

**BILL NO. 19-08**

**ORDINANCE NO. 1811**

**AN ORDINANCE AMENDING CHAPTER 12 – COURTS OF THE CODE OF ORDINANCES OF THE CITY OF PLEASANT HILL, MISSOURI TO REVISE THE CITY CODES AND BE IN COMPLIANCE WITH THE MANDATES OF THE STATE OF MISSOURI;**

**WHEREAS**, several state laws effecting court imposed penalties, notice requirements and municipal court procedures have become effective in recent years; and

**WHEREAS**, the proposed amendments to the Code of Ordinances, Chapter 12 bring the City's municipal court codes in compliance with revisions to state law; and

**WHEREAS**, the City Council believes the amendments to Chapter 12 are in the best interests of the citizens of Pleasant Hill and will promote consistent application of laws of the State by adopting these amendments to the Code of Ordinances of the City of Pleasant Hill, Missouri.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PLEASANT HILL, MISSOURI**, as follows:

**Section 1.** That Chapter 12 – Courts of the Pleasant Hill Code of Ordinances is hereby amended and revised with the additions in underline print and deletions with ~~strike through~~ notation as follows:

Chapter 12 - COURTS

FOOTNOTE(S):

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**State Law reference**— Courts generally, RSMo 476.001 et seq.; courts and attorney is municipalities generally, RSMo 98.030 et seq.; municipal and traffic courts, RSMo 479.010 et seq.; authority of special charter cities to establish municipal court and appoint municipal judge, RSMo 479.020; clerks of court, RSMo 483.010; court costs generally, RSMo 488.005 et seq.; court costs in certain cities, RSMo 488.2205 et seq.; evidence and legal advertisements, RSMo 490.010 et seq.; civil procedure and limitations, RSMo 506.010 et seq.; criminal procedure, RSMo 540.021 et seq.; erection and maintenance of city courthouses and jails, RSMo 71.300; establishment and maintenance of city jail in special charter cities with populations of less than 10,000, RSMo 81.090. [\(Back\)](#)

ARTICLE I. - IN GENERAL

Sec. 12-1. - Established.

There is established in this city a municipal court, a division of the 17th judicial circuit court of the state. This court is a continuation of the police court of the city as previously established, and is referred to in this chapter as the municipal court.

(Code 1994, § 22-1; Ord. No. 1067, § 1, 10-10-1978)

**State law reference**— ~~Authority of special charter cities to establish municipal court and appoint municipal judge~~ [Municipal judges, selection, tenure, jurisdiction, qualifications, course of instruction, § RSMo 479.020, RSMo;](#)

~~authority of municipalities to elect where violations of municipal ordinances may be heard~~Cities may elect where violations of municipal ordinances may be heard, § RSMo 479.040, RSMo.

Sec. 12-2. - Jurisdiction.

The jurisdiction of the municipal court shall extend to all cases involving alleged violations of the ordinances of the city.

(Code 1994, § 22-2; Ord. No. 1067, § 1(A), 10-10-1978)

**State law reference**— ~~Violations~~ of municipal ordinances, jurisdiction, ~~§ RSMo 479.010, RSMo.~~

Sec. 12-3. - Superintending authority.

The municipal court shall be subject to the rules of the circuit court of which it is a part, and to the rules of the state supreme court. The municipal court shall be subject to the general administrative authority of the presiding judge of the circuit court and the judge and court personnel of the municipal court shall obey directives of the presiding judge of the circuit court.

(Code 1994, § 22-3; Ord. No. 1067, § 1(F), 10-10-1978)

Sec. 12-4. - Warrants.

All warrants issued by a municipal judge shall be directed to the chief of police, or any other police officer of the city, or to the sheriff of the county. The warrants shall be executed by the chief of police, police officer or sheriff any place within the limits of the county and not elsewhere unless the warrants are endorsed in the manner provided for warrants in criminal cases and, when so endorsed, shall be served in other counties as provided for in warrants in criminal cases.

