

Introduced by: Council Members present

AN ORDINANCE AMENDING SECTION 13-52 OF THE MUNICIPAL CODE RELATING TO BAIL AND BONDS IN THE MUNICIPAL COURT

Whereas, Section 13-52 of the Municipal Code addresses “bail and surety” in the Municipal Court and has not been revised since prior to 1973; and

Whereas, the City seeks to ensure that the conditions of release imposed on individuals arrested by the Ferguson Police Department for ordinance violations or pursuant to a municipal arrest warrant issued by the Ferguson Municipal Court are consistent with the requirements of the United States Constitution, the rules of the Missouri Supreme Court, and other binding legal authorities, and that such conditions advance the City’s interests in protecting public safety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FERGUSON, MISSOURI, AS FOLLOWS.

Section 1. Section 13-52 of Chapter 13 of the Municipal Code is hereby repealed in full and held for naught. That section stated:

~~Sec. 13-52. Bail and surety.~~

- ~~(a) Any person arrested for a violation of this Code or of any ordinance or of the Charter may be admitted to bail by executing a bond to the city with sufficient surety. Any such bond shall be approved by the municipal judge, by the chief of police or by the clerk of the municipal court in the order named, of not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00), conditioned that such person will appear on a day therein specified, before the municipal court, to await his trial on the charges against him. All bonds taken shall be immediately filed with the clerk of the municipal court by the officer approving such bond, and the same shall be deposited in a safe place which is not accessible to the public.~~
- ~~(b) Procedures relating to bail and sureties shall be governed by supreme court rules nos. 37.95 through 37.111, which rules are hereby adopted by reference as the rules of the municipal court relating to bail and sureties.~~

In lieu thereof, the following section is hereby enacted:

Sec. 13-52 Conditions of Release and Bonds

- (a) All individuals arrested by the Ferguson Police Department for an initial violation of ordinance or an outstanding municipal warrant will receive a court date and be released on their own recognizance as soon as practicable after booking, and in any case within 12 hours of booking, except:
 - a. In circumstances where an arrestee has a documented history of failing to appear

for a required court appearance, an arrestee may be required to post an unsecured bond not to exceed \$200 prior to release. In such circumstances, the arrestee will first be provided with the option of pleading guilty and paying the amount of the fine in full without needing to subsequently appear in court, unless the arrestee is charged with an offense for which an in-person appearance is required. If the person cannot or does not elect to resolve the charge through payment of a fine, the arrestee will:

1. be assigned with a new court date;
2. be instructed that failure to appear as required may result in assessment of the amount of the unsecured bond;
3. be provided, prior to assessment of the bond, with a show cause hearing as to why the unsecured bond shall not be assessed; and
4. in no case be required to post payment of the bond amount prior to release; and

b. In exceptional circumstances where the release of an arrestee would present a risk to public safety, the arrestee may be held beyond 12 hours, provided that:

1. no person arrested pursuant to a municipal arrest warrant for a failure to appear or pay a court debt will be held beyond 12 hours;
2. the Chief of Police or his or her designee must authorize all detentions beyond 12 hours; and
3. any person held beyond 12 hours must be brought before a court within 24 hours of arrest.

(b) If any person who posts an unsecured bond, fails to appear in court on the assigned court date, and fails to provide good cause for such failure to appear, the Municipal Judge may order the assessment of the unsecured bond. Upon such order, the Clerk of the Municipal Court shall forward the unsecured bond documentation to the Department of Finance for civil collection and a setoff of the person's income tax refund in accordance with Sections 143.782 through 143.788 R.S.Mo.

(c) All bonds taken pursuant to Order of the Municipal Judge shall be immediately filed with the Clerk of the Municipal Court. Forms evidencing payment of such bonds shall be kept with the defendant's court file.

(d) The Municipal Judge shall establish conditions of release in any matter in which a person before the Municipal Court is arrested, including on any municipal arrest warrants issued by the Court. Such conditions shall be consistent with this section and all legal authorities, including the United States Constitution and Missouri Supreme Court Rules.

Section 2. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

1st reading: February 9, 2016 2nd reading: _____

PASSED BY THE CITY COUNCIL OF THE CITY OF FERGUSON ON THIS _____
DAY OF _____, 2016.

Mayor

Attest:

City Clerk