

Chapter 3 ENFORCEMENT OF ORDINANCES

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Sec. 3-1. Municipal court.

- (a) *Created.* There is created and established, pursuant to Wis. Stats. § 755.01, in and for the city a municipal court which shall be designated as the "Municipal Court for the City of Brillion."
- (b) *Term and election of judge.* The municipal judge shall be elected at large for a term of two years. The term shall commence on May 1 of the year of the judge's election. Any permanent vacancy in the office of municipal judge shall be filled under Wis. Stats. § 8.50(4)(fm).
- (c) *Oath and bond of judge.* The judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in Wis. Stats. § 757.02(l), and at the same time execute and file an official bond in an amount to be fixed by the city council. No judge may act as such until his or her oath and bond have been filed as required by Wis. Stats. § 19.01(4)(c), and the requirements of Wis. Stats. § 755.03(2) have been complied with.
- (d) *Salary and fees.*
 - (1) The annual city meeting shall fix a salary for the judge that shall be in lieu of fees and costs. The salary may be increased by the annual city meeting before the start of the second or a subsequent year of service of the term of the judge, but shall not be decreased during a term. The salary shall be paid in equal bi-weekly installments, but the judge shall not be paid a salary for any time during the term during which the judge has not executed his or her official bond or official oath, as required by Wis. Stats. § 755.03, and filed under Wis. Stats. § 19.01(4)(c).
 - (2) Fees and taxable costs shall be paid into the city treasury as the city council may direct.
- (e) *Guardian ad litem.* The municipal court shall appoint a guardian ad litem for any defendant that the court has reason to believe is mentally incompetent.
- (f) *Jurisdiction.*
 - (1) The municipal court shall have exclusive jurisdiction over any action in which the city seeks to impose forfeitures for violations of city ordinances, unless the action is transferred under Wis. Stats. § 800.04(t) or 800.05(3) to a court of record. If equitable relief is demanded the municipal court shall not have

jurisdiction and the action shall be brought in a court of record.

- (2) The municipal judge may issue civil warrants to enforce matters that are under the jurisdiction of the municipal court and may issue inspection warrants under Wis. Stats. §§ 66.122 and 66.123.
 - (3) The territorial jurisdiction of the municipal judge shall be countywide.
 - (4) The municipal judge may order the payment of restitution, under the process set forth in Wis. Stats. § 800.093, for violations of ordinances that prohibit conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both.
- (g) *Sessions of court.* The municipal court shall be open and in session at such times as may be determined by the municipal judge.
- (h) *Office, where kept.* The municipal judge shall keep his or her office and hold court at the Brillion City Hall Building, 130 Calumet Street, Brillion Wisconsin. The judge may issue process or perform ministerial functions at any place in the county.
- (i) *Employees.* The municipal judge shall, in writing, appoint such clerks and deputy clerks as are authorized by the city council. Their salaries shall be fixed by the city council. The clerks shall, before entering upon the duties of their offices, take the oath provided by Wis. Stats. § 19.01 and give a bond if required by the city council. The cost of the bond shall be paid by the city. Oaths and bonds of the clerks shall be filed with the city clerk.
- (j) *Illness absence or vacancy; pending actions triable by court which receives papers; continuance on vacancy and notice of trial.*
- (1) If the municipal judge is to be temporarily absent or is sick or disabled, the municipal judge may, by written order filed in the court and with the chief judge of the judicial administrative district for approval, designate another municipal judge of the county to perform his or her duties for a single period not to exceed 30 days, or the municipal judge may deliver the docket and all papers relating to any pending action to the county circuit court and the circuit court may try the action and enter judgment as though the action was begun before that court.
 - (2) If the municipal judge becomes incompetent, is unable or fails to act, or in the event of a vacancy, Wis. Stats. § 751.03(5) shall apply. The parties and their attorneys shall be notified of the transfer to another municipal judge or to circuit court prior to trial. The municipal judge designated or the circuit judge to whom the care is transferred may, while in possession of the docket, issue execution upon or give a certified transcript of any unsatisfied judgment appearing therein.
- (k) *Municipal court docket and transcript entries.*
- (1) The municipal judge shall keep a docket in which he or she shall enter, in actions to which they relate:
 - a. The title of every action commenced before the municipal judge, including the name and address of the defendant;
 - b. The process issued, date and place where it issued, when returnable

and the return of the process;