(Code 1994, § 22-4; Ord. No. 1067, § 4, 10-10-1978)

**State law reference**— ~~Issuance and execution of warrants~~Warrants, how issued and executed, § RSMo 479.100, RSMo.

Sec. 12-5. - Arrest without warrant.

The chief of police or other police officers of the city ~~may~~shall, without a warrant, arrest any person who commits an offense in his presence, but such officer shall, before the trial, file a written complaint with the judge hearing violations of municipal ordinances. ~~When an arrest is made without a warrant, the peace officer may accept bond within 24 hours of arrest in accordance with a bond schedule furnished by the court having jurisdiction. If the judge has not issued an arrest warrant within 24 hours of arrest, the peace officer shall release the accused from custody~~

(Code 1994, § 22-5; Ord. No. 1067, § 5, 10-10-1978)

**State law reference**— ~~A~~Procedure for arrest without warrants, procedure, § RSMo 479.110, RSMo.

Sec. 12-6. - Jury trial.

Any person charged with violation of a municipal ordinance ~~shall be entitled~~has a right to to a trial by jury as in prosecutions for misdemeanors before an associate circuit judge. Whenever a defendant accused of a violation of a municipal ordinance demands trial by jury, the municipal court shall certify the case to the presiding judge of the circuit court for ~~re~~assignment.

(Code 1994, § 22-6; Ord. No. 1067, § 6, 10-10-1978)

**State law reference**— ~~Similar provisions, Municipal judges, selection, tenure, jurisdiction, qualifications, course of instruction, § RSMo-479.020.(1), RSMo-(5); Trial by jury, certification for assignment – exception, Springfield municipal court, when, procedure, costs, § 479.150.1, RSMo.~~

Sec. 12-7. - Right of appeal.

~~(a) Where the judge is a non-lawyer, the defendant shall have a right to a trial de novo, even from a plea of guilty, before a circuit judge or an associate circuit judge. Such application for a trial de novo shall be filed within ten days after the judgment and shall be in the form as provided by supreme court rules.~~

~~(b) Where the judge is a lawyer, in~~ all cases tried before the municipal court, except where there has been a plea of guilty or where the case has been tried with a jury, the defendant shall have a right of 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 days after judgment and shall be filed in such form and perfected in such manner as provided by supreme court rules.

(Code 1994, § 22-7; Ord. No. 1067, § 12, 10-10-1978)

**State law reference**— ~~Similar provisions~~ Appeals, trial de novo, § RSMo-479.200, RSMo.

Sec. 12-8. - Appeal from jury verdicts.

~~In all cases in which a jury trial has been demanded, any case tried with a judge before an associate circuit judge~~ a record of the proceedings shall be made and appeals may be had upon that record to the appropriate appellate court.

(Code 1994, § 22-8; Ord. No. 1067, § 13, 10-10-1978)

**State law reference**— Appeals, trial de novo, § 479.200, RSMo.

Sec. 12-9. - Breach of recognizance.

In the case of a breach of any recognizance entered into before a municipal judge or an associate circuit judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the city 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 city treasury to the general revenue fund of the city.

(Code 1994, § 22-9; Ord. No. 1067, § 14, 10-10-1978)

Sec. 12-10. - Court administrator.

—The ~~city clerk~~ court administrator is designated as the court administrator clerk of the Pleasant Hill Municipal Court, a division of the 17<sup>th</sup> Judicial Circuit of Cass County, Missouri. The duties of the court administrator shall be to:

~~(1)~~

- (1) Collect such fines for violations of such offenses as may be described, and the court costs thereof.
- (2) Take oaths and affirmations.
- (3) Accept signed complaints from the municipal prosecutor and allow the same to be signed and sworn to or affirmed before him or her.
- (4) Under the seal of the court, Sign and issue subpoenas requiring the attendance of witnesses and sign and issue subpoenas duces tecum.
- (5) Accept ~~the~~ appearance, waiver of trial and plea of guilty and payment of fines and costs in traffic violation bureau cases or as directed by the municipal judge; ~~generally~~generally, to act as violation court administrator of the traffic violation bureau.
- ~~(6) Perform all other duties as provided for by ordinance, rules of practice and procedure adopted by the municipal judge and by the state's rules of practice and procedure in municipal and traffic courts and by statute.~~
- (67) Maintain, properly certified by the city clerk, a complete copy of the ordinances of the city, which shall constitute prima facie evidence of such ordinance before the court and, further, to maintain a similar certified copy on file with the court administrator serving the circuit court of the county.
- (7) Be present at all municipal court sessions and take oaths and acknowledgements
- (8) Maintain municipal court records as the municipal judge may director, or as established by the ordinances and laws of the city and state, which will include preparing the trial court docket, both traffic and other trial dockets of the court, transcripts, appeals and executions of sentences, collection of fines and costs, and transmitting same to the municipal judge or others provided by state statutes and ordinances of the city,
- (9) Collect fines and costs imposed by the municipal court and to account for those fines and costs according to rules of accounting and office practice and procedure as the same may be approved by the city director of finance, and
- (10) Perform all other duties as provided for by ordinance, rules of practice and procedure adopted by the municipal judge and by the state's rules of practice and procedure in municipal and traffic courts and by statute.

(Code 1994, § 22-10; Ord. No. 1067, § 17, 10-10-1978)

**State law reference**— Clerks of court, RSMo 483.~~246010~~.

Sec. 12-11. - Court costs.

- (a) In addition to any fine that may be imposed by the judge there shall be assessed as costs in all cases the amount authorized by state statute or Missouri Supreme Court Rules established by the city council for court costs; a surcharge for the cost of training of police officers; a surcharge for the peace officers' standards and training commission fund; a surcharge to fund operating expenses for qualified battered persons shelters; a surcharge for the sheriffs' retirement fund; issuance of warrants, commitments, summonses, or other orders of the court; mileage for each mile or fraction thereof that the officer travels, round trip, for service of warrants, commitments, summonses or other orders of the court; actual costs assessed against the city by the county for apprehension or confinement of the defendant; and such other costs or surcharges as may, from time to time, be authorized by the city council.
- (b) The court administrator shall collect the ~~additional~~ court costs provided for in this section and promptly disburse them no less often than monthly ~~to the city~~.

- (c) The city shall use the proceeds of these ~~additional~~ court costs only for the purpose for which they are collected, as authorized by the city council.

(Code 1994, §§ 22-11, 22-15; Ord. No. 1067, § 18, 10-10-1978; Ord. No. 1347, § 1, 9-12-1994; Ord. No. 1355, 2-13-1995; Ord. No. 1495, § 1, 6-25-2001)

**State law reference—** Court costs, RSMo 479.260.

~~Sec. 12-12.— Costs assessed against prosecuting witness.~~

~~The costs of any action may be assessed against the prosecuting witness and judgment be rendered against him that he pay the same and stand committed until paid in any case where it appears to the satisfaction of the judge that the prosecution was commenced without probable cause and from malicious motives.~~

~~(Code 1994, § 22-12; Ord. No. 1067, § 19, 10-10-1978)~~

Sec. 12-13. - Installment payment of fine.

When a fine is assessed for violation~~ing~~ an ordinance, it shall be within the discretion of the judge assessing the fine to provide for the payment of ~~thea~~ fine on an installment basis under such terms and conditions as ~~he~~~~they~~ may deem appropriate.

(Code 1994, § 22-13; Ord. No. 1067, § 20, 10-10-1978)

**State law reference—** ~~Authority, RSMo 479.240.~~[Fines, installments allowed, § 479.240, RSMo.](#)

~~Sec. 12-14.— Duties of city's prosecuting attorney.~~

~~It shall be the duty of an attorney designated by the city to prosecute the violations of the city's ordinances before the municipal judge or before any the associate circuit judge hearing such cases. The salary or fees of the attorney and his the attorney's necessary expenses incurred in such prosecutions shall be paid by the city. The compensation of such attorney shall not be contingent upon the result in any case.~~

~~(Code 1994, § 22-14; Ord. No. 1067, § 7, 10-10-1978)~~

**State law reference—** ~~Similar provision~~[Municipality to designate attorney to prosecute violations—duties, RSMo § 479.120, RSMo.](#)

Secs. 12-15—12-32. - Reserved.

