

CHAPTER V
MUNICIPAL COURT

Article 5-1 **Creation, Composition and Jurisdiction**
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ARTICLE 1

CREATION, COMPOSITION AND JURISDICTION

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5-1-1 Definitions

As used in this article the following terms shall have the following meanings;

(a) Municipal Court

The term "Municipal Court" includes police magistrate's courts or police courts created or existing under previous laws.

(b) Municipal Judge

The term "Municipal judge" includes police magistrates as defined and used in previous laws.

5-1-2 Municipal Court Created

A municipal court in and for the Town of Hotchkiss is hereby created and established.

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5-1-3 Appropriations

The Board of Trustees shall annually appropriate an amount sufficient to pay the salary of the clerical help, office help, office expense and expense of supplies necessary to carry out the provisions of this ordinance.

5-1-4 Municipal Judge, Appointment

The Court shall be presided over by a presiding Municipal Judge, appointed by the Board for a term of two years, or until a successor is appointed and duly qualified. The Municipal Judge shall perform no other duties during the hours that Court is in session except such as may be approved by the Board on motion or resolution. The Board may appoint additional judges from time to time as may be needed to transact the business of the Court or to preside in the absence of the presiding judge. The presiding judge shall supervise and direct the Court's operations. Any Municipal Judge may be removed by the Board for cause as outlined in Colorado Revised Statutes, 13-10-105 (1973), as the same may be amended.

5-1-5 Qualification

The Board may, by ordinance or resolution duly considered and adopted, establish from time to time such qualification for the office of Municipal Judge as it may deem fit and proper and consistent with the procurement of persons of judicial temperament and ability. The Municipal Judge shall be a resident of the County; provided, however, that no person shall be eligible for appointment to the office unless he has the same qualifications as a County Judge in a Class D County, as defined in C.R.S., 13-6-203 (1973), as the same may be amended.

5-1-6 Oath and Bond

Before entering upon the duties of his office, the municipal Judge shall take and subscribe, before a judge of a court of record, and file with the Board an oath or

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affirmation that he will support the Constitution of the United States and the Constitution and Laws of the State of Colorado and the ordinances of the Town of Hotchkiss and will faithfully perform the duties of his office. Said Municipal Judge shall give bond to the Town in the amount of \$2,000.00, which shall be approved by the Board and be conditioned on the faithful performance of the duties of the office of the Municipal Judge, and for the faithful accounting for and payment of all monies coming into his hands by virtue of said office.

5-1-7 Salary

The annual salary of the Municipal Judge shall be set by the Board by ordinance, and payable as other salaries to municipal employees. The Board shall from time to time budget and appropriate monies necessary for the compensation of the Municipal Judge.

5-1-8 Presiding Judge's Powers

The Municipal Judge has all judicial powers relating to the operation of his court, subject to any rules of procedure governing the operation and conduct of municipal courts promulgated by the Colorado supreme court. The presiding municipal judge has authority to issue local rules of procedure consistent with any rules of procedure adopted by the Colorado supreme court.

5-1-9 Ex-Officio Clerk

The Judge shall also be Ex-Officio Clerk of the Court unless a separate Clerk of the Municipal Court shall have been appointed by the Judge by and with the consent of the Board.

5-1-10 Acting Municipal Judge

In case of the temporary absence, sickness or other inability of the Municipal Judge to act, the Mayor may appoint some competent person to act as such Municipal Judge until the disability of the Municipal Judge is removed. Such appointment must be in writing.

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5-1-11 Jurisdiction and Powers of Court

The Municipal Court shall have original jurisdiction of all cases arising under this Code and other ordinances of the Town, with full power to carry the same into effect and to punish violations thereof by the imposition of such fines and penalties as in such ordinances provided; it shall have power to compel attendance of witnesses and to punish for contempt of such court by fine, not to exceed one hundred dollars, (\$100.00) , or by jail sentence not to exceed five (5) days, and shall have all powers incident to a court of record in relation to same.

