



LAUBER MUNICIPAL LAW

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MEMORANDUM

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TO: Lee's Summit City Council (with the exception of Mayor Lopez due to conflict of interest)

RE: Municipal Judge Compensation

From: Catherine Nelson Zacharias, Of Counsel

Date: September 2, 2026

ISSUE

Does the Lee's Summit City Council ("Council") have the legal authority to authorize a mid-term increase in compensation for its two sitting elected Municipal Judges?

BACKGROUND

The City of Lee's Summit's ("City") Municipal Court is served by two elected Municipal Judges. In July 2025, the two elected Municipal Judges made a formal request to the Council to consider an increase in judicial compensation in connection with proposed changes to Municipal Court dockets and operations. The judges presented their request to the Finance and Budget Committee on July 7, 2025, and provided additional information to the Committee on August 18, 2025. The request was referred to the full Council and on November 4, 2025, the judges presented their compensation and court operations proposal to the Council for consideration.

During that same time period, an independent assessment of the Municipal Court was conducted. The final assessment report was presented to the Council on July 14, 2026. That assessment included recommendations for operational improvements to address the increased caseload and growing backlog of cases.

At the August 18, 2026, Council meeting, a motion was made directing City staff to provide the Council with a draft ordinance within 30 days adopting a mid-term compensation increase for the elected Municipal Judges. Brian Head, City Attorney, had previously recused the Legal Department from providing a legal opinion on and performing any work related to the issue. Because of the Legal Department's recusal, the City retained Catherine Nelson Zacharias, Of Counsel, Lauber Municipal Law, on August 20, 2026, to provide a legal opinion to the Council regarding whether the Council has the legal authority to increase the compensation of its two elected Municipal Judges mid-term.

In November 2024, after the Legal Department's recusal, the City engaged outside legal counsel for a legal opinion on the judges' request for increased compensation. That legal opinion was provided to the City Manager on January 17, 2025, and subsequently shared with the Mayor and Council, with the exception of the then-Mayor Pro Tem Lopez, during a closed session.

Mayor Pro Tem Hillary Shields and City Manager Mark Dunning served as the main points of contact during this current engagement. They did not advocate for any position and instead sought clarification regarding the City's legal authority to increase compensation mid-term. During the engagement, several Councilmembers, as well as the elected Municipal Judges, provided information to Counsel.

City Manager Dunning provided Counsel with background information regarding the issue, including outside counsel's legal opinion, Judge Maxwell-Lopez's legal research, prior legal opinions, relevant City Charter provisions, and various reports that had been shared with the City Council. Counsel reviewed these materials, along with relevant constitutional provisions, statutes, and case law, as a basis for this opinion.

The scope of this memorandum is limited to the issue of whether the Council has the legal authority to adopt an ordinance increasing the compensation of its two elected Municipal Judges mid-term. It does not address whether the current compensation is appropriate or whether the City has a need for additional judicial officers or judicial days.

MUNICIPAL DIVISION (MUNICIPAL COURT)

ESTABLISHMENT OF A MUNICIPAL DIVISION

Municipal divisions, commonly referred to as municipal courts ("Court"), are a division of the circuit court under the Missouri Constitution. However, they are unique because each city elects how to establish its municipal court and who will hear and determine its ordinance violation cases.

Chapter 479, RSMo, authorizes a city to establish a municipal court. The city may:

1. Elect to have the associate circuit judge hear and determine its cases at the circuit court with circuit court staff processing the cases;
2. Elect to have the associate circuit judge hear and determine its cases and provide a courtroom and personnel to process cases; or
3. Elect to have its own municipal judge or judges hear and determine cases and provide a courtroom and personnel to process cases.

See §§ 479.020, 479.040, 479.060, RSMo.

A city's charter or ordinance shall provide for the selection, tenure and compensation of a municipal judge or judges. A municipal judge may either be an appointed or an elected position. The term of a municipal judge shall not be less than two years. *See § 479.060, RSMo.*

If a city elects to have its ordinance violations tried before a municipal judge, the city is responsible for providing the court facilities and the appropriate staffing level for the "proper functioning" of the municipal division. *See § 479.060, RSMo.*

GOVERNANCE OF MUNICIPAL DIVISIONS

The governance and operations of municipal divisions are controlled by Chapter 479, RSMo, and Missouri Supreme Court Rule 37.

Under Rule 37.04, the presiding circuit judge has general administrative authority over municipal judges and court personnel hearing ordinance violations within the circuit. To continue to operate, municipal

divisions must substantially comply with the minimum operating standards in Appendix A to Rule 37.04, and their judges are subject to circuit court rules unless inconsistent with Rule 37.

