

CHAPTER 17

FINES, FORFEITURES; PENALTIES

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1-17-1: **WHERE ACTIONS MAY BE INSTITUTED:** All suits, actions or prosecutions for the recovery of any fine, forfeiture or penalty by the City against any person for the violation of any provisions of this Code, where said fine, for forfeiture or penalty does not exceed five hundred dollars (\$500.00), may be instituted by any officer of the City, or other responsible person, before the proper magistrate or Court. (R.O. 1911, Sec. 161)

1-17-2: **COMPLAINT:** In all suits, actions or proceedings brought for the violation of any provision herein now, or that may hereafter be, in force in the City, the first process shall be a summons; provided, however, that a warrant for the arrest of an offender may issue in the first instance upon the affidavit of any person that any such provision has been violated, and that the person making the complaint has reasonable grounds to believe that the party charged is guilty thereof; and any person arrested upon such warrant shall, without unnecessary delay, be taken before the proper office in the City, to be tried for the alleged offense; said complaint or affidavit shall be in the following form, as nearly as may be: *1

1. S.H.A. Ch. 24, Sec. 1-2-9 amd. 1961, 1963.

STATE OF ILLINOIS)
County of Fulton,) ss.
City of Farmington,)

The complaint and information of _____ whom, being duly sworn, an oath says that has reasonable grounds to believe that one _____ heretofore, to wit: on the day _____ AD _____ was guilty of a breach and violation of Section _____ of Chapter _____ of the City Code of said City, in this, that the said did then and there (here state the breach or violation) at and within the City of Farmington, in the County of Fulton and State of Illinois, contrary to the provisions of said Code.

Subscribed and sworn to me this _____ day of _____, A.D. 19_____.

Which affidavit may be varied to suit the nature of the case, and as the circumstances may require, without regard to any particular words, provided the same shall substantially set forth the nature of the offense charged. And upon presentation of said affidavit to the proper officer, he shall issue his warrant, reciting therein the substance of the offense set forth in the complaint, for the arrest of the person or persons therein named, returnable forthwith; which warrant shall run in the name of the People of the State of Illinois, and shall be directed to the Chief of Police or any policeman of the City, or to the Sheriff or any Constable of the County of Fulton. (R.O. 1911, Sec. 162)

10-17-3: BOND FOR APPEARANCE; FORM: Any person, with or without warrant, arrested and brought before any such officer for the violation of any provision of this Code shall have the right to postpone trial, on cause for continuance shown according to the laws of the State of Illinois, and may release his body from arrest for a period of not exceeding ten (10) days, except for cause stated in Section 1-17-6 hereof, by entering into an obligation, with one or more responsible sureties, to be approved by such officer, which obligation may be substantially in the following form:

STATE OF ILLINOIS,)
Fulton County,) ss.
City of Farmington,)

This is to witness that if the undersigned, A.B., shall fail to appear before, remain with and abide the orders of C.D., a _____ at the office of said officer in the City on the _____ day of _____, 19_____ at _____ o'clock __ m., or at any other reasonable time then appointed by said officer, with or without the consent of said A.B., not exceeding three days thereafter, and shall then and there fail to answer the violation of any provision of the City Code, on a complaint sworn to by some responsible person, and before the time first above name filed with such office, then and in that case, we, the undersigned, acknowledge ourselves jointly and severally indebted to said City in any sum not exceeding five hundred dollars (\$500.00) adjudged to be due the City, on said complaint, for the payment of which we bind ourselves, our heirs, executors and administrators, under our hands and seals, this _____ day of _____, 19_____, at said City. (R.O. 1911, Sec. 163)

1-17-4: FAILURE TO APPEAR; FORFEITURE OF BOND:

When any person, being arrested or in custody, having given bond as aforesaid, shall fail to appear at the time and place when and where the suit is set for trial, the proper officer may impanel a jury and proceed with the hearing of the cause and hear the testimony on behalf of the City, and render judgment upon the verdict of the jury; and suit shall forthwith be brought against the surety or sureties on defendant's bond for the amount of the penalty thereof and judgment rendered by the court for the same, and all cost, or so much of such penalty as may seem just and equitable upon consideration of the facts and circumstances of the case. (R.O. 1911, Sec. 164)