- c. A brief statement of the charges, including the nature and time of the offense and the section of law violated;
 - d. Every adjournment, stating at whose request and to what time;
 - e. The date and time trial was held;
 - f. The names of witnesses sworn, stating at whose request;
 - g. The judgment rendered by the municipal judge, including the penalties imposed, the date and time of rendering judgment and the costs assessed in the action;
 - h. The record of contempt convictions under section 3-7 of this chapter;
 - i. The amount of bail and names and addresses of sureties, if any;
 - j. The time of ordering any stay of execution;
 - k. The time of issuing execution and the name of the officer to whom delivered;
 - l. The return of every execution and when made and every renewal of an execution, with the date thereof;
 - m. The date and reason of removal of the action to another court;
 - n. The date of giving transcript of judgment;
 - o. The date of an appeal made from judgment; and
 - p. All motions made in the action, the decision thereon and all other proceedings in the action that the municipal judge may think useful.
- (2) Failure of the municipal judge to keep a docket properly shall not affect the jurisdiction of the municipal court or tender the judgment void.
- (3) The transcript of judgment shall contain the following:
- a. The name and location of the court;
 - b. The title of action;
 - c. The name, address and vocation of defendant;
 - d. The date of judgment;
 - e. The amount of the judgment, costs and fees;
 - f. The certification that it is a true copy of the judgment.
- (l) *Recording in municipal court.* Every proceeding in which testimony is taken under oath in the municipal court shall be recorded by electronic means for purposes of appeal.
- (m) *Additional dispositions and sanctions which may be imposed against juveniles by the municipal court.*

- (1) If the municipal court finds that the juvenile violated an ordinance, the court may impose any of the dispositions listed in Wis. Stats. §§ 938.343 and 938.344 in accordance with the provisions of those statutes.
- (2) If the municipal court finds by a preponderance of the evidence that a juvenile has violated a dispositional order authorized by Wis. Stats. § 938.343 or § 939.344, the court may impose any of the sanctions listed in Wis. Stats. § 938.355(6)(d) in accordance with the provisions of that statute.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)

Sec. 3-2. Citations, complaints, summons, warrants and arrest.

- (a) *Use of citations, etc.* The ordinances of the city may be enforced through the issuance of citations, complaints, summons, warrants, and by arrest. Citations, complaints, summons, and warrants shall be in the form prescribed in this section.
- (b) *Citation form.*
 - (1) The citation shall be issued and signed by a law enforcement officer; by a peace officer, or by any other city official authorized to issue citations with respect to ordinances which are directly related to their official responsibilities; or endorsed by a municipal attorney; or if applicable, signed by a conservation warden, and shall contain substantially the following information:
 - a. The name, address and date of birth of the defendant;
 - b. The name and department of the issuing officer;
 - c. The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the ordinance, resolution or by law violated and a designation of the violation in language which can be readily understood;
 - d. A date, time and place for the court appearance, and a notice to appear;
 - e. Provisions for amount of deposit and stipulation in lieu of a court appearance, if applicable;
 - f. Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made;
 - g. Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within ten days after entry of the plea request a jury trial;
 - h. Notice that if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture, penalty assessment imposed by Wis. Stats. § 165.87, jail assessment imposed by Wis. Stats. § 302.46(t), plus costs, including the fee prescribed in Wis. Stats. § 814.65(l), not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the

defendant rather than accept the deposit and plea (Wis. Stats. § 968.085).

- i. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.
- j. Any other pertinent information.

(2) Except for parking violations, in traffic regulation actions in municipal court, the uniform citation and complaint form specified in Wis. Stats. § 345.11, shall be used in lieu of the citation form specified in subsection (1). In actions for violations of local ordinances enacted in accordance with Wis. Stats. § 30.77, the citation form specified in Wis. Stats. § 23.54, shall be used in lieu of the citation form specified in subsection (1).