ARTICLE II. - JUDGE

FOOTNOTE(S):

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**State Law reference—** Selection, tenure, jurisdiction, qualifications, and course of instruction for municipal judges, RSMo 479.020. [\(Back\)](#)

Sec. 12-33. - Selection.

The judge of the municipal court shall be known as a municipal judge of the 17th judicial circuit court, and shall be appointed by the city council to his-their position.

(Code 1994, § 22-36; Ord. No. 1067, § 1(B), 10-10-1978; Ord. No. 1338, 6-13-1994)

Sec. 12-34. - Term of office.

The municipal judge shall hold his-their office for a period of two (2) years. If for any reason a municipal judge vacates his-their office, his-their successor shall complete that term of office, even if the same is for less than two years.

(Code 1994, § 22-37; Ord. No. 1067, § 1(C), 10-10-1978)

Sec. 12-35. - Qualifications.

The municipal judge shall possess the following qualifications before he-they may assume and remain in office:

- (a1) He-They must be a licensed attorney licensed by the state of Missouri and qualified to practice law within the state of Missouri;
- (b2) The municipal judge need not reside within the city;
- (c3) The municipal judge must be a resident of the state of Missouri;
- (d4) The municipal judge must be between the ages of twenty-one (21) 21 and seventy-five (75) 70 years;
- (e5) The municipal judge may not serve as a municipal judge for any other municipality in more than five municipalities at a time;
- (f6) The municipal judge may not hold any other office within the city-government; and
- (g7) The municipal judge shall be considered 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.

(Code 1994, § 22-38; Ord. No. 1067, § 1(E), 10-10-1978; Ord. No. 1338, 6-13-1994)

Sec. 12-36. - Vacation of office.

The municipal judge shall vacate his-their office under the following circumstances:

- (a4) Upon removal from office by the State Commission on the Retirement, Removal and Discipline of Judges, as provided in Missouri Supreme Court Rule 12; or
- (b2) Upon attaining his-their seventy-fifth (75<sup>th</sup>) 70<sup>th</sup> birthday.

(Code 1994, § 22-39; Ord. No. 1067, § 1(D), 10-10-1978; Ord. No. 1338, 6-13-1994)

Sec. 12-37. - Powers and duties.

(a) The municipal judge shall be and is hereby authorized to:

- (1) Establish a traffic violations bureau as provided for in the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts and RSMo-Section 479.050, RSMo.
- (2) Administer oaths and enforce due obedience to all orders, rules and judgments made by him-them, and may fine and imprison for contempt committed before him-them while holding court, in the same manner and to the same extent as a circuit judge.
- (3) Commute the term of any sentence, stay the 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 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 hear and decide matters pending before the court and to implement and carry out the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts. Any and all rules made or adopted hereunder may be annulled or amended by an ordinance limited to such purpose; provided that such ordinance does not violate, or conflict with the provisions of the Missouri Rules of Practice and Procedure in Municipal and Traffic Courts or state statutes.
- (b) The municipal judge shall have such other powers, duties and privileges as are or may be prescribed by the laws of this state, this Code or other ordinances of this city.
- (Code 1994, § 22-40; Ord. No. 1067, § 2, 10-10-1978)

**State law reference**— Duties and powers of municipal judges, [§ RSMo 479.070, RSMo.](#)

Sec. 12-38. - Docket and court records.

The municipal judge shall be a conservator of the peace. ~~He~~They shall keep a docket in which ~~he~~they shall enter every case commenced before ~~him~~them and the proceedings therein and ~~he~~they shall keep such other records as may be required. Such docket and records shall be records of the circuit court of the county. The municipal judge shall deliver the docket and records and all books and papers of the municipal court, and all books and papers pertaining to ~~his~~their office, to ~~his~~their successor in office or to the presiding judge of the circuit.