1-17-5: TIME OF DETENTION BEFORE TRIAL:

Any person arrested for any offense under any provisions of this Code may be detained in custody in the City prison, or other safe place, during Sunday, a legal holiday, or over night and for a reasonable time on all other occasions, until such offender can be brought for trial before some proper officer; provided, that any such offender so arrested without warrant, except for cause stated in following Section 1-17-6 hereof, may during any time so detained, release his body from custody by entering into with said City a bond or recognizance provided for in Section 1-17-3 hereof. (R.O. 1911, Sec. 165)

1-17-6: RELEASE PROHIBITED:

No person so arrested for the violation of any provisions of this Code shall be released at any time from the custody of said City or other lawful authority so long as the conduct, language and personal appearance of such offender are calculated to lead a prudent and reasonable person to suspect that such offender is an idiot or lunatic, or so far under the sway of passion or influence of intoxicating liquors that the public peace or security of any person would be jeopardized by the release of such offender. Any officer violating the provisions of this Section shall, upon conviction, be fined in a sum not exceeding twenty-five dollars (\$25.00). (R.O. 1911, Sec. 165)

1-17-7: TRIAL; JUDGMENT; COMMITMENT TO JAIL:

The proper officer is authorized and directed to proceed without unnecessary delay with the examination or trial of any offender of any provision of this Code, whether brought before such officer by summons or otherwise, and immediately upon conviction of such offender enter judgment in favor of the City for the amount of the fine or penalty and costs of prosecution, and order that such offender, in default of immediate payment of such judgment and costs, shall be committed to the City prison or other safe place of custody until such fine is paid or offender is otherwise discharged under the provisions hereof or by due process of law; provided, no imprisonment shall exceed six (6) months. (R.O. 1911, Sec. 167)

1-17-8: FORM OF JUDGMENT:

Such judgment as provided in Section 1-17-1 may be substantially in the following form:

City of Farmington, Plaintiff,)
vs.)
A.B., Defendant.)

Suit on Section ____ of Chapter
of the City Code of the City of
Farmington.

(After reciting the proceedings, conclude as follows:)

After evidence heard (and upon a verdict found by a jury) in the above entitled cause, it is
adjudged by the court that the above defendant pay to the City of Farmington _____ dollars
penalty and _____ dollars costs of suit, and in default of immediate payment that said
defendant is committed to the City prison or other safe place of custody until the penalty and cost
aforesaid are paid, or said defendant otherwise discharged, according to the City Code or due
process of law.

Provided, that where such offender is a corporation, an ordinary judgment shall be rendered and
execution issued and subsequent proceedings of levy and sale be had, as are provided for in the
Statutes of this State in civil cases before justices of the peace. (R.O. 1911, Sec. 168)

1-17-9: FORM OF EXECUTION AND MITTIMUS: The officer or court rendering any
such judgment, substantially of the form aforesaid, shall demand of the defendant the immediate
payment of the same in lawful money, and in default of such payment shall immediately issue a
order for the arrest and commitment in the City prison, of said defendant pursuant to the terms of
such judgment, which order or mittimus shall be substantially of the following form:

STATE OF ILLINOIS,)
Fulton County,) ss.
City of Farmington,)

The People of the State of Illinois to the Chief of Police and Warden of the City Prison of the
City of Farmington, or Sheriff or any constable of said County, Greeting:

Whereas, on the _____ day of _____, 19____, said City of Farmington recovered before me a
judgment for the sum of _____ dollars penalty, and _____ dollars _____ cents
costs, against C.D., for the violation of Section _____ of Chapter _____ of the City Code of
said City by (here state offense).

Now this is to command you in the name and authority of said people to demand of said C.D. the
immediate payment, in lawful money, of said judgment and costs, and upon his failure or refusal
to pay the same on such demand, that you arrest and take the body of the said C.D. and him
deliver, together with this writ, to the warden of the City prison aforesaid, and we command you,
the said warden, to receive the body of him, the said C.D. and him safely keep, in the City prison
or other safe place of custody for six (6) months or until discharged by due process of law. And
you are hereby commanded to make return of this execution within seventy (70) days from the
date thereof, with your return thereon stating how you executed the same.

Give under my hand this _____ day of _____.
(Name of official and title of office).