5-1-12 Examine Complaints; File Reports

The Municipal Judge shall receive and examine affidavits and complaints, at all times, for the violation of any Town ordinance, and shall issue a summons or warrant in every case where there is probable cause to believe that an offense has been committed. He shall file monthly reports with the Town Clerk of all monies collected by him, either in the way of fines or otherwise, and shall on the last day of each month, pay to the Town Clerk all monies in his hands; the reports shall state the number of cases filed in his court, how the same were disposed of, and other matters of information concerning his office.

5-1-13 Sessions of Court

There shall be regular sessions of court for the trial of cases and the Municipal Judge shall hear and determine complaints for the violation of any Town ordinances where there is probable cause to believe that an offense has been committed; provided, however, it shall be lawful for said Municipal Judge to hold a special session of court at any time, including Sundays, holidays and night court, if in the discretion of the Judge a special session is deemed advisable.

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5-1-14 Hours

The court shall be open during such hours as are set by the Municipal Judge with the consent and approval of the Board, including such night sessions as the Board shall approve. In case of any conflict between the Municipal Judge and the Board as to said hours, the decision of the Board shall govern. The municipal court shall be closed on Sundays and holidays except for special sessions.

5-1-15 Traffic Cases Separately

Insofar as it is practicable, traffic cases shall be heard separately from other cases. Where traffic cases and other cases are set for the same hour session, traffic cases shall be heard first.

5-1-16 Additional Powers and Duties

The municipal Court, created by this ordinance, and its presiding Judge shall be further subject to the terms and provisions of C.R.S., 13-10-101 through 13-10-125 (1973) as the same may be amended from time to time.

ARTICLE 2

PROCEDURE

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5-2-1 Rules of Procedure

- (a) Rules of Procedure for the Municipal Court shall be as those promulgated from time to time by the Supreme Court of Colorado. Rule 201 through Rule 260 of the Municipal Court Rules of Procedure adopted by the Supreme Court of Colorado and effective April 1, 1970, Chapter 2 of Colorado Revised Statutes, Volume 7, Court Rules are hereby adopted by reference and made a part of this Code as though fully set forth herein. Copies of such Rules shall be available for inspection at the office of the Town Clerk.
- (b) Any rules of procedure contained herein, or promulgated by the Municipal Judge that conflict with the Rules of Procedure for Municipal Courts as promulgated by the Supreme Court of the State of Colorado shall be invalid and of no force and effect.

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5-2-2 Witness Fees

All witnesses shall be entitled to a fee as may be set by State law and such fee shall be paid by the party requesting the attendance of the witness and taxed as costs of the suit. Each witness shall also be entitled to receive \$.15 per mile as mileage for each mile actually and necessarily traveled in going from his place of residence to the place named in the subpoena.

5-2-3 Defects and Objections as to Form of Summons

No objection to the form of any summons or complaint shall be considered by the Court because of any defect unless such objection was made by the defendant prior to the trial of the case on its merits, but trial of the case on its merits shall not waive any objection theretofore made.

5-2-4 Session Open to Public; Exceptions

All cases in municipal court shall be open to the public; provided, however, that where the type of offense charged and the nature of the case are such that it would be to the best interests of the witnesses and/or defendant to exclude all persons not directly connected with the case, the Municipal Judge may order that the Court be cleared of all persons not so directly connected with the case except qualified representatives of news agencies. This decision shall be solely in the discretion of the Municipal Judge.

5-2-5 Continuance

A person who is duly summoned, who cannot be tried on account of the absence of witnesses or for any other good and sufficient cause, may request in open court a continuance of his case. The Municipal Judge may continue the matter upon terms set by him. Additional continuances may be granted upon application of the defendant or his attorney. Where a person on appearance is on bond and a continuance is requested, the Municipal Judge shall have the power to

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continue the bond for a period of the continuance. Nothing herein shall affect the right of the Town Attorney to request a continuance.

5-2-6 Execution

Every person against whom any fine or penalty shall be assessed under the laws of the Town, who shall refuse or neglect to pay the same when demanded, may be committed in default thereof to the County Jail, under the direction of the proper officers, until the said fine and penalty is fully paid and said satisfaction to be allowed at the rate of three dollars (\$3.00) per day or twenty-four hours, or as in accordance with State law. Any such person may be required to do any reasonable work; provided, however, that no single term of imprisonment shall exceed ninety (90) days. The municipal court shall discharge such person from further imprisonment for such fine when it shall be made satisfactorily to appear to the Judge that such person has no estate whatever with which to pay such fine.

