

No. 713, A.]

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CHAPTER 501.

AN ACT to amend chapter 43, laws of 1935, section 11, as amended by chapter 136 of the laws of 1947, relating to the municipal court of the city of Oshkosh and county of Winnebago.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Chapter 43, laws of 1935, section 11, as amended by chapter 136 of the laws of 1947, is amended to read:

(Chapter 43, Laws of 1935) Section 11. (1) The municipal judge, in addition to the powers vested in the municipal court as aforesaid, is vested with all the powers and jurisdiction of a justice of the peace in said county, in all civil and criminal actions and proceedings, and also power to hear and determine any such case, although the title to land may come in question therein, and exclusive jurisdiction of all prosecutions for breach of the charter or of any ordinance or by-law of the city of Oshkosh or county of Winnebago, and, to exercise such jurisdiction, shall hold the municipal court as courts are held by justices of the peace, and the clerk of said municipal court shall act as the clerk of said court when it is held as a justice court and when the judge thereof is sitting as an examining magistrate, and is hereby authorized and empowered to administer oaths and

perform the other duties of his position the same as when the said municipal court is sitting as a court of record. The general provisions of law relative to procedure before justices of the peace shall apply to said court so far as applicable. Said judge shall open court each morning (Sundays and legal holidays excepted), and hear and dispose of, in a summary way, all cases for violation of the charter, ordinances and by-laws of said city of Oshkosh and of the ordinances and by-laws of the county of Winnebago, which shall be brought before him by police officers, or otherwise, either with or without process. * * * The city attorney shall be the prosecuting officer in all city charter, ordinance or by-law cases. All county ordinance and by-law cases shall be prosecuted by the district attorney of Winnebago county. * * *

(2) Neither chapter 301 of the Wisconsin statutes as now numbered or as may hereafter be numbered or designated nor any of its provisions shall be applicable to any prosecution for the violation of any ordinance or by-law of the city of Oshkosh, or any ordinance or by-law of the county of Winnebago, in said municipal court.

(3) All actions brought to recover a fine, penalty or forfeiture under the ordinance or by-laws of the county of Winnebago shall be brought in the name of said county. All actions brought to recover a fine, penalty or forfeiture under the ordinances or by-laws of the city of Oshkosh, Wisconsin, shall be brought in the name of said city.

(4) No action shall hereafter be brought in the name of the county of Winnebago to recover a fine, penalty or forfeiture, upon complaint of any person other than one of the police officials of said county, without first obtaining the consent of the district attorney of said county thereto. No action shall hereafter be brought in the name of the city of Oshkosh to recover a fine, penalty or forfeiture, upon complaint of any person other than one of the police officials of said city, without first obtaining the consent of the city attorney of said city thereto.

(5) Prosecutions for the recovery of fines, penalties and forfeitures for violation of any ordinance or by-law of the county of Winnebago or any ordinance or by-law of the city of Oshkosh shall be commenced by the filing of a complaint, in writing, under oath, with the judge, clerk or deputy clerk of said municipal court. No other affidavit of any nature whatsoever shall be necessary. The complaint shall be substantially in the following form:

COUNTY COMPLAINT or (CITY COMPLAINT—where applicable)			
STATE OF WISCONSIN	}	In municipal court of the city of Oshkosh and county of Winnebago, Wisconsin	
COUNTY OF WINNEBAGO (or where applicable)			ss
STATE OF WISCONSIN	}		In municipal court of the city of Oshkosh and county of Winnebago, Wisconsin
CITY OF OSHKOSH			
COUNTY OF WINNEBAGO			

.....being duly sworn on oath complains to said municipal court that, on the day of A.D. 19..... at the in said county of Winnebago, Wisconsin, did violate section of an ordinance of said county (or where applicable, said city), (describing its title and stating particulars showing in what respect, specifying the date and in what place the person complained against has violated the ordinance or by-law), which said ordinance was then and is now in force and effect, as this complainant verily believes, and prays that the said may be arrested and held to answer to the said county of Winnebago, (or where applicable — to the said city of Oshkosh) therefor.

Subscribed and sworn to before me this day of A.D. 19.....
.....
judge, clerk or deputy clerk of
the municipal court for the city
of Oshkosh and county of Winnebago,
Wisconsin

(6) It shall be sufficient to give the number of the section or sections and the title of the ordinance or by-law in the foregoing form of the complaint, and the said complaint shall be sworn to before the judge, clerk or deputy clerk of said municipal court. Upon the filing of such complaint with the judge, clerk or deputy clerk, upon a finding of probable cause, which said finding need not be stated in writing, a warrant shall thereupon be issued, which warrant shall be substantially in the following form:

COUNTY WARRANT or (CITY WARRANT — where applicable)

STATE OF WISCONSIN	}	ss
COUNTY OF WINNEBAGO (or where applicable)		
STATE OF WISCONSIN	}	ss
CITY OF OSHKOSH		
COUNTY OF WINNEBAGO		

In municipal court of the city of Oshkosh and county of Winnebago, Wisconsin

THE STATE OF WISCONSIN to the sheriff, policeman or any constable of said county of Winnebago, or to the chief of police or any policeman of the city of Oshkosh, Wisconsin, Greeting:

Whereas, has this day complained to the said municipal court in writing, on oath that on the day of A. D., 19..... at the in said county of Winnebago, Wisconsin, did violate section of an ordinance of said county, (or where applicable, said city), entitled (describing its title and stating particulars showing in what respect, specifying the date and in what place the person complained against has violated the ordinance or by-law), which said ordinance (or by-law) was then and is now in force and effect, as complainant verily believes.

Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the said and bring forthwith before the said municipal court of the city of Oshkosh and county of Winnebago to answer to the said county of Winnebago—(or where applicable, city of Oshkosh), on the complaint aforesaid.

Witness, The honorable judge of said municipal court, at Oshkosh, this day of in the year of our Lord, one thousand, nine hundred and.....

(SEAL) judge, clerk or deputy clerk of the municipal court for the city of Oshkosh and county of Winnebago, Wisconsin.

(7) Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court or clerk, for his or her appearance in such sum as the court shall direct, or in default thereof may be committed to the Winnebago county jail. The complaint made as aforesaid shall be the only complaint required, and a plea of "not guilty" shall put in issue all subject matter embraced in the action.

(8) In all county of Winnebago and city ordinance or by-law prosecutions the finding of the court shall be either "guilty" or "not guilty." If "guilty" the court shall render judgment thereon against the defendant or defendants for the fine, penalty or forfeiture contained in the ordinance or by-law, for the violation of which the person or persons shall have been adjudged guilty, and the costs in the action, and at the same time direct upon failure to pay such fine, forfeiture or penalty and costs, that the defendant or defendants be committed to the Winnebago county jail, until such fine, forfeiture or penalty and costs be paid, not to exceed the term specified in the ordinance or by-law, and in no event to exceed 6 months. The court may stay execution for purpose of appeal or for other cause, not to exceed 5 days, and release the defendant with or without recognizance or security for such period. If any defendant on whom judgment has been passed, the execution of which has been stayed, excepting cases wherein an appeal has been perfected, fails, after the expiration or vacation of such stay to either surrender himself or herself to the sheriff of Winnebago county, pursuant to the order of the court or in obedience to a commitment issued, or pay to the clerk of the said municipal court the fine, penalty or forfeiture and costs imposed, the court shall retain jurisdiction and may issue a bench warrant for the arrest of the defendant. In such case the sentence of the defendant shall not begin to run until he be committed after apprehension on such order or writ. In case of appeal to the circuit court of Winnebago county, the court may require the defendant or defendants to recognize with sureties to be approved by the court or clerk for his or her appearance in said court. Cash bail may be deposited in lieu of other collateral.

(9) The rules of evidence pertaining to the trials of civil actions shall apply to all prosecutions under an ordinance or by-law of the city of Oshkosh or county of Winnebago.

In all prosecutions under the ordinances or by-laws of the county of Winnebago and the city of Oshkosh, costs and fees shall be the same as those applicable and taxed in criminal actions in courts of justices of the peace.

(10) If a corporation fails to appear within 20 days after a warrant for the violation of a municipal or county ordinance or by-law is served by leaving a copy thereof with the persons upon whom a circuit court summons in a civil action against the corporation may be served, the default of such corporation may be recorded and the charge against it taken as true, and judgment shall be rendered accordingly. Judgments against corporations in municipal or county ordinance or by-law cases in the said municipal court shall be docketed and enforced by execution in the same manner as other judgments in civil actions are enforced against corporations.

(11) Upon the conviction and the nonpayment of a judgment in an ordinance or by-law case the court may forthwith issue a commitment on said judgment which commitment shall be substantially in the following form:

COMMITMENT ON SENTENCE
VS

STATE OF WISCONSIN }
CITY OF OSHKOSH } ss IN MUNICIPAL COURT FOR
COUNTY OF WINNEBAGO } THE CITY OF OSHKOSH AND
COUNTY OF WINNEBAGO, WISCONSIN

THE STATE OF WISCONSIN, to the sheriff and jailer of the county jail of Winnebago county, Wisconsin:

Whereas, defendant, on the day of
.....19 .., was duly convicted of:
....., and upon conviction, the said court did adjudge
and determine that the said defendant should pay a fine, penalty or forfeiture of
(\$.....) and costs in the amount of (\$) for a total of
(\$.....), and in default of payment thereof be imprisoned in the county
jail of Winnebago county, at hard labor, until such fine, penalty or forfeiture and costs
are paid, not to exceed days, defendant being in default.

Therefore, you are commanded, in the name of the state of Wisconsin, to receive the
said defendant into your custody, in the said county jail, and him there safely keep for
a term of days unless said judgment, together with all costs, is sooner paid,
or he be discharged by due course of law.

Witness, the honorable judge of the municipal
court for the city of Oshkosh and the county of Winnebago, at the city of Oshkosh, this
....day of 19....
(SEAL)

.....
Clerk of said municipal court

Approved June 27, 1951.