Upon the back of such mittimus the office shall endorse the names and residence of the principal witnesses against the defendant; and the several officers into whose hands the same may come shall endorse the date and manner of executing the same; and it shall be the duty of any such officer having possession of such mittimus to furnish such defendant on demand a copy thereof, with the endorsements; provided, that the Mayor may, if in his opinion the recovery of any judgment rendered against any defendant will not be jeopardized, or the welfare of said City will be thereby subserved, order the officer who has charge of the docket upon which is entered such judgment to stay the issuance of any such mittimus on such terms and for such a length of time as may be deemed reasonable and just; and the Chief of Police is hereby authorized to delay the execution of any mittimus for a period not exceeding thirty (30) days from the date thereof by assuming the payment of such judgment and costs in case of the escape during such interim of such defendant; and any pledge of personal property voluntarily surrendered by the defendant to said Chief of Police in consideration of such an undertaking of said Chief of Police may be sold in like manner and upon the same terms as the Statutes of Illinois provide for sales of like property under execution, the proceeds thereof shall be by said Chief of Police applied to the payment of such judgment and costs and expenses of such sale, and any surplus remaining shall be subject to the order of said defendant.

Such mittimus against the body of the defendant as aforesaid shall be sufficient to authorize the Chief of Police or other officer into whose hands the same may come to demand of the defendant the immediate payment of enough lawful money to satisfy such judgment and costs, and upon failure or refusal of such defendant so to pay on demand as aforesaid such judgment and costs, such mittimus shall be sufficient to authorize such officer to arrest such defendant and commit him for a period not exceeding six (6) months in the City prison, or other said place provided for the custody of offenders against the provisions of this Code; and such mittimus shall be sufficient to authorize the warden in charge of said City prison, or other safe place of custody as aforesaid, until such judgment and costs are fully paid, or defendant is otherwise lawfully discharged. (R.O.1911, Sec. 169)

1-17-10: SECURITY FOR COSTS: In any case after judgment has been rendered against any person as aforesaid, the proper officer may take good and sufficient security for the payment of such fine and costs within any time not exceeding twenty (20) days, and the person so becoming security shall sign an obligation to be entered on the docket in each suit, in substance as follows:

“I hereby bind myself to pay the above judgment within twenty days from this date, if the same is not paid by the defendant.

Dated this _____ day of _____ A.D. 19____ .
_____ Security.”

Then no execution against the body of the defendant shall be issued until the expiration of twenty (20) days; in case such judgment is not paid by the defendant or by such security within the time mentioned in such obligation signed as aforesaid, suit shall be commenced thereon against such security, and prosecuted as in civil cases on contracts. (R.O. 1911, Sec. 170)

1-17-11: PRISONERS REQUIRED TO LABOR: Every person so committed to prison on an execution to his body, as aforesaid, shall, under the direction of the Chief of Police, work for said City upon its streets, if his strength will permit, or at such labor as said City shall provide, not exceeding ten (10) hours each working day, and at the rate of five (\$5.00) for each day's work, exclusive of board, until such judgment and costs aforesaid are paid, and when so paid shall be discharged from imprisonment; provided, no credit shall be allowed by reason of any such imprisonment on any such judgment and cost where the person committed refuses to labor for the City, or refuses to obey orders respecting such labor, or acts when so laboring in a disorderly manner, or escapes or attempts to escape at any time from such custody or imprisonment aforesaid. But such person may be kept in custody as aforesaid for the full term of six (6) months, unless sooner discharged by the Mayor or Council of the City. *1 (R.O. 1911, Sec. 171)

1-17-12: MINORS: Like proceedings shall be had under the provisions of the Code against minors, for the violation of any provisions of this Code, are herein prescribed against other persons. (R.O. 1911, Sec. 172)