(c) *Complaint form.* The complaint shall be signed by a complainant and shall contain substantially the following information:

- (1) The name, address and date of birth of the defendant;
- (2) The department permit or license number of the defendant as applicable;
- (3) The name and department of the issuing officer;
- (4) The title of the cause, specifying the name of the court and county in which the action is brought and the names and addresses of the parties to the action;
- (5) A plain and concise statement of the violation identifying the event or occurrence from which the violation arose and showing that the plaintiff is entitled to relief, the ordinance, resolution or bylaw upon which the cause of action is based and a demand for forfeiture, the amount of which shall not exceed the maximum set by the statute involved, the penalty assessment and such other relief that is sought by the plaintiff.
- (6) Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within ten days after entry of the plea request a jury trial;
- (7) If the action is against a business corporation or a nonstock corporation, the complaint shall state the corporate existence and whether the corporation is a domestic or foreign corporation;

(d) *Summons form.* The summons shall be signed by the municipal judge and shall contain the following information:

- (1) The title of the cause, specifying the name of the court and county in which the action is brought and the names of all parties to the action;
- (2) A direction summoning and requiring the defendant to appear in a specified court on a particular date, not less than ten days following service of the summons, to answer the accompanying citation or complaint;
- (3) A notice that in case of failure to appear judgment may be rendered against the defendant according to the demand of the citation or complaint, or the court

may issue a warrant for the defendant's arrest.

- (e) *Warrant form.* The warrant shall be in the name of the State of Wisconsin; shall be directed to all law enforcement officers in the state; may be addressed to any law enforcement officer in the state; shall be signed by the municipal judge who authorizes its issuance and shall contain or have attached hereto the following information:
 - (1) The name of the defendant;
 - (2) The offense alleged;
 - (3) A copy of the citation or complaint;
 - (4) A finding of probable cause that the defendant committed the offense;
 - (5) A command to arrest the defendant and bring him or her before the municipal judge or other municipal judge or judge of the county;
 - (6) The date of issuance.
- (f) *Authority to arrest without a warrant.* A person may be arrested without a warrant for the violation of a municipal ordinance if the arresting officer has reasonable grounds to believe that the person is violating or has violated the ordinance.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)

Sec. 3-3. Citations issued by city officials.

- (a) *Who may issue.* In addition to any law enforcement officer, the following officials are authorized to issue citations in connection with the enforcement of the ordinances set forth in section 3-6: the fire chief, deputy fire chiefs and fire inspectors; the building inspector; the zoning administrator/city planner; the water superintendent; the superintendent of highways; the animal control officer and the city engineer/director of public works. Any such official may, with the approval of the common council, delegate the authority to issue citations to employees who are under the official's supervision and control.
- (b) *Schedule of deposits.*
 - (1) The schedule of deposits set forth in City Ordinance 1-17, 94-1, 94-2, 94-40, Wis. Stats. §§ 345.26(2)(a), 778.25(3), 778.26(3), 969.065, is established for use in connection with citations issued to adults pursuant to this section and section 3-4. The deposit for any non-traffic citation issued to a child over the age of 12 shall be \$50.00.
 - (2) Deposits shall be made in cash, by money order, or by certified check to the clerk of the municipal court, City of Brillion, Wisconsin, who shall provide a receipt thereof.
- (c) *Violator's options; procedure on default.*
 - (1) The person named as the alleged violator in a citation issued pursuant to this section may appear in municipal court at the time specified in the citation or may mail or deliver personally a cash deposit in the amount, within the time and to

the court, clerk of court or other official specified in the citation. If a person makes a cash deposit, the person may nevertheless appear in court at the time specified in the citation, provided that the cash deposit may be retained for application against any forfeiture, penalty assessment under Wis. Stats. § 165.87, jail assessment and costs which may be imposed.

