

**ORDINANCE NO. 2728**

**AN ORDINANCE OF THE CITY OF GARDNER, KANSAS, AMENDING CHAPTER 2.50 OF THE GARDNER MUNICIPAL CODE RELATING TO MUNICIPAL COURT.**

WHEREAS, it is the intent of the City Council of the City of Gardner to accomplish a general housekeeping ordinance to amend Chapter 2.50 of the Municipal Code relating to Municipal Court,

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

**SECTION ONE:** Chapter 2.50 is hereby amended to read as follows:

2.50.010 MUNICIPAL COURT ESTABLISHED. There is hereby established a Municipal Court for the City of Gardner, Kansas. The Municipal Court shall have jurisdiction to hear and determine cases involving violations of the laws of the City.

2.50.020 MUNICIPAL COURT – PRACTICE AND PROCEDURES. The Kansas Code of Procedures 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.

2.50.030 APPOINTMENT OF MUNICIPAL JUDGE. The Municipal Court shall be presided over by a Municipal Judge who shall be appointed by the Mayor with the consent of the Council

2.50.040 POWERS AND DUTIES OF MUNICIPAL JUDGE. 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.

2.50.050 MUNICIPAL JUDGE PRO TEM. If the Municipal Judge is absent, sick, or disqualified from acting, the Judge shall appoint some suitable and proper person to be Municipal Judge pro tem until such absence, disability or objection shall cease.

2.50.060 PROSECUTING ATTORNEYS. The Prosecuting Attorneys shall be appointed by the Mayor with the consent of the Council, and shall prosecute all contested cases in Municipal Court and shall appear to prosecute such other cases as the judge of the Municipal Court shall deem necessary.

2.50.070 MUNICIPAL COURT SESSIONS. The Governing Body of the City of Gardner, Kansas, hereby establishes the second Tuesday and the Wednesday following the second Tuesday of each month, and the fourth Tuesday and the Wednesday following the fourth Tuesday of each month as the regular court sessions of the Municipal Court of the City of Gardner, Kansas, which shall be held at the Gardner Justice Center, 16540 Moonlight Road, Gardner, Kansas. The Municipal Judge may cancel court sessions or add additional court sessions as deemed necessary at any time.

2.50.080 MUNICIPAL COURT RECORD. All prosecution for violating any City ordinance shall be entitled, "The City of Gardner against \_\_\_\_\_," and the Municipal Judge shall state in his/her docket the name of the complainant; the nature or character of the

offense; the date of the trial; the names of all the witnesses sworn and examined; the findings of the Court; the judgment of fine and costs; the date of payment; the date of issuing commitment, if any; and every other fact necessary to show the full proceedings in such case. The procedure in the Municipal Court shall be as provided in the Laws of the State of Kansas.

2.50.090 FINE AND COSTS – HOW PAID. All fines, fees, penalties and court costs shall be paid to the Municipal Court, who shall receipt the funds on the appropriate case. Such receipt shall then be filed with the City of Gardner Fiscal Services division, who shall deposit the funds.

2.50.100 APPOINTMENT OF PUBLIC DEFENDERS. The Public Defenders shall be appointed by the Mayor based on the recommendation of the Municipal Court Judge. If it shall become necessary for the Municipal Judge of the Municipal Court of the City of Gardner, Kansas, to appoint counsel for indigent defendants pursuant to K.S.A. 12-4405, the appointed Public Defenders shall be paid on a monthly basis. The Public Defenders will represent Defendants in judicial proceedings in a competent, effective and ethical manner, when assigned by the Municipal Court Judge.

2.50.110 REWARDS PAID TO THE FISCAL SERVICES DIVISION. All money due to or received by the Chief of Police or any Police Officer on account of any reward accruing to him/her in consequence of any action in the line of duty shall be paid to the Fiscal Services Division and deposited to the credit of the general fund of the City.

2.50.120 MUNICIPAL COURT - COSTS.

- A. In each proceeding before the Municipal Court for the City of Gardner, Kansas, in which court costs are required or are determined to be assessed against a party, such court costs shall be in the amount of \$50.00, which shall include and not be in addition to any of the costs authorized by statute, as the same now provides or as the same may hereafter be amended, except for witness fees and mileage.
- B. In addition to the court costs provided above, the Municipal Judge may also assess witness fees and mileage costs which have been incurred and which are assessable against the defendant authorized by statute.
- C. The Governing Body of the City of Gardner, Kansas, does hereby establish a \$25.00 bench warrant fee, and the Municipal Judge is hereby empowered to assess said fee when the Municipal Judge orders a bench warrant.
- D. In case of extreme hardship, the Municipal Judge is hereby empowered to waive fines, fees, penalties, and court costs, or to permit the payment of same by installments.