(Code 1994, § 22-42; Ord. No. 1067, § 1(H), 10-10-1978)

Sec. 12-39. - Traffic violations bureau.

~~Should the~~The municipal judge may determine establish that there shall be a traffic violations bureau in the city and shall establish such a bureau when a request therefor is made by the city council. All expenses incident to the operation of the traffic violations bureau shall be paid by the city. If a traffic violations bureau is established, the city shall provide all expenses incident to the operation of the same. ~~The~~judge shall designate a clerk.

city clerk~~court administrator is hereby designated as the traffic violations clerk for the said bureau, if established.~~

(Code 1994, § 22-43; Ord. No. 1067, § 3, 10-10-1978)

**State law reference**— Municipalities may establish traffic violation bureau, procedure~~municipal authority to establish traffic violations bureau, § RSMo 479.050, RSMo.~~

Sec. 12-40. - Summoning of witnesses.

It shall be the duty of the municipal judge to summon all persons whose testimony may be deemed essential as witnesses at the trial, and to enforce their attendance by attachment, if necessary. The ~~witness~~fees of witnesses shall be the same as those fixed for witnesses in trials before associate circuit judges and shall be taxed as other costs in the case. When a trial shall be continued by the municipal judge it shall not be necessary to summon any witnesses who may be present at the continuance; but the municipal judge shall orally notify such witnesses as either party may require to attend before ~~him~~the municipal judge on the day set for trial to testify in the case and enter the names of such witnesses on ~~his~~their docket, which oral notice shall be valid as a summons.

(Code 1994, § 22-44; Ord. No. 1067, § 8, 10-10-1978)

**State law reference**— Similar provision~~Witnesses, how summoned, fees, § RSMo 479.160, RSMo.~~

Sec. 12-41. - Transfer of complaint to associate circuit judge.

If, in the progress of any trial before a municipal judge, it shall appear to the judge that the accused ought to be put upon trial for an offense against the criminal laws of the state and not cognizable before ~~him-them~~ as municipal judge, ~~he-they~~ shall immediately stop all further proceedings before ~~him-them~~ as municipal judge and cause the complaint to be made before some associate judge within the county.

(Code 1994, § 22-45; Ord. No. 1067, § 9, 10-10-1978)

**State law reference**— ~~Similar provisions~~ [Municipal judge without jurisdiction, when, procedure, § RSMo-479.170, RSMo.](#)

Sec. 12-42. - Imprisonment; location.

If, ~~in the opinion of the municipal judge,~~ the city has no suitable and safe place of confinement, the municipal judge may commit the defendant to the county jail, ~~or other suitable place for confinement,~~ and it shall be the duty of the sheriff, 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 ~~by law~~ to the sheriff for the keeping of ~~such other prisoners~~ in ~~his-their~~ custody. The same ~~may~~ shall be taxed as a cost, ~~as authorized by state statute.~~

(Code 1994, § 22-46; Ord. No. 1067, § 10, 10-10-1978)

**State law reference**— [Commitment in county jail, when – duty of sheriff](#) ~~Similar provisions,~~ [§ RSMo-479.180, RSMo.](#)

~~Sec. 12-43. – Parole and probation.~~

- ~~(a) Any judge hearing violations of municipal ordinances may, when in his 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. When a person is placed on probation he they shall be given a certificate explicitly stating the conditions on which he they are being released.~~
- ~~(b) In addition to such other authority as exists to order conditions of probation, the court may order conditions which the court believes will serve to compensate the victim of the crime, any dependent of the victim or society in general. Such conditions may include, but need not be limited to:~~
- ~~(1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and~~
  - ~~(2) The performance of a designated amount of free work for a public or charitable purpose(s) as determined by the judge.~~
- ~~(c) A person may refuse probation conditioned on the performance of free work. If he they does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization or agency, or employee of the county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the person placed on parole or probation or any person deriving a cause of action from him them if such cause of action arises from such supervision of performance, except for intentional torts or gross negligence. The services performed by the probationer or parolee shall not be deemed employment within the meaning of the provisions of RSMo ch. 288 Chapter 288 of the Revised Statutes of Missouri.~~
- ~~(d) The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.~~