- (2) If a person appears in court in response to a citation issued pursuant to this section the citation may be used as the initial pleading, unless the court directs that a formal complaint be made, and such appearance confers personal jurisdiction over the person. The person may plead guilty, no contest or not guilty. If the person pleads guilty or no contest, the court shall accept the plea, enter a judgment of guilty and impose a forfeiture and the penalty assessment imposed by Wis. Stats. § 165.87. A plea of not guilty shall put all matters in the case at issue, and the matter shall be set for trial.
 - (3) If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be deemed to have tendered a plea of no contest and submitted to a forfeiture and the penalty assessment imposed by Wis. Stats. § 165.87, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly or reject the plea. If the court accepts the plea of no contest, the defendant may move within ten days after the date set for the appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty if the defendant shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no costs or fees may be taxed against the violator, but a penalty assessment shall be assessed. If the court rejects the plea of no contest or if the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, an action for collection of the forfeiture and penalty assessment may be commenced under Wis. Stats. § 66.12(1). The citation may be used as the complaint in the action for the collection of the forfeiture and penalty assessment.
- (d) *Relationship to other laws.* The issuance of a citation under this section shall not preclude the proceeding under any other ordinance or law relating to the same or any other matter. The proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this section.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)

Sec. 3-4. Municipal court procedure.

- (a) *Commencement of action.*
 - (1) Personal jurisdiction in municipal ordinance violation cases and cases involving a violation of a resolution or bylaw if the resolution or bylaw is authorized by statute shall be obtained over a defendant when the defendant:
 - a. Is served with a summons and complaint or citation and such documents

are filed with the court;

- b. Is arrested and brought before a court; or
- c. Voluntarily appears before a municipal judge.

(2) Service under subsection (1)a. shall be as provided in Wis. Stats. § 968.04(3), or by personal service by a municipal employee.

(b) *Stipulation of no contest prior to the initial appearance.*

(1) If a person is issued a citation in a case specified in section 3-2(b), the person may make a stipulation of no contest and deposit as follows:

- a. In traffic regulation cases, as provided in Wis. Stats. § 345.27.
- b. In boating violations, as provided in Wis. Stats. § 23.67.
- c. In other violations, the person may make such a stipulation and deposit only if the common council has approved the deposit schedule under subsection (3). The person may make the stipulation of no contest and deposit to the municipal court at any time prior to the initial appearance.

(2) The person who has made a stipulation and deposit under subsection (1) may appear in court. In such case, the court shall allow the person to withdraw his or her plea of no contest. The person need not appear in court.

(3) The amount of the deposit shall be set by the municipal judge, but shall not be effective until approved by the common council. The amount shall not exceed the maximum penalty for the offense, including any penalty assessment that would be applicable under Wis. Stats. § 165.87, and any jail assessment that would be applicable under Wis. Stats. § 302.46(l), plus court costs, including the fee prescribed in Wis. Stats. § 814.65(t).

(c) *Pleading by mail.* If a summons is served or citation is issued for a violation of any municipal ordinance, the defendant may enter a plea of not guilty based on such summons or citation by letter to the municipal judge at the address indicated on the summons or citation. The letter shall include the defendant's return address and may include a request for trial during normal daytime business hours. Upon receipt of the letter, the judge shall reply by mail to the defendant's address setting forth the place for trial and the time for the trial which shall be during normal business hours if requested by the defendant. The date of the trial shall be at least ten days from the mailing by the judge. This section shall not preclude the setting of the trial at any time convenient to all parties concerned.

(d) *Initial appearance; pleas; trial.*

(1) When a defendant appears or is brought before the municipal court, the judge shall read the charge to the defendant as stated in the warrant, complaint or citation, and shall explain the range of penalties which may be imposed.

(2) The court shall inform the defendant that he or she may plead guilty, not guilty or no contest or may request a continuance; the effect of a plea of no contest; and of the right to a jury trial.

