

## CHAPTER IX. MUNICIPAL COURT

### Article 1. General Provisions

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#### ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Cheney, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1996)
- 9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 *et seq.* and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 1996)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates. (Code 1996)
- 9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court. (Code 1996)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation as shall be provided by ordinance, payable in the same manner as the compensation of the regular municipal judge.  
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed.  
(K.S.A. 12-4107; Code 1996)
- 9-106. SAME; POWERS AND DUTIES. The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 *et seq.*) and all acts amendatory or supplemental thereto. (Code 1996)
- 9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by ordinance. (Code 1996)
- 9-108. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Cheney, Kansas, which office shall be filled by appointment by the municipal judge of the municipal court. The duties of the office

shall be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:

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

(b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(c) The monthly salary of the clerk shall be fixed by ordinance.

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

(K.S.A. 12-4108; Code 1996)

9-109. PAYMENT OF FINE. Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine. (Code 1996)

9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 1996)

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

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

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic

citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.00.

(Code 1996)

9-112. COURT COSTS. The city adopts the following schedule of court costs and fees to be charged and collected in all actions and cases filed and docketed in the municipal court, excepting only, for those that resolve themselves by diversion or deferred prosecution:

(a) A cost of \$50.50 shall be assessed by the Municipal Court of the City of Cheney, Kansas against each accused person who enters a plea of guilty or nob contendere or is found guilty of any violation contained in any city ordinance and/or any section of the Code of the City of Cheney, Kansas except seat belt and parking violations. This cost shall be in addition to all state mandated costs and any costs assessed for a court appointed attorney, witness fees and mileage. This cost shall include a \$2.00 special assessment for the purpose of paying for the fees of court appointed attorneys in those cases in which the defendant is found not guilty or deemed indigent; a \$5.00 special assessment for police training; and a \$3.00 special assessment for court system enhancements. The amounts collected under these special assessments shall be placed in separate accounts to be used for the specified purpose only.

(b) Furnishing a certified transcript and/or record of conviction to be charged against the defendant if the case is appealed to the district court \$25.00.

(c) In any case which a witness is called by the city and the city is charged a fee by the agency employing the witness, the actual amount of the fee.

(d) In connection with the filing of petition for expungement of any municipal court conviction - \$100.00.

(e) As additional costs, the city shall add to the foregoing any costs or assessments required of or charged to the city by the State of Kansas or any other governmental agency or entity relating to the city's municipal court or the court's proceedings.

(C.O. No. 15, Sec. 2; Ord. 795, Sec. 1; Code 2008)

9-113. SAME. The city adopts the following schedule of court costs and fees to be charged and collected in all actions and cases filed and docketed in the municipal court for those that resolve themselves by diversion and deferred prosecution:

(a) In any case in which the defendant is approved for or placed in a diversion program, on a deferred prosecution docket (together with any additional cost charged to the city by the person or agency performing or assisting with the diversion procedure - \$500.00.

(b) In any case in which a pre-sentence investigation is conducted, (together with any additional costs or expenses charged to the city by the person or agency performing or assisting with the pre-sentence procedure) - \$150.00.

(c) Furnishing a certified transcript and/or record of conviction to be charged against the defendant if the case is appealed to the district court - \$25.00.

(d) In connection with the filing of petition for expungement of any municipal court conviction - \$25.00.

(e) As additional costs, the city shall add to the foregoing any costs or assessments required of or charged to the city by the State of Kansas or any other

governmental agency or entity relating to the city's municipal court or the court's proceedings.

(C.O. No. 15, Sec. 3; Ord. 795, Sec. 2; Code 2008)

9-114. WITNESS AND MILEAGE FEES. In addition to the costs set out above the municipal judge of the city is authorized to the power to access witness fees and mileage as follows:

(a) All parties shall be entitled to the use of subpoena to compel the attendance of a witness within the state. The municipal court judge or clerk of the court shall issue a subpoena which may be served by any law enforcement officer upon the name person. Disobedience may constitute contempt.

(b) Fees and mileage of subpoenaed witnesses shall be \$10.00 per day or any part thereof for appearance, together with a mileage allowance set in accordance with the standard mileage rate as established and allowed by the Internal Revenue Service for business deductions in the year in which the hearing is to take place, however, in no event shall the mileage allowance be less than \$0.22 per mile for miles actually driven over 10 miles. Mileage driven by a law enforcement officer to serve a subpoena or for service of a warrant or to transport a prisoner arrested or detained in the state under a warrant issued by the municipal court shall be charged at the rate of \$0.22 per mile actually driven over 10 miles outside of the city limits.

(C.O. No. 15, Sec. 4; Code 1996)

9-115. NON-PAYMENT. If the accused person is unable to pay the costs assessed against him or her, the cost shall remain a judgment against him or her which may be enforced as a judgment for payment of money in civil cases.

(C.O. No. 15, Sec. 5; Code 1996)

9-116. PAYMENT. All court costs and fees assessed hereunder are to be collected by the municipal court clerk and shall be maintained and paid by the municipal court as directed by the city council. (C.O. No. 15, Sec. 6; Code 1996)