~~(Code 1994, § 22-47; Ord. No. 1067, § 11, 10-10-1978)~~

~~State law reference— Authority: Parole or probation, when granted— certificate— conditions of probation— modification of conditions, § RSMo 479.190, RSMo.~~

Sec. 12-4~~3~~4. - Disqualification of judge.

- (a) A municipal judge shall be disqualified to hear any case in which ~~he~~ they is-are in any wise interested, or, if before the trial is commenced the defendant or the prosecutor files an affidavit that the defendant or the city, as the case may be, cannot have a fair and impartial trial by reason of the interest or prejudice of the judge.
- (b) Neither the defendant nor the city shall be entitled to file more than one affidavit or disqualification in the same case.

(Code 1994, § 22-48; Ord. No. 1067, § 15, 10-10-1978)

~~State law reference— Authority: Disqualification of judge, when, procedure, § RSMo 479.220, RSMo.~~

Sec. 12-4~~4~~5. - Substitute judge.

~~(a) (a) —~~ If a municipal judge is absent, sick or disqualified from acting, the mayor may request the presiding judge of the circuit court to designate any other municipal judge within the circuit to act as a special interim municipal judge. In cases of circumstances making it impossible to reach the presiding judge of the circuit court in a timely manner, the mayor may designate some competent, eligible person to act as municipal judge until the presiding judge of the circuit court can designate any other municipal judge within the circuit to act as a special interim municipal judge.

~~(a) —~~ Should may designate some competent, eligible person to act as municipal judge until such absence or disqualification shall cease; provided, however, that should a vacancy occur in the office of municipal judge more than six months before the end of the judge's appointed term, the office may be filled by a competent, eligible person designated by the mayor.

(b) The compensation of any person designated to act as municipal judge under the provisions of this section shall be as set by the city council from time to time. city council shall provide by ordinance for the compensation of any person designated to act as municipal judge under the provisions of this Section.

(Code 1994, § 22-49; Ord. No. 1067, § 16, 10-10-1978; Ord. No. 1338, 6-13-1994)

~~State law reference— Authority: Absence of judge, procedure, § RSMo 479.230, RSMo.~~

~~Sec. 12-46.— Summary contempt.~~

~~A criminal contempt may be punished summarily if the judge certifies that he they saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court, and in all instances of failure to obey a properly served subpoena or lawful order of the court. The order judgment of contempt and the order of commitment shall recite the facts and shall be signed by the judge and entered of record.~~

~~(Code 1994, § 22-50; Ord. No. 1070, § 1, 11-14-1978)~~

~~Sec. 12-47.— Contempt proceedings upon notice.~~

~~A criminal contempt, except as provided in Section 12-46, shall be prosecuted on notice. The notice shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. Such procedure is to be utilized in matters also involving failure to obey a lawful order of the court, such as failure to pay imposed fines. The notice shall be given orally by the judge in open court in the presence of the defendant or, on application of the prosecutor or of an attorney appointed by the court for that purpose, by an order to show cause or an order of arrest. The defendant is entitled to admission to bail. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a finding of guilt, the court shall enter an order reciting the essential facts constituting the criminal contempt and fixing the punishment. recite in the judgment of contempt and in the order of commitment the essential facts constituting the criminal contempt and fixing the punishment.~~

~~(Code 1994, § 22-51; Ord. No. 1070, § 2, 11-14-1978)~~

Secs. 12-48—12-67. - Reserved.

### ARTICLE III. - PROCEDURE

#### DIVISION 1. - GENERALLY

Sec. 12-68. - Summons.