- (3) The defendant shall plead to the charges and the municipal judge shall enter the plea in the court docket. If the defendant refuses to plead, the municipal judge shall enter a plea of not guilty.
- (4) If the defendant pleads guilty or no contest, the court shall convict the defendant of the offense charged and render judgment.
- (5) If the defendant charged with violation of City Ordinance 94-1, Wis. Stats. § 346.63(1) or (5) pleads not guilty and within ten days after entry of the plea requests a jury trial and pays the required fees, the municipal judge shall promptly transmit all papers and fees in the case to the clerk of circuit court for a jury trial under Wis. Stats. § 345.43. The plea of not guilty and request for jury trial may be made by mail. In cases not governed by Wis. Stats. § 345.20 to § 345.53, the amount of deposit set out in the citation shall accompany the mailed request. Upon receipt of the request, the circuit court will set a time for trial. Any deposit made personally, or by mail, is forfeited upon nonappearance at the time set for trial. The required fee for a jury is \$6.00 per juror.
- (6) If the defendant agrees to immediate trial by the court, and the prosecutor is prepared for trial, the case may be tried immediately. If trial is not held immediately, the municipal judge shall then set a date for trial or advise the defendant that he or she will later be notified of the date set for trial.
- (7) If the court accepts a plea of no contest or judgment is entered against a defendant by default, the defendant may move within 6 months after the date set for the appearance to withdraw the plea of no contest, reopen the judgement and enter a plea of not guilty upon a showing to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If on reopening the defendant is found not guilty, the court shall in traffic cases under Wis. Stats. § 345.20 to § 345.53, immediately notify the department of transportation to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned. In this subsection, "default judgment" means only a judgment where there has been a plea of no contest and a forfeiture of a deposit.

(e) *Deposit.*

- (1) The municipal judge may release a defendant without a deposit.
- (2) If the municipal judge determines that the defendant should not be released under subsection (1), and the defendant is charged with a traffic or boating violation, the municipal judge shall release the defendant on a deposit as bail in the amount established by the uniform deposit schedule under Wis. Stats. § 345.26(2)(a), or under Wis. Stats. § 23.66. For other violations, the municipal judge shall establish a deposit as bail in an amount not to exceed the maximum penalty for the offense, including any penalty assessment which would be applicable under Wis. Stats. § 165.87, or on failure of the defendant to make a deposit as bail under this section, he or she shall be committed to jail pending trial while the default continues.
- (3) If the defendant has made a deposit under this section and does not appear, he

or she is deemed to have tendered a plea of no contest and submits to a forfeiture and a penalty assessment imposed by Wis. Stats. § 165.87, plus costs, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the court shall issue a warrant under Wis. Stats. § 968.09. If the defendant has made a deposit but does appear, the court shall allow the defendant to withdraw the plea of no contest.

(f) *Procedure at trial.*

(1) *Order of proof.* In a trial before the municipal court, the city shall provide a prosecutor who is an attorney authorized or licensed to practice law in this state. The city shall first offer evidence in support of the citation or complaint. The defendant may offer evidence after the city has rested. If the city and the defendant have offered evidence upon the citation or complaint, the parties may then respectively offer rebuttal testimony only, unless the court permits them to offer evidence upon their original case, both parties shall have the opportunity to question all witnesses.

(2) *Oath or affirmation.*

a. Before testifying in the municipal court, every witness shall be required to declare that he or she will testify truthfully by oath or affirmation administered in a form calculated to awaken his or her conscience and impress the witness with the duty to testify truthfully.

b. The oath may be administered by the municipal judge or his or her designee substantially in the following form: "Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God?".

c. Every person who declares that he or she has conscientious scruples against taking the oath, or swearing in the usual form, shall make a solemn declaration or affirmation, which may be in the following form: "Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and this you do under the pains and penalties of perjury?".

d. The assent to the oath or affirmation by the person making it may be manifested by the uplifted hand.

(3) *Standard of proof.* The standard of proof for conviction of any person charged with violation of any municipal ordinance, bylaw or resolution specified in Wis. Stats. § 300.02(1), shall be evidence that is clear, satisfactory and convincing.

(4) *Rules of evidence.* The municipal court shall be bound by the rules of evidence specified in Wis. Stats. chs. 901 to 911.

(g) *Judgment.*

(1) *Judgment on determination of guilt.* If the municipal court finds a defendant

guilty it may render judgment by ordering payment of a forfeiture and the penalty assessment imposed by Wis. Stats. § 165.87, plus costs of prosecution and by imprisonment in default of such payment. Any person committed under this section may be accorded privileges under Wis. Stats. § 56.08. The court may defer payment of any judgment for not more than 60 days. At the time the judgment is rendered, the court shall inform the defendant of the plan by which payment of the forfeiture, penalty assessment and costs must be made, and of the possible consequences of failure to make the payment in timely fashion.

