

**ARTICLE 143
Municipal Court**

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CROSS REFERENCES

- Establishment - see W. Va. Code 8-10-2
 Payment of fines by credit card - see W. Va. Code 8-10-2a
 Suspension of license - see W. Va. Code 8-10-2a, b
 General rights of appeal - see W. Va. Code 8-34-1
 Costs for crime victims reparation fund - see W. Va. Code 14-2A-4
 Costs for funding law enforcement training academies - see
 W. Va. Code 30-29-4
 Search warrant - see W. Va. Code 62-1A-1

143.01 JURISDICTION, POWERS AND DUTIES.

There is hereby established the Bolivar Municipal Court under the powers granted and limitations contained in the Constitution of the State of West Virginia and West Virginia Code 8-10-2.

There is further established the Office of Municipal Court Judge, who shall be appointed by the Mayor of the Town of Bolivar, with the advice and consent of the Town Council. The term of the Municipal Judge shall begin on January 1 of each year and end on December 31 of each year. The compensation of the Municipal Judge shall be fixed by the Town Council.

The Municipal Court Judge shall exercise all of the powers and duties set forth in the City Charter and the West Virginia Code. The Municipal Court shall have criminal jurisdiction over violations of the Codified Ordinances and all other ordinances of the Town.

(Ord. 10-13-92.)

143.02 SEARCH WARRANTS.

Upon proper complaint, the Municipal Court Judge shall issue search warrants in connection with the violation of any provision of the Codified Ordinances or other Town ordinances.

(Ord. 10-13-92.)

143.03 DOCKET; CHIEF OF POLICE.

The Chief of Police shall keep a wellbound book in his office, which book shall be called the "docket". Such docket shall contain a record of each case brought before the Municipal Court Judge and the disposition thereof. The Chief of Police shall index the docket in such manner as to provide a ready reference to each case and to keep such index current.

(Ord. 10-13-92.)

143.04 WARRANT REQUIRED; EXCEPTION.

Proceedings before the Municipal Court Judge shall be by warrant of arrest in the name of the Town, except that when an offense of which the Municipal Court Judge has jurisdiction is committed in his presence, or in that of a police officer, either of them may forthwith apprehend the offender or cause him to be apprehended, and in such case, the offender may be tried before the Municipal Court Judge and dealt with according to law.

(Ord. 10-13-92.)

143.05 PROCEDURE UPON ARREST WITHOUT WARRANT.

When a person arrested without a warrant is brought before the Municipal Court Judge, a complaint shall be filed that an offense has been committed. It shall then be the function of the Judge of the Municipal Court to issue a warrant, if proper under the law.

(Ord. 10-13-92.)

143.06 ISSUANCE OF WARRANTS AT REQUEST.

Any member of the Police Department without affidavit, or any citizen upon a sworn affidavit may make a complaint that an offense has been committed. It shall then be the function of the Judge of the Municipal Court to issue a warrant if proper under the law.

(Ord. 10-13-92.)

143.07 FAILURE OF ACCUSED PERSON TO APPEAR FOR TRIAL.

If a warrant or summons is returned executed and the accused person fails to appear within the space of one hour after the time designated for the trial, the case may be proceeded into, heard and determined as if there were an appearance by the accused. Or the Municipal Court Judge may, in his discretion, after hearing the evidence, issue his process requiring the officer to whom it shall be directed to arrest and accused and bring him, either forthwith or at some designated time, before him to hear judgment in the case.

(Ord. 10-13-92.)

143.08 CONTINUANCES ON MOTIONS OF ACCUSED.

Continuances may be granted as justice may require. If one is granted at the instance of the accused, he may be required to enter into a recognizance, payable to the Town, with approved security, in a sum determined by the Municipal Court Judge conditioned for his appearance at the time and place named in the order of continuance, to answer further as to the alleged offense, and failing compliance, may be committed to jail until that time, but such imprisonment shall not continue longer than five days.

(Ord. 10-13-92.)

143.09 CONTINUANCE ON MOTIONS OF OTHER THAN ACCUSED.

If the continuance is not at the instance of the accused, he may be allowed to depart until the time appointed for the trial upon entering into his own recognizance, payable and conditioned as in Section 143.08, or without recognizance, as may be deemed right and proper.

(Ord. 10-13-92.)

143.10 CONTINUANCES, DEFAULT IN RECOGNIZANCE.

In case default is made in the condition of any recognizance entered into by virtue of this article, it shall be noted on the docket; and in the event that payment is not made of the sum named as the penalty thereof, an action may be maintained thereon in the name of the Town in any court of competent jurisdiction to recover the amount of the penalty against the accused and his sureties. In such action the Court may give judgment for the whole of the penalty, or remit it, in whole or in part, and render judgment upon such terms and conditions as may be deemed reasonable.

(Ord. 10-13-92.)

