

CHAPTER IX. MUNICIPAL COURT

Article 1. General Provisions

ARTICLE 1. GENERAL PROVISIONS

- 9-101 **MUNICIPAL COURT ESTABLISHED.** There is hereby established a municipal court for the City of Colwich, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 2004)
- 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, unless otherwise set forth herein. (Code 2004)
- 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 2004)
- 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 2004)
- 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 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. (Code 2004)
- 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. 12-4104 et seq.) and all acts amendatory or supplemental thereto. (Code 2004)
- 9-107 **SAME; SALARY.** The municipal judge shall receive a salary as shall be fixed by the governing body. (Code 2004)

9-108

COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Colwich, Kansas. 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 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 city will provide a bond covering the clerk of the municipal court. Such bond shall be in place within 10 days after selection and before entering upon the duties of office, 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.

(c) The salary of the clerk shall be fixed by the governing body.

(d) A vote of two-thirds 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. Supp. 12-4108; Code 2004)

9-109

PAYMENT OF FINE. Where a municipal court judgment against any person results in a fine and/or court costs, such shall be paid to the municipal court immediately on the rendition of judgment, or at such time as the judge shall determine. (Code 2004)

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 2004)

9-111

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

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

her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of this state.

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

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250. (Code 2004)

9-112

COURT COSTS. The City of Colwich, Kansas, by virtue of the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, has elected by Charter Ordinance to exempt itself from the provisions of K.S.A. 12-4112.

Therefore, the Governing Body of the City of Colwich will determine those costs to be assessed by the municipal court for the administration of justice in any municipal court case in which there is a finding of guilt, or a plea of guilty or no contest, or in which a diversion agreement is entered into by the parties, including costs associated with witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto; for the assessment required by K.S.A. 2001 Supp. 20-1a11, and amendments thereto; for the judicial branch education fund; for the assessment required by K.S.A. 12-4117 and amendments thereto for the law enforcement training center fund established pursuant to K.S.A. 74-5619 and amendments thereto, the local law enforcement training reimbursement fund established pursuant to K.S.A. 74-5620, and amendments thereto, and the juvenile detention facilities fund as provided in K.S.A. 12-4117, and amendments thereto; and for the assessment required by K.S.A. 12-16,119, and amendments thereto, for the detention facility processing fee.

Pursuant to such Charter Ordinance, in addition to any costs assessed for witness fees and mileage, the Colwich municipal judge shall impose such court costs as have been set by Resolution of the Governing Body of the City of Colwich.

The municipal court shall also assess such additional fees as such court is ordered to assess by the supreme court of the State of Kansas or the State Legislature.

(C.O. PASSED IN 2006, repealed all preexisting C.O.'s on this subject; Sec. 2; Code 2004)

9-113

SEVERABILITY. If any sentence, section, part or parts of this Article shall be held to be invalid such invalidity shall not affect the validity of the remaining sentences, sections, or parts of this Article.