2.50.130 CHARGE FOR RETURNED CHECKS. The City shall levy a charge of \$30.00 for all checks returned from the banks to the City for reasons of insufficient funds, account closed or stopped payment.

2.50.140 POSTING OF BONDS. All bonds for appearance in Municipal Court shall comply with this section.

- A. Persons Violating City Ordinance, Procedures, Right to Post Bond. Any person arrested or detained by a Police Officer of this City may be taken immediately by said Police Officer to the Police Station of the City or the office in said City designated by the Municipal Judge. At that time, such person shall have the right to post bond for his/her appearance in Court. However, if the Police Officer has probable cause to believe that such person may cause injury to himself, herself or others, or damage to property, and there is no responsible person or institution to which such person might be released, such person shall remain in the protective custody of the law enforcement officer, in the County Jail for a period not to exceed six hours, at which time such person shall be given an opportunity to post bond for his/her appearance. While so held in protective custody, every person shall be permitted to consult with counsel or other persons on his/her behalf. Any person who does not make bond for his/her appearance shall be placed in the County Jail, to remain there until he/she makes bond for his/her appearance, or appears before the Municipal Court at the earliest practical time.
- B. Appearance Bonds, Methods of Securing. A person having the right to post bond for appearance shall, in order to do so, execute in writing a promise to appear at the Municipal Court at a stated time and place. Such appearance bond shall be in an amount as determined by the Municipal Judge, and may be secured by any one of the following methods, and when so secured, said person shall be released from custody. The methods of securing the appearance of an accused person are as follows:
1. Payment of cash or credit card, except that the Municipal Judge may permit negotiable securities or a personal check in lieu of cash.
  2. The execution of an appearance bond by a responsible individual residing within the State of Kansas, as surety with the approval of the Municipal Judge.
  3. A guaranteed arrest bond certificate issued by either a surety company authorized to transact such business within the State of Kansas, or an automobile club authorized to transact business in this State by the Commissioner of Insurance, except that such "guaranteed arrest bond certificate" must be signed by the person to whom it is issued and must contain a printed statement that the surety guarantees the appearance of such person and, in the event of failure of such person to appear in court at the time of trial, will pay any fine or forfeiture imposed upon such person not to exceed an amount to be stated on such certificate.
- C. Taking of Cash Bonds. Said cash bond shall be taken in the following manner: The officer shall furnish the person halted a stamped envelope addressed to the Judge or Clerk of the Court named in the written notice to appear and the person shall place in such envelope the amount of the bond, and in the presence of the officer shall deposit the same in the United States mail. After having complied with such, the person halted need not sign the written notice to appear, but the officer shall note the amount of the bond mailed on the notice to appear form and shall give a copy of such form to the person. If the person halted furnished the officer with a guaranteed arrest bond certificate or

bank card draft, the officer shall give such person a receipt therefor and shall note the amount of the bond on the notice to appear form and give a copy of such form to the person halted. Such person need not sign the written notice to appear, and the officer shall present the notice to appear and the guaranteed arrest bond certificate or bank card draft to the Court as soon as reasonably possible.

D. Personal Recognizance. Notwithstanding the provisions above, a Police Officer may release an accused person from custody without requiring security for his/her appearance, and shall release such accused person without requiring security for the appearance, pursuant to any rule or order of the Municipal Judge.

E. Failure to Appear. In the event the accused person fails to appear at the time designated in the appearance bond, or at any subsequent time to which the appearance has been continued, the Municipal Judge shall declare the bond forfeited, except that, if it appears to the Court that justice does not require the enforcement of the forfeiture, the Court may set the same aside upon such conditions as the Court may impose. Where the forfeiture of a bond has become final, the Court shall direct the application of the funds or that suitable action be instituted for the collection from the sureties thereon or from the accused person. Upon collection of the forfeiture bond funds, the Municipal Court Judge or Court Clerk shall remit same to the Fiscal Services Division for deposit to the City general fund.

**SECTION TWO:** All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

**SECTION THREE:** This ordinance shall be effective from and after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED this 21st day of March, 2022.

/s/

Todd Winters, Mayor

(SEAL)

ATTEST:

/s/

Sharon Rose, City Clerk

Approved as to form:

/s/

Ryan B. Denk, City Attorney