

**CODIFIED ORDINANCES OF BOLIVAR**  
**PART ONE - ADMINISTRATIVE CODE**

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**CODIFIED ORDINANCES OF BOLIVAR**  
**PART ONE - ADMINISTRATIVE CODE**

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**ARTICLE 101**  
**Codified Ordinances**

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**CROSS REFERENCES**

See sectional histories for similar State law

Maximum penalty permitted - see W. Va. Code 8-11-1, 8-12-5(57)

Authority to impose penalties - see W. Va. Code 8-11-1, 8-12-2(11)

Codification of ordinances - see W. Va. Code 8-11-4(b)

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**101.01 DESIGNATION; CITATION; HEADINGS.**

(a) All ordinances of a permanent and general nature of the Municipality as revised, recodified, rearranged, renumbered and consolidated into component codes, chapters, articles and sections shall be known and designated as the Codified Ordinances of Bolivar, West Virginia, 2002, for which designation "Codified Ordinances" may be substituted. Code, chapter, article and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(b) All references to codes, chapters, articles and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

#### 101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

- (a) Council means the legislative authority of the Municipality.
- (b) County means Jefferson County, West Virginia.
- (c) Land or lands and real estate or real property include lands, tenements and hereditaments, and all rights thereto and interests therein except chattel interests.
- (d) Laws of the State includes the Constitution of the State and the Constitution of the United States, and treaties and laws made in pursuance thereof. (WVaC 2-2-10)
- (e) Municipality or Town means the Town of Bolivar, West Virginia.
- (f) Offense includes every act or omission for which a fine, forfeiture or punishment is imposed by law. (WVaC 2-2-10)
- (g) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (h) Person or whoever includes corporations, societies, associations and partnerships.
- (i) Personal estate or personal property includes goods, chattels, real and personal, money, credits, investments and the evidences thereof.
- (j) Preceding, succeeding or following used in reference to any section or sections of an article means next preceding, next succeeding or next following that in which such reference is made. (WVaC 2-2-10)
- (k) Premises, as applied to property, includes land and building.
- (l) Property or estate embraces both real and personal estate. (WVaC 2-2-10)
- (m) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance or any other place for the sale of merchandise, public accommodation or amusement.
- (n) Registered mail includes certified mail.
- (o) State means the State of West Virginia or any department, division, commission, board, educational or other institution of the State.
- (p) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (q) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises alone or with others.
- (r) Written or in writing includes any representation of words, letters or figures, whether by printing, engraving, writing or otherwise. But when the signature of any person is required, it must be in his own proper handwriting, or his mark, attested, proved or acknowledged. (WVaC 2-2-10)

**101.03 RULES OF CONSTRUCTION.**

(a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(b) Gender and Plural. A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males.  
(WVaC 2-2-10)

(c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first day and including the last, or if the last be a Saturday, Sunday or legal holiday it shall also be excluded.  
(WVaC 2-2-3)

(d) Joint Authority. Words purporting to give a joint authority to three or more persons confer such authority upon a majority of them, and not upon any less number.  
(WVaC 2-2-10)

(e) Exceptions. The rules of construction shall not apply to any law which contains any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

**101.04 REPEAL OF REPEALING ACT; EFFECT OF REPEAL.**

(a) When a law which has repealed another is itself repealed, the former law shall not be revived without express words for that purpose.  
(WVaC 2-2-9)

(b) The repeal of a law, or its expiration by virtue of any provision contained therein, shall not affect any offense committed, or penalty or punishment incurred, before the repeal took effect or the law expired, save only that the proceedings thereafter shall conform as far as practicable to the laws in force at the time such proceedings take place, unless otherwise specially provided; and that if any penalty or punishment be mitigated by the new law, such new law may, with the consent of the part affected thereby, be applied to any judgment pronounced after it has taken effect.  
(WVaC 2-2-8)

(c) The repeal by any provision of the Codified Ordinances of an ordinance validating previous acts, contracts or transactions shall not affect the validity of such acts, contracts or transactions, but the same shall remain as valid as if there had been no such repeal, but no further.  
(WVaC 2-2-11)

**101.05 CONSTRUCTION OF SECTION REFERENCES.**

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.