~~When an information charging the commission of an ordinance violation and a statement of probable cause are filed pursuant to Missouri Supreme Court Rule 37, a summons shall be issued unless the judge finds that there are sufficient facts stated to show probable cause that an ordinance violation has been committed and there are reasonable grounds for the court to believe that the accused will not appear upon the summons, or a showing is made to the court that the accused poses a danger to a victim, the community or any other person. A summons instead of a warrant may issue on the filing of a complaint or information charging the commission of an offense if the judge or prosecutor has good reason to believe that the accused will appear in response thereto.~~ In any case in which it is lawful for an officer to arrest a person without a warrant, he may serve such person with a summons instead of arresting the accused. The summons shall describe the offense charged and shall command the accused to appear before the court at a stated time and place in answer to such charge. The summons may be served in the same manner as a summons in a civil action. If the accused fails to appear as commanded by the summons, an additional summons may be issued, or a warrant of arrest if authorized by statute ~~statutes shall be issued.~~

~~(Code 1994, § 22-71; Ord. No. 1069, § 7, 11-14-1978)~~

Sec. 12-69. - Warrant; issuance; form.

Any warrant issued upon an information charging the commission of an offense may be issued under the hand of the judge of the court issuing the same, or of the clerk of the court if authorized, if the information is filed by the prosecutor. The warrant# shall contain the name of the ~~accused-defendant~~ or, if ~~his-their~~ name is unknown, any name or description by which the ~~accused-defendant~~ can be identified with reasonable certainty. It shall describe the offense charged in the information. It shall state the date when issued and the jurisdiction where issued. It shall command that the defendant named or described therein be arrested and brought forthwith before the court designated in the warrant. It shall specify the conditions of release and be signed by the judge or by a clerk of the court when directed by the judge for a specific warrant. If such warrant is issued under the hand of the judge, it need not be sealed, but if it is issued under the hand of the clerk of the court, the seal of the court, if such court has an official seal, shall be attached thereto.

~~(Code 1994, § 22-72; Ord. No. 1069, § 8, 11-14-1978)~~

**State law reference**—Warrants, how issued and executed, Similar provisions, § RSMo 479.100, RSMo.

Sec. 12-70. - Bail, commitment.

Any person arrested ~~without~~ upon a warrant ~~based upon an information charging the commission of an offense~~ shall be admitted to bail as provided in these rules. If the accused fails to furnish satisfactory bail in the required amount, he shall be committed to the county jail, the city jail, or other safe place, to be held for up to twenty-four (24) hours, unless an arrest warrant is issued until discharged by law. When an accused is committed because of failure to furnish satisfactory bail, the amount of bail required shall be endorsed on the warrant of commitment.

(Code 1994, § 22-73; Ord. No. 1069, § 9, 11-14-1978)

Sec. 12-71. - Warrant; arrested person brought before judge.

Persons ~~arrested in custody pursuant to an initial arrest under a warrant issued by a municipal court for any offense shall, as soon as practicable, shall have an opportunity to be heard by a judge in person, by telephone or video conferencing as soon as practicable but not later than forty-eight (48) hours on minor traffic violations and not later than seventy-two (72) hours on other violations. be brought before a judge or the court issuing the warrant or, if such judge is absent or his office vacant, then before the person authorized by law to preside in such court.~~ The warrant upon which the arrest was made, with a proper return thereon signed by the officer making the arrest, shall be delivered to the court.

(Code 1994, § 22-74; Ord. No. 1069, § 10, 11-14-1978)

Sec. 12-72. - Admission to bail.

The judge of the court issuing the warrant or the clerk of such court shall, at the request of the accused, admit him to bail in such sum as may seem sufficient and proper with sufficient security for his appearance at a time and place to be stated in the bond.

(Code 1994, § 22-75; Ord. No. 1069, § 11, 11-14-1978)

Secs. 12-73—12-102. - Reserved.

DIVISION 2. - INFORMATION AND COMPLAINTS

Sec. 12-103. - Filing to be done in municipal court having jurisdiction.

