

Introduced by: Council Members present

AN ORDINANCE AMENDING SECTION 13-68 RELATING TO THE ASSESSMENT AND PAYMENT OF FINES IN THE MUNICIPAL COURT

Whereas, Section 479.360 R.S.Mo. requires the City to file a certification, signed by the Municipal Judge, with the State Auditor as part of its annual Financial Report, affirming that the Municipal Court has established procedures for all indigent defendants to present evidence of their financial condition; that the Municipal Court takes such evidence into account in determining fines and costs and establishing payment requirements; that the Municipal Court uses alternative payment plans and community service alternatives; and that the Municipal Court follows various procedures as set forth in Section 479.360 R.S.Mo.

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

Section 1. Section 13-68 of Chapter 13 of the Municipal Code of the City of Ferguson is hereby amended to read as follows:

Chapter 13	Court
Section 13-68	Consideration of indigence upon sentencing; installment payment of fines and alternative sentencing

A. The Municipal Judge shall establish procedures to allow indigent defendants to present evidence of their financial condition, including any pending debts, prior to sentencing, and thereafter as appropriate or as requested by a defendant. Defendants may present such evidence through the use of the model form established by the Missouri Office of State Courts Administrator, affidavit, or by other means approved by the Municipal Judge and consistent with law. Objective and consistent criteria will be established for proportioning fines, fees, and costs to a defendant’s income in cases where a defendant makes a sufficient showing of indigence. These criteria not only will take into account the income of the defendant, but will also consider any documented fines or fees owed to other municipal courts. The Municipal Judge shall affirmatively inquire as to a defendant’s financial capacity prior to initially assessing fines, fees, and costs. Where a showing of indigence is made, the Court will proportion all fines, fees, and costs imposed by the Court to the financial resources of the defendant. Ability-to-pay determinations shall be conducted prior to the court imposing any initial fine or fee, upon any increase in the fine or related court costs and fees, and upon a defendant’s request for an ability-to-pay determination at any point in a case, including in cases with preset fines.

B. The Municipal Judge shall consider and provide defendants with the option of paying a fine on an installment basis, and shall consider the indigence of the defendant in determining the frequency and amount of installment payments. Defendants paying fines on an installment basis shall be provided with reasonable opportunities to obtain a reduction in the periodic payment

amount or obtain an extension of time to satisfy the payment obligations upon a showing of good cause.

C. The Municipal Judge shall consider and make use of alternative sentences including but not limited to community service, counseling or course attendance consistent with the requirements of this section, and under such terms and conditions and in such cases as he may deem appropriate. Upon a showing of indigence, the Municipal Judge shall provide defendants with a community service, counseling, permanent stay of fines and fees, or course attendance option as an alternative sentence to the imposition of fines. All alternative sentences of community service shall establish reasonable rates at which community service is credited against pending fines and fees, and reasonable time periods for the completion of community service obligations that take into account a defendant's existing employment and other obligations.

D. The Municipal Judge shall establish procedures implementing the requirements of this section.

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

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