Although a municipal division is part of the judiciary, its structure is unique in that it is funded by the city when the city elects to have a municipal judge hear and determine its cases. As a separate branch of government, however, the judiciary is responsible for establishing its own rules for case processing and procedures and adopting local court rules. A legislative body cannot dictate the number or types of dockets that a municipal division establishes, mandate the number of court days that a municipal judge must hold, or mandate that a municipal division establish a treatment or specialty court.

LEE'S SUMMIT MUNICIPAL DIVISION

Lee's Summit has elected, through its Charter, to have ordinance violations heard and determined by its own elected Municipal Judges. As a result, the City is responsible for providing the court facility and funding the salaries of court personnel.

The Lee's Summit Municipal Division is served by two part-time Municipal Judges, each elected for a four-year staggered term pursuant to the City Charter and assigned to a separate division. The judge of Division 263 was elected in April 2024, with the term expiring in 2028, and the judge of Division 243 was reelected in April 2026, with the term expiring in 2030.

The judges' compensation is established by the City Council in accordance with the City Charter. The judges' current compensation of \$51,000 annually plus a car allowance of \$325 and a phone allowance of \$50 per month was set by Ordinance No. 9828 that was passed January 9, 2024, approved January 16, 2024, and effective May 1, 2026. This ordinance repealed Ordinance 7842 that was passed March 31, 2016, approved April 4, 2016, and effective May 1, 2018, which set compensation at \$38,325 annually plus a car allowance of \$250 for both divisions along with a phone allowance of \$35 per month for the judge in Division 263.

Historically, the Court held dockets two days a week. Division 243 holds a docket most Tuesdays, and Division 263 holds dockets most Thursdays. It is important to note that the current schedule is not mandated by any court rule, state statute, or local ordinance. The judges are responsible for establishing the court schedule.

Due to concerns about the efficiency of the court, the City contracted for an assessment of the Court by an outside consultant. According to the assessment, the existing schedule is no longer sufficient to keep up with the increased caseload, and the assessment made several operational recommendations, including adding dockets each week to accommodate the increased caseload.

In addition to adding an additional day per division, the judges have proposed creating a treatment court docket such as drug court or mental health courts. This suggestion is still in the planning stages and has not been implemented.

To facilitate the additional dockets, the Municipal Judges petitioned the City Council for an increase in base compensation from \$51,000 to \$105,502 annually. They also requested full retirement benefits and an annual cost-of-living adjustment (COLA).

The Charter does not define or mandate the number of days the Court must be in session, how many dockets it must schedule, or how many days a week an elected Municipal Judge must hear cases. The

Court must follow the mandates of the Missouri Supreme Court, the Missouri Constitution, state statutes, city ordinances, and Supreme Court and local court rules. The issue before the Council is whether a pay increase during the judges' terms of office is permitted under the Missouri Constitution and City Charter.

PROHIBITION ON MID-TERM COMPENSATION INCREASES

This analysis follows a three-step approach. It reviews the constitutional and Charter restrictions and relevant case law on mid-term compensation increases. It examines the limited exception for compensation connected to new duties that are not germane to the office. Finally, it evaluates whether the proposed additional docket days, treatment court docket, and related compensation request fall within that exception.

MISSOURI CONSTITUTION & CITY CHARTER

There is no dispute that under Article VII, Section 13 of the Missouri Constitution and Article VII, Section 7.2 of the Lee's Summit City Charter, the compensation of state, county, and municipal officers cannot be increased or decreased during the official's term of office. This prohibition is designed to prevent public officials from using the prestige and influence of their offices for personal advantage. *State ex rel. George v. Verkamp*, 365 S.W.3d 598.

"As a general rule, the salary attached to a public office constitutes the full compensation for all the services required to be performed by a public officer, so that he may not assert a right to additional compensation although by statute or ordinance the duties of his office, as it was constituted at the time of his appointment, have been increased, or he has performed additional services which are merely incidental to the duties of his office." *Becker v. St. Francois Cty.*, 421 S.W.2d 779, 782-83 (Mo. 1967).

This issue has been addressed a number of times by the Missouri courts. In *Laclede County v. Douglass*, 43 S.W.3d 826, the Missouri Supreme Court struck down a statute purporting to authorize a mid-term raise to county commissioner compensation. The commissioners argued that the increase in compensation was due to the change in their term of office from two years to four years. The Court held that the extension of the term of office would not be considered a new duty. The Court found that the raise was impermissible under the Constitution.

