer prior to closing), and Sellers shall correct all defects noted in said commitment which, if not corrected, would cause Sellers's title to be unmarketable.

It is understood and agreed that title herein required to be furnished is marketable title as defined in Title Standard 4 of the Missouri Bar. It is also agreed that any encumbrance or defect in the title which is within the scope of any of the Title Standards of the Missouri Bar shall not



constitute a valid objection on the part of the Buyer, provided the Sellers, on or before the date of closing, furnishes the affidavits or other title papers, if any, described in the applicable standard as correcting said defect.

The parties shall make a diligent, good faith effort to satisfy all title requirements and correct said defects, but if said requirements which are the Seller's obligation are not satisfied, title defects corrected and the liens of record removed, all on or before the date of closing, then this Contract may be terminated at the option of the Buyer, and in such event the earnest money deposit shall be paid to the Buyer, the sale expenses incurred shall be paid as provided in Paragraph 10 hereof, and thereafter neither party shall have any legal or equitable claims against the other party for matters arising out of this Contract.

3. Specific Conditions Precedent: None.

4. Taxes: Real estate taxes for 2021 shall be prorated at closing and paid by the Buyer at the end of the tax period.

5.. Risk of Loss: Seller shall maintain Seller's present insurance coverages on the commercial property until closing. In the event the commercial property suffers damage as a result of a fire or other casualty prior to closing, Seller shall restore the commercial property to its predamaged condition within twenty (20) days after the damage occurs and the closing shall be extended accordingly. If the damage cannot be repaired within twenty (20) days after the casualty occurs, the Buyer shall have the option of either (a) terminating this Contract by a written notice to Seller and being repaid the earnest money deposit in which event Seller will receive all insurance proceeds due as a result of the casualty, or (b) Buyer may complete this Contract according to its terms in

which event Buyer shall receive all insurance proceeds due as a result of said casualty.

6. Default: In the event that this Contract shall not close due to the fault of the Buyer, the Seller shall have the right, at the Seller's option, to file suit against Buyer to enforce this Contract by an action for specific performance or to recover the damages incurred by Seller as a result of the Buyer's default. If Seller does not file suit against Buyer for specific performance or to recover damages within ninety (90) days after the Buyer's default, the Seller shall be deemed to have elected to terminate this Contract.

In the event that this Contract shall not close due to the fault of the Seller, the Buyer shall have the right, at the Buyer's option, to file suit against Seller for the specific performance of this Contract or to recover the damages incurred by the Buyer as a result of the Seller's default. If Buyer do not file suit against Seller for specific performance of this Contract or to recover damages within ninety (90) days after the Seller's default, the Buyer shall be deemed to have elected to terminate this Contract.

In the event of litigation between the parties following a default by either party, the prevailing party shall have the right to recover from the non-prevailing party the court costs and reasonable attorney fees incurred by the prevailing party in such litigation.

The termination of this Contract pursuant to Paragraphs 2, 3 or 5 hereof shall not be considered a default by either party for purposes of this Paragraph 6.

7. Conveyance: At closing Seller shall convey the above-described real property in fee simple to the Buyer by a general warranty deed, free and clear of liens and encumbrances, but subject to the following:

a. Rights of way of streets, alleys and utilities, if any, of record and in being, over and across said lands.

b. Applicable subdivision restrictions and protective covenants and City building codes and ordinances.

8. Closing and Possession: This Contract shall be closed at SEMO TITLE on or before sixty (60) days from which the contract has been signed, at which time the deed shall be delivered and all monies paid as required herein. Time shall be of the essence in closing this transaction.

Possession shall be delivered to the Buyer at closing.

Buyer and Seller shall split equally all closing costs including the title work and title search fees.

9. Condition of Property: Seller shall maintain the property in its present condition until closing. Seller makes no representations, disclosures or warranties, express or implied, written or oral, concerning the condition of the property except as specifically stated herein.

10. Sale Expenses: The Buyer and Seller shall be responsible for paying the closing costs and recording fees and said fees shall be split equally and paid at closing.

11. Binding Agreement: This Contract shall be legally binding on the heirs, legal representatives and assigns of the parties hereto.

This Contract constitutes the entire agreement between the parties hereto and all prior agreements, written or oral, are merged herein. The terms of this Contract shall survive the delivery of the deed and possession. This Contract may only be modified by a written instrument executed by all parties hereto.

12. **Notices:** Notices to the parties required hereby shall be given in writing and shall be deemed given when delivered personally or when sent by U.S. mail, certified return receipt requested, postage prepaid and addressed as follows:

TO SELLER

W&Z Real Estate LLC
David Arthur Ziegenhorn, Trustee
101 Moore Ave.
Sikeston, MO 63801

TO BUYER

City of Sikeston
Greg Turnbow, Mayor
105 E. Center St., Ste A
Sikeston, MO 63801

13. **Facsimile Signatures:** "Facsimile Signatures" as that term is commonly used with reference to facsimile machines used in transmitting documents, will be deemed the same as original signatures except where original signatures are required for recording purposes.

14. **Escrow Account:** In the event of a dispute over the earnest money being held by the escrow agent, the parties agree that the escrow agent shall continue to hold said earnest money in the agent's escrow account until the escrow agent has a written release from all parties consenting to its disposition or until a civil action is filed to determine its disposition, at which time payment of the earnest money may be made into the Court less any reasonable attorneys fees, court costs and other legal expenses incurred by the escrow agent in connection with such dispute. The escrow agent may also initiate an interpleader action, in which case the reasonable attorney fees, court costs and other legal expenses incurred by the agent shall likewise be deducted from the earnest money at the time of filing the interpleader.

15. **Construction:** The captions and headings of this Contract are for convenience and



reference only, and shall not control or affect the meaning or construction of this Contract. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

16. **Applicable Law:** This Contract shall be governed by the laws of the State of Missouri.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written, executing this Contract separately in multiple counterparts, all of which in the aggregate shall be considered an original for all purposes.

SELLER:

DAVID ARTHUR ZIEGENHORN Printed
David Arthur Ziegenhorn, Member/Organizer

David Arthur Ziegenhorn
Signed

BUYER:

Greg Turnbow Printed
Greg Turnbow, Mayor

Greg Turnbow
Signed

DATED 7.19.2021

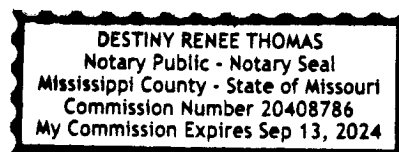
DATED 7/20/21

STATE OF Missouri)
COUNTY OR Scott) ss

David Ziegenhorn appeared before me today and signed the above Contract for Sale of Real Estate. Subscribed and sworn to before me this 19 day of July, 2021.

Destiny Renee Thomas
Notary Public

My commission expires: 9-13-2024



STATE OF Missouri)

) ss

COUNTY OF Scott)

Gregory Turnbow appeared before me today and signed the above Contract for Sale of Real Estate. Subscribed and sworn to before me this 10 day of July, 2021.

Destiny Renee Thomas
Notary Public

My commission expires: 9-13-2024

