

**THE FOLLOWING ORDINANCE WAS MOVED FOR INTRODUCTION
BY COUNCIL MEMBER DANIELSON; SECONDED FOR
INTRODUCTION BY COUNCIL MEMBER _____**

ORDINANCE NO. 22-29

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
MANDEVILLE CREATING SECTION 2.9 OF THE CODE OF
ORDINANCES OF THE CITY OF MANDEVILLE; TO ESTABLISHING
THE POLICIES AND PROCEDURES OF MAYOR'S COURT; AND
PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH**

WHEREAS, the City Council desires to establish policies and procedures consistent with State Law for operation of Mayor's Court; and

BE IT ORDAINED by the City Council of the City of Mandeville that Section 2.9 of the Code of Ordinances of the City of Mandeville be enacted to provide as follows:

Section 2.9 - MAYOR'S COURT

1. Authority of mayor to try offenders.

- (a) All fines, penalties, forfeitures and recoveries for violations of this Code or any ordinance of the city shall be determined and tried before the mayor of said city and shall be for the use and benefit of the city. In all cases when the mayor is regularly sitting for the trial of offenders against the laws and ordinances of the city, he shall in accordance with such laws and ordinances, impose a fine, penalty or forfeiture on any person for the breach thereof, and if such person shall not comply with and perform the judgment, imposing such fine, penalty or forfeiture, he shall be committed to the city or parish jail until duly discharged by operation of law, the time to be determined by the officer trying the offender.
- (b) Notwithstanding any other provision of law to the contrary, the mayor shall appoint one or more attorneys, subject to approval by the council, who shall be designated as court judge and who shall serve at the pleasure of the mayor and may from time to time be designated by the mayor to serve in his stead as the presiding official over the mayor's court. Whenever a judge is so designated by the mayor to preside over the mayor's court, he shall exercise the powers and authority of the mayor over said court.
- (c) Notwithstanding any other provision of law to the contrary, the mayor shall appoint one or more attorneys, subject to approval by the council, who shall be designated as prosecutor and who shall serve at the pleasure of the mayor.
- (d) In the event that no city prosecutor has been appointed, or that there is a vacancy in such position, then the judge shall have the authority to reduce, amend or nolle prosequere charges.

State Law reference – Mayor's court established, R.S. 33:441; judge, R.S. 33:441.20.

2. Court rules for the mayor's court.

(a) Purpose.

- (1) The rules are intended to govern the day-to-day operation of this court and to facilitate the meaningful interaction between the court, attorneys, witnesses, staff and litigants, and to ensure the administration of justice in the most efficient and manner possible.

(b) Court sessions.

- (1) The judge shall have the sole discretion to modify the day and time of court sessions pursuant to R.S. 33:442.
- (2) At least one member of the clerk's staff and the bailiff, who shall be a member of the Mandeville police department, shall be in attendance at all times while court is in session.
- (3) At every court session, this court shall be presided over by a judge, duly appointed at the request of the mayor and confirmed by a majority vote of the Mandeville city council.
- (4) At all times while the mayor's court is in session, the judge shall be referred to as "judge."

(c) Proper attire.

- (1) All persons in the courtroom shall be properly attired while court is in session.
- (2) Proper attire shall include a shirt (no tank tops), pants (no shorts), and shoes (no flip-flops).
- (3) Attorneys shall dress professionally when appearing in court.
- (4) Clothing shall exhibit no vulgar language or language indicating political support.
- (5) No hats or head coverings are allowed unless dictated by a person's religion.

(d) Opening of court.

- (1) Before the time scheduled for the opening of court, the bailiff shall direct court officers, personnel, litigants and spectators to their seats.
- (2) As the judge enters, the bailiff shall require that all present shall rise.

(3) The bailiff shall advise everyone that "The mayor's court for the City of Mandeville is now in session, Judge _____ presiding. Be seated and no talking, please."

(e) Conduct of persons in attendance.

(1) All persons entering the courtroom must remain seated unless otherwise instructed by the judge or the prosecutor.

(2) No person shall approach the judge's bench while court is in session, except by permission of the court.

(3) The use of tobacco in any form is not permitted.

(4) No recording (audio or video), televising, broadcasting or photographing shall be allowed while court is in session.

(5) The use of electronic devices, including, but not limited to, cell phones, beepers, transmitters, receivers or entertainment devices is not permitted in the courtroom while court is in session. A violation of this rule may result in a fine of fifty dollars (\$50.00) and/or confiscation of the device.

(f) Attorney's conduct.

(1) Attorneys appearing before the Mayor's court shall, at all times, conduct themselves in accordance with the Rules of Professional Conduct and the Code of Ethics of the Louisiana Bar Association.

