

(Published in the Topeka Metro News August 16, 2021)

**ORDINANCE NO. 20308**

AN ORDINANCE introduced by City Manager Brent Trout, establishing a probation fee, amending Topeka Municipal Code § 2.40.010 and § 2.40.610 and repealing original sections.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. That section 2.40.010, Court costs and fees, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Court costs and fees.**

The following costs and fees may be charged in the Municipal Court:

(a) **Mandatory Costs.** Upon a finding of guilty, a plea of guilty, a plea of no contest, forfeiture of bond, or diversion:

Description	Traffic – Moving Violations and Other Infractions	Parking Violations	Traffic – Nonmoving	Class A or B Misdemeanors or Class C Assault	Adult Seatbelt Violations
Judicial Education Fund	1.00		1.00	1.00	
Local Law Enforcement Training Fund	1.00			1.00	
Law Enforcement Center Training Fund	11.50			11.50	
Commission on Peace Officer Standards and Training Fund	5.00			5.00	
Juvenile Detention Facility	2.00			2.00	
Protection from Abuse Fund	.50			.50	
Crime Victims Assistance Fund	.50			.50	
Trauma Fund	1.00			1.00	

<b>Description</b>	<b>Traffic – Moving Violations and Other Infractions</b>	<b>Parking Violations</b>	<b>Traffic – Nonmoving</b>	<b>Class A or B Misdemeanors or Class C Assault</b>	<b>Adult Seatbelt Violations</b>
Crime Prevention Fund	3.50	3.50	3.50	3.50	
Forensic Psychologist Fund	1.00			1.00	
Seatbelt					None
Court Technology Fund	5.00	5.00	5.00	5.00	
General Fund	44.00	67.50	66.50	111.00	
<b>TOTAL</b>	<b>76.00</b>	<b>76.00</b>	<b>76.00</b>	<b>143.00</b>	<b>-0-</b>

(b) Additional Costs. In addition, defendants may be assessed the following costs:

(1) Warrant Fees. For each warrant issued, unless waived for good cause by the judge, a fee of \$25.00 shall be assessed.

(2) Incarceration Expenses. Unless waived for good cause by the judge, a fee for incarceration expenses shall be assessed against a defendant in each case in which said defendant is incarcerated pursuant to an order of the Municipal Court judge. The incarceration fee referenced in this subsection shall be determined by multiplying the then current daily rate of incarceration charged to the City of Topeka by Shawnee County Department of Corrections by the number of days actually served by the defendant.

(3) Court-Appointed Attorneys. If the defendant is convicted and, unless waived or reduced for good cause by the judge, court-appointed attorney fees shall be assessed by the court against a defendant in each case in which a Municipal Court judge appoints counsel for said defendant.

(4) Mileage. Mileage, subpoena and witness costs for defense witnesses shall be as set forth in TMC 2.40.450.

(5) Probation Fee. A probation fee as set forth in TMC 2.40.610.

~~(56)~~ Miscellaneous Fees and Costs. If the defendant is convicted, additional costs and fees may be assessed by the Municipal Court for service of process, transcripts and depositions, commission on collections and credit/debit card transactions.

(c) Except as provided herein, the judge or clerk of the Municipal Court shall remit at least monthly the appropriate assessments received pursuant to this section as required by State law, Kansas Supreme Court rule or City of Topeka policy or ordinance.

(d) For the purpose of determining the amounts to be assessed according to this section, if more than one complaint is filed against an individual arising out of the same incident, all such complaints shall be considered as one case.

Section 2. That section 2.40.610, Sentence – Possible disposition, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

**Sentence – Possible disposition.**

(a) Whenever a person is found guilty of the violation of an ordinance, the Municipal Judge may:

(1) Release the person without imposition of sentence;

(2) Release the person on probation after the imposition of sentence, without imprisonment or the payment of a fine or a portion thereof, subject to conditions imposed by the court as provided in subsection (e) of this section; or

(3) Impose such sentence of fine or imprisonment, or both, as authorized

for the ordinance violation.

(b) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance and there is evidence that the act constituting the violation of the ordinance was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the judge may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the ~~chief judge of the judicial district or licensed by the Secretary of Social and Rehabilitation Services~~ administrative judge.

(c) Except as provided in subsection (d) of this section, in addition to or in lieu of any other sentence authorized by law, whenever a person is convicted of having violated, while under 21 years of age, an ordinance prohibiting an act prohibited by K.S.A. 21-5701 through 21-5717 and amendments thereto, the Uniform Controlled Substances Act (K.S.A. 65-4101 et seq. and amendments thereto), ~~or K.S.A. 41-719, 41-727, 65-4152, 65-4153, 65-4154 or 65-4155 or 8-1599 (1998 Supp.),~~ and amendments thereto, the Municipal Judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation. If the judge finds that the person is indigent, the fee may be waived.

(d) If the person is 18 or more years of age but less than 21 years of age and is convicted of a violation of K.S.A. 41-727, and amendments thereto, involving cereal malt beverage, the provisions of subsection (c) of this section are permissive and not mandatory.

(e) The court may impose any conditions of probation or suspension of

79 sentence that the court deems proper, including, but not limited to, requiring that the  
80 defendant:

81 (1) Avoid such injurious or vicious habits, as directed by the court or the  
82 probation officer;

83 (2) Avoid such persons or places of disreputable or harmful character, as  
84 directed by the court or the probation officer;

85 (3) Report to the probation officer as directed;

86 (4) Permit the probation officer to visit the defendant at home or  
87 elsewhere;

88 (5) Work faithfully at suitable employment insofar as possible;

89 (6) Remain within the State unless the court grants permission to leave;

90 (7) Pay a fine or costs, applicable to the ordinance violation, in one or  
91 several sums and in the manner as directed by the court;

92 (8) Support the defendant's dependents;

93 (9) Reside in a residential facility located in the community and  
94 participate in educational counseling, work and other correctional or rehabilitative  
95 programs;

96 (10) Perform community or public service work for local governmental  
97 agencies, private corporations organized not for profit, or charitable or social  
98 service organizations performing services for the community;

99 (11) Perform services under a system of day fines whereby the  
100 defendant is required to satisfy fines, costs or reparation or restitution obligations  
101 by performing services for a period of days determined by the court on the basis  
102 of ability to pay, standard of living, support obligations and other factors;

(12) Make reparation or restitution to the aggrieved party for the damage or loss caused by the defendant's crime, in an amount and manner determined by the court and to the person specified by the court; or

(13) Reimburse the City, in accordance with any order made under subsection (f) of this section, for all or a part of the reasonable expenditures by the City to provide counsel and other defense services to the defendant.

(14) Pay a probation fee in the amount of \$100.00.

(f) In addition to or in lieu of any other sentence authorized by law, whenever a person is found guilty of the violation of an ordinance the judge may order such person to reimburse the City for all or a part of the reasonable expenditures by the City to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

Section 3. That original § 2.40.010 and §.2.40.610 of The Code of the City of Topeka, Kansas, are hereby specifically repealed.

Section 4. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 5. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on August 10, 2021.

CITY OF TOPEKA, KANSAS

ATTEST:

Michelle De La Isla, Mayor

Brenda Younger, City Clerk