

Chapter 11 COURTS, FINES AND IMPRISONMENTS

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Section 11.ED.010 Editor's note to Chapter 11

As to citations, arrests, fines and forfeitures relative to motor vehicles and traffic, see §§ 23.32.070 to 23.36.140 of this Code. As to police, see Ch. 31.

Article 11.04 In General

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11.04.010 **Peace bonds**

11.04.020 **Judgements based on violations not originally charged**

Section 11.04.010 **Peace bonds**

The municipal judge is hereby empowered to issue peace bonds in accordance with the procedure in chapter 29-02 of the North Dakota Century Code. (Ord. No. 477, § 1.)

For state law as to authority of city to provide for issuance of peace bonds, see NDCC, § 40-05-02 (27).

Section 11.04.020 **Judgements based on violations not originally charged**

In all actions and proceedings brought and heard in the municipal court for violations of a provision of this Code or other city ordinance or the enforcement and recovery of any penalty provided for violation thereof when it shall appear from the evidence that another provision or ordinance of the city other than that charged to have been violated has been violated, the court shall have power and authority to find and adjudge the defendant guilty of the violation of such other ordinance; provided, that upon demand of the defendant so to do, a new complaint shall be made and filed charging the defendant with such violation, and the proceeding thereunder shall be had in manner and form as by law provided in cases otherwise instituted in such court. Such new complaint shall be made and filed by the chief of police when so directed by the municipal judge. (Ord. No. 489.)

Article 11.08 Municipal Judge

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Section 11.08.00E Editor's note to Article 11.08

For state law as to municipal judges generally, see NDCC, § 40-18-01 et seq.

Section 11.08.010 Election; term

There shall be elected within the city a municipal judge, who shall hold his office for four years and until his successor is elected and qualified. (Code 1958, § 10-1; Ord. No. 455, § 10-1.)

Section 11.08.020 Compensation--Generally

The salary of the municipal judge shall be in such amount as may be fixed from time to time by resolution of the board of city commissioners. (Code 1958, § 10-2; Ord. No. 455, § 10-2.)

Section 11.08.030 Same--Fees and other payments

The municipal judge shall not be permitted to receive fees of any kind or in any amount, nor shall he be entitled to receive any payments of any kind for his service other than the salary as provided above. (Code 1958, § 10-3; Ord. No. 455, § 10-3.)

For similar state law, see NDCC, § 40-18-06.

Section 11.08.040 Bond

Before entering upon the duties of his office, the municipal judge shall furnish a bond in a penal sum to be fixed by the board of city commissioners, conforming to the provisions of sections 2-2.16.010 to 2.16.060 of this Code. (Code 1958, § 10-4; Ord. No. 455, § 10-4.)

Section 11.08.050 Hours

The municipal judge shall be in attendance at municipal court for the transaction of business that may come before him and shall devote the time necessary to handle and dispose of the business coming before him. (Ord. No. 455, § 10-5.)

Section 11.08.060 Records of actions

The municipal judge shall keep a complete record of all actions instituted before him under this Code and other ordinances of the city. (Code 1958, § 10-6; Ord. No. 455, § 10-6.)

Section 11.08.070 Collection of fines and costs--Generally

It shall be the duty of the municipal judge to collect all fines and costs imposed by him in actions instituted under this Code or any other ordinance of the city. (Code 1958, § 10-7; Ord. No. 455, § 10-7.)

For state law as to the collection of fines and costs, see NDCC, § 40-18-06.

Section 11.08.080 Same--Reports to city auditor; disposition of fees

At the end of each month the municipal judge shall make and file with the city auditor a report in writing under oath showing an account of all fines and costs collected by him during the preceding month in actions before him and showing the actions in which the same were collected; and he shall pay over to the city auditor at the time of filing such report all fines and costs collected by him for violations of this Code and other ordinances; and the city auditor shall then, after checking and approving the report, pay over all such fines and costs to the city treasurer. (Code 1958, § 10-8; Ord. No. 455, § 10-8.)

Section 11.08.090 Suspended or deferred sentences

The municipal judge may, in his discretion concerning suspended sentences and upon application or its own motion concerning deferred imposition of sentences, upon the conviction of any person of any offense against this Code or other ordinances of the city then and there impose a sentence of imprisonment as may be appropriate but defer imposition of sentence or suspend the sentence imposed on such person for a period of not to exceed two years after the order imposing probation; after the defendant's release from incarceration; or after termination of the defendant's parole. In any case of a suspended or deferred sentence, the court shall place the defendant on probation during such term of suspension and period of deferment. The municipal judge may, during such term or period, allow the defendant to go upon his own recognizance or upon such bail as may be regulated by law or the ordinances of the city; and may, in his discretion, at or before the expiration of such term or period have the defendant brought before him and commit such defendant or cause such sentence of imprisonment to be then and there imposed and executed in like manner, so far as applicable, as may be provided by law, this Code or other ordinances of the city, in cases where the commitment and imposition of the sentence of imprisonment is not deferred or suspended and may then and there forthwith commit such defendant and require that such sentence of imprisonment be executed and carried out. (Code 1958, § 10-18; Ord. No. 455, § 10-15; Ord. No. 1024, § 1.)