In *Mooney v. County of St. Louis*, 286 S.W.2d 763, 766 (Mo. 1956), the Supreme Court held that a statutory increase in compensation for election commissioners could not be collected during their current term. The Court held that "the mere fact that such legislation may result in an increase in the work and responsibility . . . does not entitle [the official] to claim additional compensation." In cases where Missouri courts have upheld mid-term increases there was clear legislative intent that the increase in compensation was provided for additional duties required by authorizing statute. In *Mooney*, the Court found that there was no legislative intent tying the increase in compensation to additional duties.

EXCEPTIONS

ADDITIONAL DUTIES

The Supreme Court has recognized a limited exception to the prohibition on mid-term increases in compensation where additional duties, extrinsic or not germane to the office, have been imposed in conjunction with the increase in compensation. *Laclede County v. Douglass*, 43 S.W.3d 826.

In *Hawkins v. City of Fayette*, 604 S.W.2d 716 (Mo. App. 1980), the Court of Appeals upheld the mid-term increase in compensation based on the additional duties that were imposed on the mayor when he took over the city manager's duties. The city manager resigned shortly after the mayor was elected. The Board of Aldermen adopted an increase in compensation for the mayor and tied additional duties to the mayor. Those included:

1. Prepare the annual budget for the City of Fayette, Missouri.
2. Seek, apply for, and administer Federal and/or State grants, subject to Council approval.
3. Monitor and inform Council bi-monthly of the status of electrical and water utility systems, both the plants and distribution systems.
4. Day to day supervision of City employees and department heads and reporting bi-monthly to the Board of Aldermen.
5. Represent the City of Fayette and the Board of Aldermen in other miscellaneous organizations, and/or Board of Directors at the direction of the Board.
6. A commitment of 40 hours per week is expected by passage of this Ordinance.

The Court found there was substantial evidence to support the increase in compensation was due to the additional duties that were not germane and incidental to the position of mayor.

The Supreme Court has made clear that the mere fact that legislation increased the workload or responsibility of the officeholder does not entitle the officeholder to additional compensation. In a case reviewing increased compensation for the county clerk, the Supreme Court addressed what constitutes "germane" duties. It held that if a duty is incidental to the office, even if it requires additional work, it cannot justify additional pay, and any legislation authorizing such an increase is not enforceable. *Becker v. St. Francois Cty.*, 421 S.W.2d 779 (Mo. 1967).

The Supreme Court has also addressed claims for extra compensation where a judge performed additional judicial duties. In *State ex rel. Forsee v. Cowan, et al.*, 284 S.W.2d 478 (Mo. 1955), a justice of the peace performed the duties of another judge who had been called to the armed services. The Court held that the justice was not entitled to additional compensation as a substitute justice because: (1) compensation for the office was fixed by statute; (2) no statute authorized extra compensation for the substitute services; and (3) the additional services were germane to the duties of a justice of the peace within the township. The Court reaffirmed the rule that, even when a public official performs "extra services," those services are deemed legally gratuitous if they are germane to the official's existing role and no statute expressly authorizes additional compensation. Any contract or agreement for additional compensation under those circumstances is void as against public policy.

OTHER EXCEPTIONS

The Supreme Court has recognized other exceptions to the prohibition on mid-term increases in compensation. Those include:

- A holding that the prohibition does not apply when no compensation was fixed for the office at the commencement of the term, because nonexistent compensation cannot be increased. See *State ex rel. Dwyer v. Nolte*, 351 Mo. 271, 172 S.W.2d 854, 856-57 (Mo. 1943).
- A holding that a midterm increase resulting merely from application of a statutory formula for calculating compensation is lawful where the formula was enacted before the officer was elected. *State ex rel. Moss v. Hamilton*, 303 Mo. 302, 260 S.W. 466, 469-70 (Mo. banc 1924), *Laclede Cty. v. Douglass*, 43 S.W.3d 826, 828 (Mo. 2001).
- A holding that a voter-approved constitutional amendment allowed the compensation of county officials elected in 1984 or 1986 to be increased mid-term in accordance with laws adopted by the General Assembly. *Laclede Cty. v. Douglass*, 43 S.W.3d 826, 828 (Mo. 2001).

ANALYSIS

The constitutional and Charter prohibition on mid-term compensation increases sets a high threshold. A mid-term increase is generally unenforceable unless the record shows more than just an increased workload. The governing body must impose duties that are new and non-germane to the office, and the compensation increase must be expressly tied to those duties.

1. **New, non-germane duties:** The added responsibilities must be separate from, and not merely incidental to, the existing duties of the office.
2. **Express Legislative Intent:** The authorizing legislation must clearly show that a governing body intends for the increase in compensation to be payment for those new, non-germane duties.