5-2-7 Stay

In the discretion of the Municipal Judge a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installments. In case the defendant shall not have met the terms of the stay of execution, then the execution shall issue and the defendant shall be placed in jail until said judgment is satisfied.

5-2-8 Sentence Suspended

The Municipal Judge is hereby authorized to suspend the payment of any fine, or any part thereof, assessed for a violation of this Code or any ordinance, and he may suspend all or any part of any jail sentence imposed for such a violation. He may impose reasonable conditions upon such suspension and revoke such suspension and reinstate the sentence for a violation of such conditions.

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5-2-9 Fines Paid to Town Clerk

All fines or other monies collected in the municipal court for the violation of this Code or any of the ordinances of the Town shall be reported by the Judge and paid to the Town Clerk each month.

5-2-10 Qualifications and Exemptions of Jurors

Qualifications and exemptions of jurors shall be the same as provided in Colorado Revised Statutes, 1973, Title 13, Article 71, Sections 102 to 110, as amended.

5-2-11 Method of Summoning Jurors

Upon demand of the defendant for trial by jury, the said municipal court or Judge thereof shall issue a venire for the jury and shall issue his writ to any police officer or Marshal which shall be substantially in the following form:

STATE OF COLORADO

Town of Hotchkiss

THE PEOPLE OF THE TOWN OF HOTCHKISS, STATE OF COLORADO
GREETING:

We command you to summon _____ persons of your county who are residents of the Town of Hotchkiss to appear before me at _____ on the _____ day of _____, who are not of kin to _____, defendant, to make a jury between the People of the Town of Hotchkiss, State of Colorado, and the said defendant in a plea of not guilty to a charge of a violation of one or more ordinances of the Town; because the said defendant has demanded trial by jury; and have you then and there the names of the jury, and this writ.

Witness my hand and seal, this _____ day of _____,

(SEAL)

Judge of the Municipal Court

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5-2-12 Juror Failing to Appear - Penalty

If any person summoned as a juror shall fail, neglect, or refuse to appear, without reasonable excuse, he shall be deemed guilty of contempt and fined or imprisoned as the court may direct. The court shall have the power to issue a citation directed to a duly certified peace officer commanding him forthwith to bring before such court the body of such juror so failing to attend and for such juror to show cause why he should not be punished for contempt, or on the appearance of such juror on such citation it shall be lawful for the court to punish him for contempt or wholly discharge him if satisfactory excuse be made.

5-2-13 Jury Fees

Persons summoned to jury duty pursuant to this ordinance shall be entitled to a juror's fee of three dollars (\$3.00) per day or part of a day for which they are summoned, and shall also receive \$.15 per mile as mileage fees for each mile actually and necessarily traveled in going from his residence to the place named in the summons.

5-2-13 Jury Fees and Administrative Costs AMENDED ORD#2005-8 AUGUST 18, 2005

(b) Costs for Sentences of Deferred and/or Supervised or Unsupervised Probation: The Municipal Judge will impose a fee of Five Dollars (\$5.00) a month for each month of deferment, in addition to the minimum court cost of Twenty-Five Dollars (\$25.00) for any Municipal Court case(s) where the Defendant has entered a plea of guilty or is found guilty by the court or jury and where the Judge has issued a deferred sentence, or unsupervised or supervised probation.

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5-2-14 Discharge of Jurors

The term of jury service shall be as indicated on the venire facias, and a person who has actually been in attendance as a juror in the municipal court as ordered under the venire fascias for the period of time ordered under the venire facias shall be discharged by the court. No juror shall be discharged until the close of the trial in which he may be serving, and if the selection of a jury in any cause has been begun, the court shall have the power to retain the panel until such jury is selected and sworn. A person discharged as prescribed in this section shall be disqualified for jury service in the municipal court for the period of one (1) year thereafter.