The city prosecutor ~~or other authorized official~~ may file an information ~~, or a complainant may make a complaint,~~ charging the commission of an offense ordinance violation based upon the prosecutor's information and belief that the ordinance violation was committed. ~~Such~~ The information ~~or complaint~~ shall be filed in the municipal court having jurisdiction to try the offense violation charged. ~~The prosecutor may issue a notice to the person charged, requesting his appearance before the prosecutor to determine whether or not an information should be filed based upon the complaint. The information shall be supported by a violation notice or statement of probable cause.~~

(Code 1994, § 22-86; Ord. No. 1069, § 1, 11-14-1978)

Sec. 12-104. - Warrant; arrest.

A complaint of the commission of an offense, verified by oath or affirmation, may be filed with the judge or court and the prosecutor is authorized to prosecute on such complaint with the filing of an information thereon. ~~The judge of the court, or the clerk, if a complaint or information is filed by the prosecutor, shall immediately issue a warrant for the arrest of the accused directed to any officer authorized by law to execute it, if such accused has not been taken into custody on summary arrest.~~ The prosecutor shall be promptly informed of any complaint filed whether or not a warrant has been issued thereon. After an investigation, if the prosecutor is satisfied that there are reasonable grounds to believe that an offense has been committed and that a case against the accused can be made, he shall file an

information with the judge or court founded upon or accompanied by such complaint. All traffic cases shall be prosecuted by information in the form provided in the rules of the state supreme court.

(Code 1994, § 22-87; Ord. No. 1069, § 2, 11-14-1978)

**State law reference**— ~~Authority~~ [Prosecutions based on information only, proceedings, § RSMo 479.090, RSMo.](#)

Sec. 12-105. - Form and signature.

The information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. In traffic cases such information or complaint shall be substantially in the form provided in V.A.M.R., as to such cases. An information or complaint shall be signed by the prosecutor ~~and a complaint by the complainant~~. Neither need contain a formal commencement, a formal conclusion or any other matter not necessary to such statement of essential facts. Allegations of one count may be incorporated by reference in another count.

(Code 1994, § 22-88; Ord. No. 1069, § 3, 11-14-1978)

~~Sec. 12-106. - Filing, signature, etc.~~

~~Information may be filed by the prosecutor or a complaint by the complainant with the court having jurisdiction of the offense charged or with the clerk thereof. An information shall be signed by the prosecutor and it shall be sufficient if he avers that the same is filed upon his official oath. A complaint shall be signed and verified by the oath of any person competent to testify as a witness in the case before any judge or court clerk who is authorized to administer an oath.~~

~~(Code 1994, § 22-89; Ord. No. 1069, § 4, 11-14-1978)~~

Sec. 12-107. - Joinder of counts, when permitted.

Counts may be joined in the same information for offenses arising out of the same general state of facts and circumstances.

(Code 1994, § 22-90; Ord. No. 1069, § 5, 11-14-1978)

Sec. 12-108. - Multiple defendants.

All persons charged with the joint commission of an offense may be charged separately or charged in one information.

(Code 1994, § 22-91; Ord. No. 1069, § 6, 11-14-1978)

**Section 2.** The following will be added to Chapter 2, Section V of the City of Pleasant Hill's Code of Ordinances in its entirety and titled "Duties of city's prosecuting attorney":

"It shall be the duty of an attorney designated by the city to prosecute the violations of the city's ordinances before the municipal judge or before the associate circuit judge hearing such cases. The salary or fees of the attorney and the attorney's necessary expenses incurred in such prosecutions shall be paid by the city. The compensation of such attorney shall not be contingent upon the result in any case."

State Law Reference – Municipality to designate attorney to prosecute violations – duties. § 479.120, RSMo.

**Section 3.** This Ordinance shall take effect and be in full force after passage and approval.

**Section 4.** That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Read and approved this \_\_ day of \_\_\_\_\_, 2019.

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Mayor: Mark Guffey

ATTEST:

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City Clerk: Jessica Elliott