Without clear legislative intent connecting a mid-term salary increase to the imposition of extrinsic, non-germane duties, the pay increase would likely be considered unconstitutional under Art. VII, § 13 of the Missouri Constitution and Article VII, Section 7.2 of the Lee's Summit City Charter.

The legal questions to be analyzed are as follows:

1. Have new duties been imposed?
2. Are those duties non-germane to the office of Municipal Judge?
3. Did the governing body clearly link the additional compensation to those new non-germane duties?

The first two questions are closely related. While adopting additional docket days may increase the judges' workload, the legal question that must be answered is whether those additional docket days add duties outside the ordinary judicial function. The third question raises a separate issue: whether the Council has authority to impose additional duties on the Court and Municipal Judges that are necessary to support the exception.

Additional Docket Days

The core duties of a Municipal Judge include hearing and adjudicating ordinance violations, supervising court personnel, managing court dockets, and submitting required reports. See Rule 37.04 and the Minimum Operating Standards. An additional docket day would require the judges to perform their core function of hearing and adjudicating cases more frequently. Under the cases discussed above, increased volume or additional time spent performing existing duties does not make those duties new or non-

germane. Therefore, adding additional docket days would likely be considered germane and incidental to the office because they involve performing the same judicial functions and would not support a mid-term increase in compensation.

In order to be considered a permissible mid-term increase in compensation, it must fall under one of the recognized exceptions to the prohibition. Simply expanding the volume of existing judicial duties would not meet the high legal threshold required to justify a mid-term increase.

Ms. Kenner's memorandum reached a different conclusion, suggesting that the Council could adopt an ordinance identifying additional duties as the basis for a mid-term increase. Specifically, the memorandum identified the following as possible new duties:

1. Supervision of the Court Administrator and court staff.
2. Creation of new dockets, including possible mental health court or drug court dockets.

However, the memorandum did not provide an analysis or explanation of how these duties could be considered extrinsic to the office of Municipal Judge. Based upon the standards outlined above, those potential new duties do not appear to satisfy the exception for the reasons discussed below.

Supervision of Court Staff

Supervision of court personnel is not a new duty for Lee's Summit's Municipal Judges. Municipal judges have been required to supervise court personnel since the Supreme Court adopted Rule 37.04 and Minimum Operating Standards in 2016 to ensure judicial independence and that court-related staff work under judicial-branch direction when performing court functions.

Minimum Operating Standard # 7 requires:

Municipal divisions shall be operated in a manner that upholds the constitutional principles of separation of powers and the integrity of the judiciary as a separate and independent branch of government.

Minimum Operating Standard No. 7 specifically requires clerks and other nonjudicial personnel, when performing court-related functions, to work solely under the direction and supervision of the Municipal Judge, the circuit clerk, or another judicial branch officer. Because Lee's Summit has elected to have its municipal ordinance violations heard in its own municipal division, that supervisory responsibility rests with the Municipal Judges for court-related functions.

Nor does the January 2024 ordinance provide a basis for a mid-term increase. To the extent that the ordinance clarified the reporting structure for municipal staff, it was adopted prior to the current terms of both Municipal Judges. Therefore, supervision of staff was not a new duty imposed during the current term.

Treatment Court Docket

A treatment court docket, such as a mental health or drug court docket, may be a worthwhile alternative disposition for cases. Such a docket may require additional planning, coordination, and court time. However, the Council cannot mandate that Court establish a treatment court docket. The Court is responsible for its internal structure and operations, including whether to establish a treatment court docket.

For that reason, even if adding a new treatment court docket could be considered as a materially different judicial responsibility, it does not provide a clear basis for the Council to adopt a mid-term compensation increase. The Court may prospectively establish such a docket and request the resources necessary to comply with the Supreme Court's requirements for a treatment court, but the Council may not mandate its establishment.

Clear Legislative Intent

Ms. Kenner's memorandum suggested that the Council could follow the approach in *Hawkins* by adopting an ordinance that identifies new duties and sets compensation for the duties. But *Hawkins* presented materially different facts than the Council is now facing with the request for increased compensation for the elected Municipal Judges. There, the mayor assumed city manager duties that were extrinsic to the office of mayor, and the ordinance clearly tied the increased compensation to those added city manager responsibilities.

However, the memo did not address whether the Council could adopt an ordinance imposing new duties on the elected Municipal Judges. Here, the proposed additional docket days are germane to the Municipal Judges' existing duties, and the proposed treatment court docket cannot be imposed by Council ordinance in the same way city manager duties were assigned in *Hawkins*. Without authority to impose new, non-germane duties and clearly tie compensation to those duties, the Council cannot satisfy the recognized exception to support a mid-term increase.