For state law as to suspension of sentence, see NDCC, § 40-18-13.

Article 11.12 Fines and Imprisonments

Sections:

- 11.12.010** **General penalty; continuing violations**
- 11.12.020** **Commitment until fine is paid**
- 11.12.030** **Hard labor--Authorized**
- 11.12.040** **Same--Refusal to work**
- 11.12.050** **Release of prisoners by president of board of commissioners**
- 11.12.060** **Remittance of fines, costs, etc.**
- 11.12.070** **Fee assessment for funding crime victim and witness program.**

Section 11.12.010 **General penalty; continuing violations**

Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, any person, upon conviction for the violation of any such provision of this Code or any ordinance where such violation is deemed an infraction, shall be punished by a fine not exceeding five hundred dollars. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which he was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, any person, upon conviction for the violation of any such provision of this Code or any ordinance, shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding thirty days, or both such fine and imprisonment, for each such offense. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense. In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or a penalty so as to bar any other penalty being enforced. (Code 1958, § 1-9; Ord. No. 516, § 1; Ord. No. 939, § 1; Ord. No. 1157 § 2.)

For state law as to authority of city to impose penalty, see NDCC, § 40-05-06.

Section 11.12.020 **Commitment until fine is paid**

Any person upon whom any fine shall be imposed for violation of a provision of this Code or other ordinance of the city may be committed, upon the order of the court before whom the conviction is had, to the city jail until the fine and costs shall be fully paid in money or discharged by labor.

If such person is committed as provided by this section, the term of his imprisonment shall not exceed three months for any one offense. Each person so committed may be required to work for the city at such labor as his strength will permit, not exceeding ten hours in each working day, and for such work such person shall be allowed for each day, exclusive of his board, five dollars on account of the fines and costs assessed against him. (Code 1958, § 10-13; Ord. No. 455, § 10-10.)

Section 11.12.030 Hard labor--Authorized

When any person is convicted before the municipal judge for the violation of any provision of this Code or other ordinance of the city and is sentenced to imprisonment either on account of failure to pay the fine or otherwise, the municipal judge may order and sentence such offender to hard labor on the public streets of the city or any public works in the city for the full term of such imprisonment, and the sentence shall be carried into execution under the direction of the chief of police of the city. (Code 1958, § 10-14; Ord. No. 455, § 10-11.)

Section 11.12.040 Same--Refusal to work

Any person refusing to perform manual labor in accordance with the sentence of the municipal judge shall be deemed in contempt of court and shall be punished accordingly. No credit shall be allowed such person on account of such fine and costs for the day or days that such person refuses to perform manual labor in accordance with the sentence of the court. (Code 1958, § 10-15; Ord. No. 455, § 10-12.)

Section 11.12.050 Release of prisoners by president of board of commissioners

The president of the board of city commissioners may at any time release any person imprisoned for the violation of any provision of this Code or other ordinance of the city and shall report such release with the reason therefor to the board at its first session thereafter. (Code 1958, § 10-16; Ord. No. 455, § 10-13.)

Section 11.12.060 Remittance of fines, costs, etc.

Under no circumstances shall the municipal judge remit fines or penalties or payment of costs to any person other than to the city auditor or to the city treasurer. (Code 1958, § 10-17; Ord. No. 455, § 10-14.)

Section 11.12.070 Fee assessment for funding crime victim and witness program.

Whenever in this Code or in any ordinance any person pleads guilty to or is convicted of violating a municipal ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment, the municipal judge may assess a fee of not more than twenty-five dollars as part of a sentence imposed for the purpose of funding a crime victim and witness program. The municipal judge may assess the fee when sentence is imposed or when sentence is suspended or imposition of sentence is deferred, unless the defendant is indigent and unable to pay the fee. All fees paid to the municipal court under this section shall be deposited monthly in the city treasury for allocation by the governing body of the city to a private, non-profit domestic violence or sexual assault program or a victim and witness advocacy program of which the primary function is to provide direct service to victims of and witnesses to crime. (Ord. No. 1174, § 1.)