

CITY OF HAMILTON, MISSOURI

Bill No. 0810164

Ordinance No. 1612

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE HAMILTON CITY CODE TO COMPLY WITH MISSOURI SENATE BILL NO. 572 RELATING TO ORDINANCE VIOLATIONS, PENALTIES, AND COURT PROCEDURES.

WHEREAS, Senate Bill No. 572, effective August 28, 2016, was enacted and signed into law as a municipal court reform measure, and it requires certain changes to the Hamilton City Code;

and

WHEREAS, the Board of Aldermen desires to implement these changes to correspond with the effective date of Senate Bill No. 572;

Be it ordained by the Board of Aldermen of the City of Hamilton, Missouri as follows:

Section 1. Section 75.010 of the City Code of the City of Hamilton, Missouri is hereby amended by enacting a new definition of "minor traffic violation", to read as follows:

"MINOR TRAFFIC VIOLATION" - Any violation of a municipal traffic ordinance prosecuted that that does not involve the operation of a commercial motor vehicle and for which for which no points are assessed by the Missouri Department of Revenue or the Missouri Department of Revenue is authorized to assess one to four points to a person's driving record upon conviction. "Minor traffic violation" shall include amended charges for a minor traffic violation. "Minor traffic violation" excludes any violation (i) that involves an accident or injury, (ii) the operation of a commercial vehicle, (iii) for exceeding a speed limit by more than nineteen (19) miles per hour, or (iv) occurring within a construction zone or a school zone.

Section 2. Subsection 13.010 of the City Code of the City of Hamilton, Missouri relating to the City's general penalty for ordinance violations is hereby amended by enacting a new paragraph on minor traffic violations, to read as follows:

13.010. General Penalty.

Whenever under this Code or any existing or future ordinance of the City any act is declared to be unlawful and no exclusive penalty is provided for violation thereof, upon conviction of such violation the violator shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding ninety days or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a statute of the state the statutory penalty and no other shall be imposed for such offense, and further provided that violations for (i) *Minor Traffic Violations* as defined in Section 75.010 and (ii) *"Municipal Ordinance Violations"* as defined below, shall be punished as follows:

1. *Minor Traffic Violations.* The punishment of a "minor traffic violation", as defined by Section 75.010 of the Hamilton City Code, shall be subject to the following:

a. The maximum fine combined with the amount of court costs that can be imposed for the violation of any minor traffic violation shall be two hundred fifty dollars (\$250.00).

b. Minor traffic violations shall not be punishable by imprisonment unless the violation:

(1). Involved alcohol or controlled substances,

(2). Endangered the health or welfare of others, or

(3). Involved eluding or giving false information to a law enforcement officer.

c. A person convicted of a minor traffic violation shall not be placed in confinement for failure to pay a fine unless such non-payment violates the terms of the person's probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court.

d. Court costs that apply shall be assessed against such person unless the court finds that the defendant is indigent based on standards set forth in determining such by the presiding judge of the circuit. Such standards shall reflect model rules and requirements to be developed by the Missouri Supreme Court.

e. No court costs shall be assessed if the case is dismissed.

2. *Municipal Ordinance Violations.* The punishment of a "*municipal ordinance violation*" as defined by below, shall be subject to the following:

a. The maximum fine combined with the amount of court costs that can be imposed for the violation of any *municipal ordinance violation* as defined below shall be two hundred dollars (\$200.00) for the first violation, two hundred seventy-five dollars (\$275.00) for the second violation, three hundred fifty dollars (\$350.00) for the third violation, and four hundred fifty dollars (\$450.00) for the fourth and any subsequent municipal ordinance violation.

b. *Municipal ordinance violations* as defined below shall not be punishable by imprisonment, unless the violation:

(1). Involved alcohol or controlled substances,

(2). Endangered the health or welfare of others, or

(3). Involved eluding or giving false information to a law enforcement officer.

c. A person convicted of a municipal ordinance violation shall not be placed in confinement for failure to pay a fine unless such non-payment violates the terms of the person's probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court.

d. Court costs that apply shall be assessed against such person unless the court finds that the defendant is indigent based on standards set forth in determining such by the presiding judge of the circuit. Such standards shall reflect model rules and requirements to be developed by the Missouri Supreme Court.

e. No court costs shall be assessed if the defendant is found to be indigent under subdivision d or the case is dismissed.

For purposes of this provision the term "*municipal ordinance violation*" means a municipal ordinance violation prosecuted for which penalties are authorized by statute under sections 64.160, 64.200, 64.295, 64.487, 64.690, 64.895, 67.398, 71.285, 89.120, and 89.490, RSMo. *Municipal ordinance violation* shall include amended charges for *municipal ordinance violations*.

Section 3. **Section 75.670** of the City Code of the City of Hamilton, Missouri relating to the charge of failure to appear is hereby amended by adding a new sentence to read as follows:

This section shall not apply to any "minor traffic violation", as defined by Section 75.010 of the Hamilton City Code.

Section 4. That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

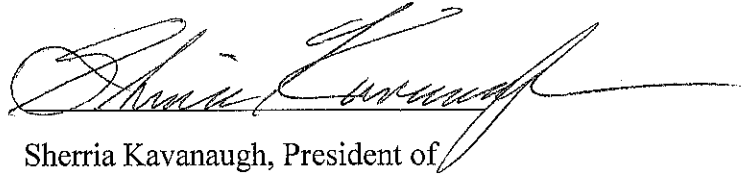
Section 5. It is the intent of the Board of Aldermen that this amendment be made a part of the City Code and such inclusion shall have the same force and effect as if the ordinance had been included in the original code at the time of its adoption by the Board of Aldermen.

Section 6. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Aldermen hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 7. This ordinance shall be in full force and effect from and after the date of its passage and approval.

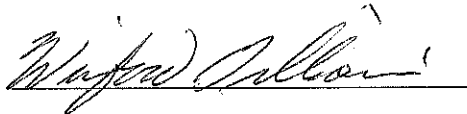
A copy of this Ordinance has been made available for public inspection prior to its adoption by the Board of Aldermen and this bill was read by title in the open meeting two times prior to its final passage.

Passed and approved by the Board of Aldermen on the 10th day of August, 2016.




Sherria Kavanaugh, President of
Board of Aldermen

Approved this the 10th day of August, 2016.



Winford Gilliam, Mayor

Attest: 

Debra Davis, City Clerk