If a section refers to a series of numbers or letters, the first and the last number or letters in the series are deemed to be included.

**101.06 ACTS BY AGENT OR DEPUTY.**

When a section requires that an act be done by an officer or person, it shall be sufficient if it be done by his agent or deputy, unless it be such as cannot lawfully be done by deputation. (WVaC 2-2-5)

**101.07 CONFLICTING PROVISIONS.**

If the provisions of different codes, articles or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

**101.08 SEPARABILITY.**

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

**101.99 GENERAL PENALTY.**

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both. Each day any such violation continues shall constitute a separate offense.

**ARTICLE 107**  
**Council**

EDITOR'S NOTE: There are no sections in Article 107. This article has been established to provide a place for cross references and any future legislation.

**CROSS REFERENCES**

Open meeting law - see W. Va. Code Art. 6-9A

Composition - see W. Va. Code 8-5-7

Oath - see W. Va. Code 8-5-8

Term - see W. Va. Code 8-5-9

Vacancies - see W. Va. Code 8-5-10

Proceedings - see W. Va. Code Art. 8-9

General powers - see W. Va. Code Art. 8-12

Adoption of rules - see W. Va. Code 8-12-5(45)

Extraterritorial exercise of powers - see W. Va. Code 8-12-19

**ARTICLE 113**  
**Ordinances and Resolutions**

EDITOR'S NOTE: There are no sections in Article 113. This article has been established to provide a place for cross references and any future legislation.

**CROSS REFERENCES**

To make powers effective - see W. Va. Code 8-11-1

Delegating discretion - see W. Va. Code 8-11-2

Action required to be by ordinance - see W. Va. Code 8-11-3,  
8-5-12

Procedures - see W. Va. Code 8-11-4

Penalty limitations - see W. Va. Code 8-12-5(57); 8-11-1

**ARTICLE 119**  
**Mayor**

**EDITOR'S NOTE:** There are no sections in Article 119. This article has been established to provide a place for cross references and any future legislation.

**CROSS REFERENCES**

Position established - see W. Va. Code 8-5-7

Oath - see W. Va. Code 8-5-8

Term - see W. Va. Code 8-5-9

Vacancy - see W. Va. Code 8-5-10

Voting rights - see W. Va. Code 8-9-2

Powers and duties generally - see W. Va. Code 8-10-1

Acting Mayor - see W. Va. Code 8-10-3



**ARTICLE 125**  
**Recorder**

**EDITOR'S NOTE:** There are no sections in Article 125. This article has been established to provide a place for cross references and any future legislation.

**CROSS REFERENCES**

Position established - see W. Va. Code 8-5-7

Oath - see W. Va. Code 8-5-8

Term - see W. Va. Code 8-5-9

Vacancy - see W. Va. Code 8-5-10

Voting rights - see W. Va. Code 8-9-2

Powers and duties generally - see W. Va. Code 8-10-3

**ARTICLE 131**  
**Planning Commission**

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| <p><b>131.01 Membership.</b></p> <p><b>131.02 Organization, rules, staff and finances.</b></p> | <p><b>131.03 Powers and duties.</b></p> |
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**CROSS REFERENCES**

- Authority to establish - see W. Va. Code 8-24-1  
 General provisions - see W. Va. Code 8-24-5  
 Adoption of comprehensive plan - see W. Va. Code 8-24-16 et seq.  
 Approval of subdivision plats - see W. Va. Code 8-24-28 et seq.  
 Zoning recommendations - see W. Va. Code 8-24-42 et seq.
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**131.01 MEMBERSHIP.**

The Bolivar Planning Commission shall consist of six citizens who shall be residents and freeholders of this Municipality, appointed by the Town Council of this Municipality, who shall be qualified by knowledge and experience in matters pertaining to the development of the Municipality, and who shall include representatives of business, industry and labor. Three-fifths of the members shall have been residents of this Municipality for at least one year prior to appointment. One member of the Commission shall also be a member of the Town Council. The term of this member shall also be coextensive with the term of office to which he has been elected unless the Town Council at the first regular meeting of each year, appoints another member to serve as its representative. The terms of the remaining members of the Commission first selected shall be for one year, two years and three years, divided equally or as nearly equally as possible between these terms. Thereafter members shall be appointed for terms of three years each. Any vacancy in membership shall be filled for the unexpired term by the Town Council. All members shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

(Ord. 7-13-81.)