(2) Attorneys appearing in court shall properly address the defendant, witnesses and opposing counsel, and avoid the use of first names or nicknames.

(3) When addressing the Court or making objections, attorneys should rise and direct all objections, as well as remarks and other comments, to the judge.

(4) All documents, including motions, orders, decrees or judgments, shall be handed to the clerk, who shall deliver them to the judge.

(g) Defendants.

(1) The defendant should stand before the judge during his or her arraignment, while entering a plea or when he or she is being sentenced.

(2) The defendant should, at all times, be respectful toward the judge, the attorneys involved in the case, the court personnel and the witnesses.

(h) Continuances. The judge may, for good cause shown, continue any case pending before him or her from day to day, or postpone the case to some future day. The judge may establish rules and deadlines for submission of requests for continuance by parties.

(i) Pre-Trial Motions.

(1) All pre-trial motions, excluding continuances, and all documents in support of the motion shall be filed and served on all parties not less than fourteen (14) days prior to the trial.

(2) Any opposition to the motion and all documents in support of the opposition shall be filed and served not less than seven (7) days prior to the trial.

(3) No reply memorandum may be filed.

(4) If the deadline for filing and serving a motion or opposition falls on a legal holiday, the motion or opposition is timely if it is filed and served no later than the next day that is not a legal holiday.

(j) Trials.

(1) If a trial will take longer than two (2) hours, the parties must notify the clerk to obtain a special setting.

(k) Right to representation.

(1) Any defendant charged with a crime that, if convicted, could result in his/her incarceration is entitled to legal representation at all times during the proceedings.

(2) If he/she is unable to afford an attorney of his/her choice, one will be appointed at no cost to him/her.

(3) The judge will make a determination of the defendant's ability to pay for his/her own attorney on a case-by-case basis.

(l) Witnesses.

(1) All witnesses shall be treated with courtesy and respect.

(2) All witnesses shall be sworn in before taking the witness stand or testifying.

(3) Neither the attorneys nor the defendant may approach the witness on the witness stand without permission from the judge.

(4) A defendant seeking to subpoena city employees or officials as witnesses must deposit with the Clerk a sum sufficient to cover witness fees, fees for service of process, and

costs for mileage for each witness to be summoned, not to exceed two (2) city employees and/or officials.

(m) Exhibits.

- (1) Documents shall first be delivered to the clerk to be numbered consecutively.
- (2) Opposing counsel should be provided a copy or allowed to view the original.
- (3) The judge should rule on the admissibility of evidence individually or *in globo*.

(n) Diversion programs. The city prosecutor, in his sole discretion, may place a defendant in a diversion or similar type program at any stage of the proceedings.

(o) Discretion of the mayor. If the mayor determines that the interest of justice is best served by doing so, he/she may allow deviations from these rules. All parties must be properly notified if the mayor determines that such deviation is necessary.

3. Contempt of court.

- (a) Duly appointed judges for the Mandeville Mayor's court have the specific authority to find defendants in contempt of court.
- (b) Mayor's court shall have the power and authority to punish for direct and constructive contempt of court in the same manner and for the same reasons as is now provided in Code of Criminal Procedure of Louisiana Article 20, excepting that the penalties for such contempt shall not exceed those established in Code of Criminal Procedure Article 25.
- (c) For each occurrence in connection with a criminal proceeding, the judge is specifically authorized to levy a fine as specified in Appendix C of the Code of Ordinances of The City of Mandeville ("SCHEDULE OF FINES AND PENALTIES"), or by imprisonment for not more than sixty (60) days, or both, and any other penalty authorized by law.
- (d) It shall further be a violation of the Code of Ordinances for any person to fail to answer to a charge against him for a violation of the Code of Ordinances at the time and at the place designated in the citation which was issued to him at the time of the alleged violation regardless of the ultimate disposition of the charge for which he was originally cited.
- (e) In the event of the defendant's willful failure to appear, and after a showing that he/she was duly notified of the date and time that his/her appearance was required, the judge may find him/her in contempt of court.
- (f) For each occurrence in connection with a violation of any ordinance, the judge is specifically authorized to levy a fine as specified in Appendix C of the Code of Ordinances

("SCHEDULE OF FINES AND PENALTIES"), or by imprisonment for not more than thirty (30) days, or both, and any other penalty authorized by law.

- (g) When a person is arrested for a traffic violation and released on the written promise that he will appear before the mayor at a later date, but then fails to honor that promise, the judge may immediately forward notice of the failure to the Department of Public Safety and Corrections. Unless the original charge is disposed of, the department will inform the person that his license has been suspended, that he must pay a fifty dollar (\$50.00) fee, no matter how the original charge is resolved, and that his license will not be renewed or reissued until the original court certifies that he has appeared and/or has paid the fine.