Public Comment

At a recent City Council meeting, public comment referenced Raytown as an example of a Municipal Judge receiving compensation increases during a term. However, that comparison requires context. The Raytown ordinances did not authorize an unscheduled mid-term compensation increase after the judicial term had begun. Rather, Raytown adopted its ordinances adopting compensation schedules before the beginning of each judicial term, with future annual adjustments built into those schedules.

1. **2017–2021 Term:** Ordinance 5555-16 was adopted on November 1, 2016, before the April 2017 term began. It established an initial 10% salary increase effective at the start of the term, followed by scheduled 2% annual increases in 2018, 2019, and 2020.
2. **2021–2025 Term:** Ordinance 6562-20 was adopted on December 1, 2020, before the April 2021 term began. It approved a base adjustment effective at the start of the new term and scheduled 2% annual increases for 2022, 2023, and 2024.
3. **2025–2029 Term:** Bill No. 6682-24 was adopted on November 19, 2024, before the April 2025 term began. It established a 2.5% annual COLA schedule for each year of the four-year term and continued the annual cell phone allowance.

Accordingly, Raytown's compensation changes appear consistent with the constitutional prohibition on mid-term increases. The increases were approved before the affected judicial terms began, and the later annual adjustments were part of pre-enacted compensation formulas rather than new raises adopted after the term commenced.

For that reason, the Raytown example does not support a conclusion that a governing body may adopt a new mid-term increase for a sitting Municipal Judge. It instead supports the safer approach identified

above: compensation, including any scheduled COLA or future adjustment, should be adopted prospectively before the judicial term begins.

Prohibition Against Increased Compensation Based Upon Number of Cases Tried

The Council should also consider the separate statutory and Charter prohibition against making a Municipal Judge's compensation dependent on court volume or outcomes. Section 479.020, RSMo, and the City Charter provide:

The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

This limitation protects the separation of powers and preserves the judiciary's independence. Missouri Supreme Court Minimum Operating Standards require municipal divisions and municipal judges to remain insulated from municipal pressure, revenue targets, and caseload-driven incentives so that cases are administered fairly and impartially.

Accordingly, any compensation increase framed as payment for hearing additional cases, adding docket days, or processing a higher volume of matters could raise a separate concern under Section 479.020, RSMo, and the City Charter. The safer approach is to establish judicial compensation prospectively and independent of the number of cases heard, guilty verdicts reached, fines imposed, or fines collected.

CONCLUSION

The Council has authority to set compensation for Municipal Judges, but that authority must be in compliance with the Missouri Constitution and the Lee's Summit City Charter. As a general rule, compensation for a municipal officer must be fixed prospectively before the officer's term begins and may not be increased or decreased during that term.

Missouri courts recognize a narrow exception when a governing body imposes new, non-germane duties by legislative act and clearly ties additional compensation to those newly imposed duties. Based on the facts presented here, that exception does not appear to apply. Adding docket days or hearing more cases would increase the workload of the Municipal Judges, but it would not create new duties that are separate from or unrelated to the core judicial function of hearing and adjudicating municipal ordinance violations.

Likewise, the possible establishment of a treatment court docket does not provide a clear basis for a mid-term increase to be adopted by the Council. A treatment court docket may require additional time and planning, but the Council cannot mandate the internal structure, types of dockets, or changes to court operations of the municipal division. Those matters remain within the authority of the Court, subject to the Missouri Constitution, statutes, Supreme Court rules, and the Minimum Operating Standards.

Because the Council cannot impose the proposed additional docket days or treatment court docket on the Court in the manner necessary to satisfy the recognized exception, the Council would not be able to meet the standard identified by Missouri courts for a permissible mid-term compensation increase. The

safer legal conclusion is that a mid-term increase, based on the current facts, would likely be impermissible.

The Council should also avoid framing compensation as payment for additional cases, additional docket days, or higher court volume. Section 479.020, RSMo, and the City Charter separately prohibit Municipal Judge compensation from being dependent in any way on the number of cases tried, guilty verdicts reached, or fines imposed or collected.

Accordingly, any increase in Municipal Judge compensation, including any COLA or scheduled future adjustment, should be adopted prospectively before the beginning of the affected judicial terms. Although outside the limited scope of this opinion, the assessment indicates that the Court's workload has increased significantly over the years and that additional judicial resources may be needed to reduce the case backlog. The Council may need to consider lawful short-term options, such as the use of *pro tem* judges, and longer-term structural options, including whether the current part-time judicial model continues to meet the needs of the Court and the community.