(2) *Judgment on plea of guilty or no contest or on failure to appear.*

- a. If the defendant pleads guilty or no contest, the court shall convict the defendant of the offense charged and render judgment.
- b. If the person arrested and released fails to appear personally, or by an attorney, at the time fixed for hearing of the case, the defendant may be deemed to have entered a plea of no contest and the money deposited, if any, or such portion thereof as the court determines to be an adequate penalty, plus the penalty assessment and costs, may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed, together with the penalty assessment and costs. In either event, any remaining money shall be refunded to the person who made the deposit.
- c. This subsection shall not apply to violations of parking ordinances. Bail given for appearance to answer a charge under any such ordinance may be forfeited as determined by the city council.

(h) *Failure to pay forfeiture.*

- (1) Persons who fail to pay forfeitures, penalty assessments and costs shall be committed to a jail or a house of correction in the county in which the cause of action arose for not more than 90 days and shall be kept at the expense of the municipality. Any person committed under this section may be accorded privileges under Wis. Stats. § 56.08.
- (2) If a child fails to pay any forfeiture imposed by the court, the court shall not impose a jail sentence but may suspend his or her hunting, trapping or fishing license or may suspend his or her operating privilege, as defined in Wis. Stats. § 340.01(4), for not less than 30 nor more than 90 days. If the court suspends a license under this subsection, it shall immediately take possession of the suspended license and forward it to the department which issued the license, together with the notice of suspension, clearly stating that the suspension is for failure to pay a forfeiture imposed by the court. If the forfeiture is paid during the first 30 days after the license is suspended, the suspension shall be reduced to the minimum period of 30 days. If it is paid thereafter, the court shall immediately notify the department, which shall thereupon return the license to the person.

(i) *Discovery in municipal court.* Neither party is entitled to pretrial discovery, except that if the defendant moves within seven days after the initial appearance in person or by an

attorney and shows cause thereof, the court may order that the defendant be allowed to inspect documents, including lists of names of witnesses, and to test under Wis. Stats. § 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed.

(j) *Substitution of municipal judge.*

- (1) In cases specified in Wis. Stats. § 300.02(1), a person charged with a violation may file a written request for a substitution of a new judge for the municipal judge assigned to the trial of that case. The written request shall be filed not later than seven days after the initial appearance, in person, or by an attorney. The municipal judge against whom a request has been filed may set initial bail and accept a plea of not guilty.
- (2) Except as provided in subsection (4), no person may file more than one such written request in any one action.
- (3) In municipal court, upon receipt of the written request, the case shall be transferred as provided in Wis. Stats. § 751.03(2). Upon transfer, the municipal judge shall transmit to the appropriate court all the papers in the action and the action shall proceed as if it had been commenced in that court.
- (4) If upon an appeal from a judgment or order or upon a writ of error the appellate court orders a new trial or reverses or modifies the judgment or order in a manner such that further proceedings in the municipal court are necessary, the person charged with a violation may file a request under subsection (1) within 20 days after the entry of the judgment or decision of the appellate court whether or not another request was filed to the time the appeal or writ of error was taken.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)

Sec. 3-5. Appeal from municipal court decision.

- (a) *Notice of appeal.* Appeals from judgments of the municipal court may be taken by either party to the circuit court of the county where the offense occurred. The appellant shall appeal by giving the municipal judge written notice of appeal within 20 days after judgment.
- (b) *Defendant appeal bond.* On appeal by the defendant, the defendant shall execute a bond to the city with or without surety, approved by the municipal judge, that if the judgment is affirmed, in whole or in part, the defendant shall pay the judgment and all costs awarded on appeal.
- (c) *Stay of municipal court judgment.* On meeting the requirements for appeal, execution on the judgment of the municipal court shall be stayed until the final disposition of the appeal.
- (d) *Transcript; recording.* On appeals from judgments of the municipal court, a transcript shall be prepared of the record proceedings in the municipal court, The transcript prepared from the electronic recording shall be certified by the municipal judge and paid for under section 3-6(g). The tape of the electronic recording shall be retained by

the municipal court during the pendency of the appeal and be available to the reviewing court upon its order.