143.11 JUDGMENT OF GUILTY INCLUDES JUDGMENT FOR COSTS.

Upon the final hearing of any proceeding to punish an offense, if judgment is given against the accused, such judgment shall include the costs incurred by the Town, or due to any officer in that behalf, in addition to court costs of twenty-five dollars (\$25.00), and any fees required by law.

(Ord. 10-13-92.)

143.12 ENFORCEMENT OF PENALTIES AND COSTS.

The Municipal Court Judge shall have power to issue executions for all fines, penalties and costs imposed by him, or he may require the immediate payment thereof in default of such payment and he may commit the party in default to jail for not to exceed ten days.

(Ord. 10-13-92.)

143.13 PAYMENT OF COURT COSTS.

If the judgment is in favor of the person accused, he shall recover his costs, and the Municipal Court Judge shall certify such costs to the City Recorder for payment, as well as those incurred by the City. And if the judgment is against such person and the costs incurred by the Town cannot be collected from him, they also shall be reported by the Municipal Court Judge to the City Recorder for payment. Costs shall be held to include the fees of witnesses, as in cases before magistrates.

(Ord. 10-13-92.)

143.14 SUSPENSION OF EXECUTION OF JUDGMENT.

After judgment, execution may be suspended by the Municipal Court Judge upon such terms as may be imposed by him and agreed to by the party convicted.
(Ord. 10-13-92.)

143.15 APPEALS.

Every person sentenced under this article by the Municipal Court Judge to imprisonment or to the payment of a fine of ten dollars (\$10.00) or more (and in no case shall a fine of less than ten dollars (\$10.00) be given if the defendant, his agent or attorney object thereto) shall be allowed an appeal de novo to the County Circuit Court, upon entering into an appeal bond with surety deemed sufficient in a penalty double the amount of fine and costs, with condition that the person appealing will perform and satisfy any judgment which may be rendered against him by the Circuit Court on such appeal. Any such appeal must be perfected within ten days from and after the date upon which the sentence is imposed. If such appeal is taken, the appeal bond and other papers in the case shall be forthwith delivered by the Clerk to the Clerk of the Court to which such appeal is taken, and such Court shall proceed to try the case as upon indictment or presentment, and render such judgment, without remanding the case, as the law and the evidence may require. If the judgment is against the accused, it shall include the costs incurred in the proceedings before the Municipal Court Judge, as well as in the Court.
(Ord. 10-13-92.)

143.16 CONTEMPT.

The Municipal Court Judge may punish for contempt of court a person guilty of any one of the following acts and in no other case:

- (a) Contemptuous or insolent behavior toward the Judge while engaged in the trial of a case or in any other judicial proceeding;
- (b) Any breach of the peace, willful disturbance or indecent conduct in the presence of the Judge while so engaged, or so near as to obstruct or interrupt the proceedings;
- (c) Violence or threats of violence to the Judge or any officer, juror, witness or party going to, attending or returning from, any judicial proceeding before the Court with respect to any thing done or to be done in the course of such proceeding;
- (d) Flagrant misbehavior of any officer of the Town acting in his official capacity with respect to any action or judicial proceeding had or pending before the Court, or any process, judgment, order or notice herein; or
- (e) Willful resistance by an officer of the Court, juror, witness, party or other person to any lawful process or order of the Court. The Judge may, if necessary, issue a warrant of arrest for such person, who shall be given an opportunity to be heard. In the event such person is adjudged guilty of contempt, the person shall be fined not more than fifty dollars (\$50.00) for the first offense. For a second offense pertaining to the same matter, the person shall be fined not more than one hundred dollars (\$100.00). For the third or any subsequent offense pertaining to the same matter, the person shall be fined not more than one hundred dollars (\$100.00), or imprisoned in the County Jail not more than ten days, or both.

An appeal to the Circuit Court of such conviction shall lie as in criminal cases.
(Ord. 10-13-92.)

143.17 JURY TRIALS.

In all cases where required by the Constitution or statutes of the State, the Municipal Court Judge shall empanel a jury to hear the evidence and decide the case. The Court shall promulgate rules for the selection and empaneling of jurors in such cases. All costs incurred in connection with jury trials shall be awarded against, and be payable by the party against whom judgment is rendered.

(Ord. 10-13-92.)

143.18 CONTEMPT; ENTRY OF CONVICTIONS ON DOCKET.

The conviction for contempt, specifying the particular circumstances of the offense and judgment thereon, shall be entered by the Municipal Court Judge in his docket. A warrant of commitment for the term of imprisonment may be issued by the Judge commanding an officer to take the offender to the jail, and the jailer to imprison him therein for the term. The judgment may include, in addition to the fine, all costs in the case, including costs of arrest and keeping in prison the offender. An appeal may be taken from such judgment of the Judge, as in other cases, to any court of competent jurisdiction in the County.

(Ord. 10-13-92.)