4. Payment of court costs and other fees.

- (a) The judge of this court shall have the power to fix court costs for the various offenses and violations.
- (b) In accordance with R.S. 33:441(A), the court costs of the Mayor's court for the city may be assessed and shall not exceed the sum of thirty dollars (\$30.00) for each offense, as defined by ordinance, on any defendant convicted of a violation of a municipal ordinance.
- (c) Additional court costs may be assessed by the judge upon conviction of the defendant where authorized by statute.
- (d) There shall be assessed as a filing fee of one dollar (\$1.00) per page, not to exceed thirty dollars (\$30.00).
- (e) Witness Fees. For each trial date attributable to the defendant for which subpoenas have been issued, and in addition to other costs provided for in this section, for each person subpoenaed to appear as a witness to testify, the sum of fifty dollars (\$50.00) per day, not to exceed \$150 per day, shall be assessed as witness fees, fees for service of process, and costs for mileage for appearance of city employees or officials taxed to and paid by the defendant shall not be paid to such employee or official but shall be paid to the city. Application should be made to the judge and then forwarded to the city employee or official's employers.
- (f) All costs assessed pursuant to this section shall be in addition to the fine imposed.
- (g) Costs shall be payable immediately, except as provided in the Code of Criminal Procedure Article 875.1 relative to determination of ability to pay. However, in cases involving the violation of any traffic ordinance, the judge may grant the defendant five (5) judicial days after rendition of judgment to pay any costs and any fine imposed.

State Law reference – Payment of costs and fines, La. C. Cr. P. Art. 888; witness fees, R.S. 15:255.

5. Fines.

- (a) The court has compiled a fine schedule which is approved by the city council, as amended from time to time, and adopted in this section by reference. The fine schedule is available in the office of the municipal court clerk.
- (b) Fines for violation and offenses that do not require a mandatory court appearance may be paid prior to the court date.
- (c) If fines are paid prior to the court date, a court appearance is not required.
- (d) All fees and costs taxed against and collected of each defendant convicted in the Mayor's court shall be paid to the city and disposed of as the city council shall direct as provided in the City Charter.

6. Waiver of fines and costs.

- (a) The judge may hold a hearing to determine the economic capabilities of any defendant filing a written motion seeking a finding of the court that the defendant is *per se* indigent and each alternative method of discharging the fine or costs of court would impose an undue hardship on the defendant.
- (b) The judge shall review the motion of the defendant, including any other evidence deemed necessary, and on a finding that defendant is indigent as a matter of law, and that the alternative methods of discharge would work an undue hardship on the defendant, the judge may waive payment of any fines or costs for which the defendant has defaulted.

7. Appeals.

- (a) Appeals in all civil and criminal matters shall be as provided by law.
- (b) Persons found guilty in the Mayor's court for a violation shall have the right of direct appeal to the district court by *trial de novo* for the parish in which the mayor's court is situated.

8. Court record.

- (a) Mayor's court is not a court of record, which generally means there are no audio recordings or transcripts of court proceedings.

9. Immunity.

- (a) In accordance with La. R.S. 33:441(C)(2), the presiding officer of a mayor's court shall be entitled to judicial immunity for his or her official acts as presiding officer in the same capacity as a judge in this state.
- (b) Laws imposing liability on a master for the civil offense or quasi-offense of his/her servant do not extend or apply to and do not impose any liability upon a municipality for any such offense of its Mayor's Court pursuant to La. R.S. 42:1141.3(E) and (F).

10. Conflicts with state law.

- (a) All references to the Mayor’s court's jurisdictional authority, fines, and penalties to be assessed, procedures regarding the conduct of the Mayor’s court are intended to be consistent with state law and statutes as they are from time to time amended. To the extent that any term or provision of this chapter may be inconsistent with state statutes with respect to the assessment of fines and penalties the state, and the city statute will prevail. Should state statute provide for or require a larger fine or penalty than is provided for in this Code, state statute shall prevail.

BE IT FURTHER ORDAINED that the Clerk of this Council be and she is hereby authorized and empowered to take any and all actions which she, in the exercise of her discretion, deems necessary to promulgate the provisions of this ordinance.

The ordinance being submitted to a vote, the vote thereon was as follows:

AYES:

NAY:

ABSTENTIONS:

ABSENT:

and the ordinance was declared adopted this _____ day of _____, 2022.

Kristine Scherer
Council Clerk

Rick Danielson
Council Chairman