- (e) *Review on record.* The appeal in circuit court from a judgment of the municipal court shall be a review of the transcript prepared under subsection (d) and the tape of the proceeding if so ordered by the court unless the court, in the interest of justice, orders or if any party requests a trial de novo to the circuit court without a jury.
- (f) *Disposition of appeal.* The disposition of the appeal shall be certified to the municipal court by the reviewing court within 30 days of judgment of the reviewing court.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)

Sec. 3-6. Municipal court fees and costs.

- (a) *Court costs.* Court costs as referred to in Wis. Stats. § 814.65(1) on each separate matter that comes before the municipal judge, whether it is on default of appearance or a plea of guilty or no contest or on issuance of a warrant or summons or the action is tried as a contested matter. The municipal treasurer shall pay monthly to the state treasurer the amount as required by Wis. Stats. § 814.65.
- (b) *Witness and interpreter's fees.* The fees of witnesses and interpreters shall be paid as specified in Wis. Stats. § 814.67.
- (c) *Fees paid to municipality.* All fees and costs collectible by the municipal judge shall be paid to the municipality which brought the matter before the municipal judge.
- (d) *Forfeitures, fees, penalty assessments and costs turned over to the municipality.* All forfeitures, fees, penalty assessments and costs paid to the municipal court under a judgment before the municipal judge shall be paid to the municipal treasurer within seven days after receipt of the money by the municipal judge or other court personnel. At the time of the payment, the municipal judge shall report to the municipal treasurer the title of the action, the offense for which a forfeiture was imposed and the total amount of the forfeiture, fees, penalty assessments and costs, if any.
- (e) *Attorney fees.* The municipal court shall not impose and collect attorney fees.
- (f) *Taxation of fees and costs.* Other than fees specified in subsection (a), no fees or costs are taxable by a municipality to a party before the municipal court unless it is directly chargeable, to the municipality as a disbursement, such as service of process costs.
 - (1) The city has set the primary test for violations of Wis. Stats. § 346.63 to be that of blood, under authority of Wis. Stats. § 343.305(5) (b). Since the required test is a cost that is directly chargeable to the city. The costs of such tests shall be ordered against the defendant in the said matter by the municipal court.
 - (2) The city police department has the direct authority to deliver documents ordered by the court for personal delivery. Those being: inspection warrants, civil warrants, writs and summons. Since these items are directly chargeable to the city in the form of police officer wages and vehicle mileage, the costs of such expenses shall be ordered against the defendant in the said matter by the municipal court.

- (g) *Costs and fees on appeal.* On appeal from municipal court, the filing fees as designated in Wis. Stats. § 59.42(3), and the suit tax as designated in Wis. Stats. § 914.61(g), are applicable. The appellant shall also pay a fee under subsection 2-269(f)(1). Costs shall be as provided in Wis. Stats. § 814.08.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001; Ord. No. OR07-04, § II, 4-23-2007)

Sec. 3-7. Contempt of court.

- (a) *Defined.* The term "contempt of court" as used in this chapter means intentional:
- (1) Misconduct in the presence of the court which interferes with a court proceedings, the administration of justice, or which impairs the respect due the court;
 - (2) Disobedience, resistance or obstruction of the authority, process or order of the court;
 - (3) Refusal as a witness to appear, be sworn or answer a question; or
 - (4) Refusal to produce a record, document or other object.
- (b) *Imposition of sanctions authorized.* The municipal judge may impose, in accordance with the procedures under Wis. Stats. § 785.03, a forfeiture for contempt of court in an amount not to exceed \$50.00 or, upon nonpayment of the forfeitures and the penalty assessment under Wis. Stats. § 165.87, a jail sentence not to exceed seven days.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)

Sec. 3-8. Relationship to statutes.

This chapter is intended to facilitate the implementation of Wis. Stats. ch. 755, ch. 800, and §§ 48.17(2), 48.344, and 66.119 within the city. To the extent necessary to accomplish this, such statutes and any amendments thereto are adopted by reference. In the event that any provision of this chapter is inconsistent; or conflicts with such statutes or any of them, the statute, and not this chapter, shall control and be applied.

(Ord. No. OR00-07, § 1, 4-24-2000; Ord. No. OR01-03, 5-14-2001)