**131.02 ORGANIZATION, RULES, STAFF AND FINANCES.**

The Planning Commission shall elect its President and Vice President from among its members. The term of the President and Vice President shall be for one year. The Vice President shall have authority to act as President of the Commission during the absence or disability of the President. The Planning Commission shall appoint a Secretary and such employees as are necessary for the discharge of the duties and responsibilities of the Commission. The Planning Commission shall make its own rules of procedure and determine its time of meeting, but it shall meet at least once in the months of January, April, July and October. All meetings of the Planning Commission at which official action is taken shall be open to the public and all records of the Planning Commission shall be open to the public and all records of the Planning Commission shall be public record.

The Planning Commission may appoint such employees and staff as it may deem necessary for its work and may contract with the West Virginia Department of Commerce, Town Planner and other consultants for such services as it may require. The expenditures of the Planning Commission, exclusive of gifts, shall be in accordance with the purpose for which said funds are appropriated.

(Ord. 7-13-81.)

**131.03 POWERS AND DUTIES.**

From and after the time when the Planning Commission shall have organized and selected its officers and shall have adopted its rules of procedure, the Planning Commission shall have all powers, duties and responsibilities set forth in the West Virginia Urban and Rural Planning and Zoning Act (West Virginia Code 8-24-1 et seq., as amended).

(Ord. 7-13-81.)

**ARTICLE 137**  
**Building Commission**

**137.01 Established.**

**CROSS REFERENCES**

Authority to establish - see W. Va. Code Art. 8-33

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**137.01 ESTABLISHED.**

Pursuant to West Virginia Code Article 8-33, the Corporation of Bolivar hereby enacts a Municipal Building Commission to have plenary power and authority to do those acts as permitted by West Virginia Code Article 8-33.

The Commission shall be known as the Corporation of Bolivar Municipal Building Commission, Inc., and shall consist of three members for a term of five years. Prior to making the initial appointments to the Commission, the governmental body shall make such initial appointments so that approximately one third of the total number of members of the Commission shall be appointed for a term of one year, approximately one third of the total number of members of the Commission shall be appointed for a term of three years, and approximately one third of the total number of members of the Commission shall be appointed for a term of five years. As the term of each such initial appointee expires the successor to fill the vacancy created by such expired term shall be appointed for a term of five years.

The appointment shall be made by the municipal governing body by a majority vote. Any vacancy to any one of the three positions shall be filled pursuant to West Virginia Code 8-33-3. There can be no more than two appointees from the same political party and no member of the Commission shall hold any office or employment under the United States of America, the State of West Virginia, any county or political subdivision thereof, or any political party. All members shall be residents of the Municipality and shall receive no compensation for their services, however, they shall receive compensation for services for any reasonable and necessary expenses actually incurred in the discharge of their duties as members of the Commission.

The Commission shall have all the powers described within the West Virginia Code and shall perform those acts necessary to complete the tasks of the Commission.  
(Ord. 9-26-95.)

**ARTICLE 143  
Municipal Court**

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| <p>143.01 Jurisdiction, powers and duties.</p> <p>143.02 Search warrants.</p> <p>143.03 Docket; Chief of Police.</p> <p>143.04 Warrant required; exception.</p> <p>143.05 Procedure upon arrest without warrant.</p> <p>143.06 Issuance of warrants at request.</p> <p>143.07 Failure of accused person to appear for trial.</p> <p>143.08 Continuances on motions of accused.</p> <p>143.09 Continuance on motions of other than accused.</p> | <p>143.10 Continuances, default in recognizance.</p> <p>143.11 Judgment of guilty includes judgment for costs.</p> <p>143.12 Enforcement of penalties and costs.</p> <p>143.13 Payment of court costs.</p> <p>143.14 Suspension of execution of judgment.</p> <p>143.15 Appeals.</p> <p>143.16 Contempt.</p> <p>143.17 Jury trials.</p> <p>143.18 Contempt; entry of convictions on docket.</p> |
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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.)