1-17-13: JURY TRIAL; CHANGE OF VENUE; CONTINUANCES; EVIDENCE; FEES; APPEALS: Trial by jury, continuances and changes of venue, as well as appeals, shall be allowed, consistent with the provisions hereof, to any defendant, on the same terms and in like manner as such proceedings are granted by the Statutes of this State before justices of the peace in civil cases. Like processes may issue and legal proceedings be had to enforce the provisions of this Code, in addition to the remedies in said provisions prescribed, and like practices, pleadings and rules of evidence be observed as now or hereafter obtained in such civil cases aforesaid, and the Chief of Police, policemen and several officers of the City, as well as all other officers and persons authorized by law, rendering services to said City by virtue of any provisions of this Code or laws of the State of Illinois, shall, unless otherwise directed by ordinance, charge the same fees, to be taxed as costs, as are allowed in the Statutes of the State for similar services; provided, no officer or person shall collect or retain from the City a fee in any such case in which, if the people of the State of Illinois were plaintiffs, such officer or person would be entitled to no fees from the State. (R.O. 1911, Sec. 173)

1-17-14: CITY PRISON: The City prison is located within the building known as the City Hall, and the Chief of Police shall be known and styled as the warden thereof. (R.O. 1911, Sec. 174)

1-17-15: FINES PAID; RECEIPTS: All fines and penalties shall be paid by the defendant or officer collecting the same to the officer in charge of the docket upon which any judgment against such defendant is entered, and such officer shall immediately pay over to the Treasurer of the City such collection, taking for the same duplicate receipts of the Treasurer, substantially of the following form:

1. S.H.A. Ch. 24, Sec. 1-2-9 amd. 1961, 1963

“Received of A.B., proper officer, dollars and _____ cents, on a judgment of \$ _____, assessed against C.D., at _____ page of said proper office’s docket.

This _____ day of _____ 19____.

A.B., City Treasurer”

It shall be the duty of such proper officer to prepare such duplicate receipts for the Treasurer to sign, and immediately after such receipts are executed by the Treasurer, to file one of said receipts with the Clerk of the city; and no such collection shall be deemed to have been received by said City until such duplicate receipt is filed with said Clerk. *1 (R.O. 1911, Sec . 175)

1-17-16: EXECUTION OF PROCESS BY OFFICER: The officer who shall execute any writ or other process issued by the proper officer shall, unless otherwise directed by ordinance, proceed in the execution of his duty in the same manner as constables are required to proceed under the law of the State; and the proper officer, in issuing process, and on the return thereof, shall, unless otherwise directed by some provisions of this Code, be governed by the laws of this State pertaining to like proceedings before justices of the peace. *2 (R.O. 1911, Sec. 176)

1-17-17: FEES OF JURORS AND WITNESSES: All jurors and witnesses shall be entitled to the same fees as are now provided by the laws of the State of Illinois in such suits before justices of the peace. (R.O. 1911, Sec. 177)

1-17-18: ATTACH PROPERTY: If any person in behalf of the City shall make oath before the proper officer in the City, that any person is indebted to the City in any sum not exceeding five hundred dollars (\$500.00), by reason of the violation of any law or provisions of this Code, and that such debtor has absconded, or conceals himself, or stands in defiance of an officer so that process can not be served upon him, or for any legal and sufficient cause for attachment, it shall be lawful for the goods, chattels, moneys, credit and effects of such debtor, directed to the Chief of Police or other police officer of the City to execute, returnable forthwith.

The form of the writ and bond in such case or cases, and the proceeding under the same, shall, as nearly as may be, conform to the forms and proceedings provide by the Statutes of the State of Illinois in like cases of attachment for debt. (R.O. 1911, Sec. 178)

1. S.H.A. Ch. 24, Sec. 1-2-8.
2. S.H.A. Ch. 24, Sec. 1-2-11 amd 1965.

1-17-19: RECORD:

It shall be the duty of the proper officer and justices of the peace, before whom prosecutions under the provisions of this Code are had, to keep a record of all suits and proceedings had before them, and they shall render to the Council a full and true report, at the end of each month, of all their acts under this Code, and the moneys collected by them belonging to the City. (R.O. 1911, Sec. 179)

1-17-20 FINE AMOUNTS

Any other provision of the Farmington City Code notwithstanding, all fines for violation of a non-traffic or a non-drug paraphernalia ordinance shall be Seventy Five Dollars (\$75.00) for the first offense, and increases by Twenty Five Dollars (\$25.00) for each subsequent offence for violation of the same ordinance, unless there are aggravating circumstances, where the fining or arresting officer may assert a fine of up to a maximum of Seven Hundred Fifty Dollars (\$750.00) (Ordinance No. 2009-05)