

CHAPTER 488

MUNICIPAL COURTS

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NOTE: The Municipal Court Rules of Civil Procedure are published in Minnesota Reports, Volumes 255 and 279, as a supplement thereto.

488.01 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.01 CITATION, MUNICIPAL COURT ACT. Sections 488.01 to 488.20 may be cited as the municipal court act.

[1959 c 660 s 1]

488.02 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.02 APPLICATION OF ACT. The municipal court act is applicable to each municipal court, however organized, except municipal courts in cities of the first class.

[1959 c 660 s 2]

NOTE: Municipal courts, cities of first class, see chapter 488A.

488.03 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.03 ESTABLISHMENT, ORGANIZATION, AND DISSOLUTION. Subdivision 1. Each municipal court, however established, existing in any city, village, or borough is confirmed and each municipal court is continued with the jurisdiction and powers stated in the municipal court act and subject to all its provisions.

Subd. 2. Any municipal court hereafter created is established under the municipal court act with the jurisdiction and powers stated therein and subject to all its provisions.

Subd. 3. A municipal court is established in each city, village, and borough without a municipal court which is a county seat or which has 1,000 or more inhabitants, but no municipal court so established is organized until the governing body of the city, village, or borough so determines by a resolution adopted by a four-fifths majority of its members. The resolution shall also provide for a suitable place for the session of the court, the number of judges and sufficient appropriations for the operation of the court. The governing body of any city, village, or borough may, after said court has been organized, by resolution create the office of special municipal judge with the same power and authority as if such action had been taken when said court was originally organized. The resolution shall be adopted by a four-fifths majority of the entire governing body.

Subd. 4. The governing body of the city, village, or borough in which a municipal court is organized may by a resolution adopted by four-fifths of the entire governing body, submit the question of the dissolution of the court to the electorate of the city, village, or borough at the next special or general election to be held not less than 30 days after the adoption of the resolution. If the majority of the electorate voting at the election vote for the dissolution of the court, the court shall be dissolved and terminated upon expiration of the terms of office of the judges of the court, and thereupon all the records of the court shall be filed with the clerk of the district court in that district, and all proceedings pending in the muni-

cial court may be maintained in the district court as though originally commenced therein but judgments theretofore docketed in the municipal court shall not be docketed in the district court except upon application of the judgment creditor and payment of the required fee for such docketing. The district court may transfer any pending action to another court within the county having jurisdiction thereof, but no party shall be deprived of the right to appeal in any matter wherein that right could have been maintained had the municipal court not been dissolved. Appeals in all pending matters may be effected by filing notice of appeal with the clerk of said district court.

[1959 c 660 s 3; 1963 c 630 s 1]

488.04 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.04 JURISDICTION AND POWERS. Subdivision 1. Each municipal court is a court of record with a clerk and a seal. Its jurisdiction shall be coextensive with, and limited to, the county or counties in which the city, village, or borough is situated.

Subd. 2. Except as otherwise provided in the municipal court act, each municipal court possesses the powers and jurisdiction of the district court. It may issue all civil and criminal process necessary or proper to enforce and carry out its jurisdiction and determinations.

Subd. 3. The municipal court may hear, try, and determine any action at law in which the amount in controversy does not exceed the sum of \$1,000 exclusive of interest and costs. It shall not, however, try any cause involving the title of real estate, except actions of forcible entry and unlawful detainer as provided in subdivision 4.

Subd. 4. The municipal court has jurisdiction of actions of forcible entry and unlawful detainer involving land wholly or partly within the county or counties in which it has jurisdiction.

Subd. 5. (a) The municipal court has jurisdiction to hear, try, and determine any charge of violation of:

(1) A criminal law in which the punishment does not exceed 90 days imprisonment, or a fine of \$100, and in which the offense is committed in a county of the court's jurisdiction;

(2) Any ordinance, charter provision, rule, or regulation of the city, village, or borough in which the court is situated or of any other city, village, or borough in the county of the court's jurisdiction, if no municipal court has been organized at such place.

(b) The municipal court has jurisdiction to conduct preliminary hearings and to exercise all judicial powers incident to preliminary hearing proceedings on the charge of violation of any criminal law committed within a county of the court's jurisdiction.

(c) The jurisdiction of a municipal court is exclusive to hear, try, and determine a violation of a criminal law, or ordinance, charter provision, or rule, or regulation of the city, village, or borough in which the court is situated. Its jurisdiction is likewise exclusive to conduct preliminary hearings and to exercise all judicial powers incident to preliminary hearings on a charge of violating a criminal law which violation is committed within the city, village, or borough in which the court is situated.

Cases arising under an ordinance, charter, rule or regulation of a city, village, or borough shall be tried by the court without a jury, except as provided by other laws in cases of appeals to district court.

Subd. 6. Notwithstanding any provisions herein to the contrary, any municipal court organized under Laws 1925, Chapter 120, shall retain and have the criminal jurisdiction provided therein.

Subd. 7. Notwithstanding any provision herein to the contrary any municipal court originally organized under Laws 1927, Chapter 61, shall retain and have jurisdiction over offenses where the maximum penalty does not exceed \$1,000 or imprisonment in a county jail for not to exceed one year, or both.

[1959 c 660 s 4; 1963 c 640 s 1]

488.05 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.05 LIMITATIONS OF JURISDICTION. Subdivision 1. The municipal court does not have jurisdiction:

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- (a) Of any civil action involving the title of real estate except actions of forcible entry and unlawful detainer as provided in section 488.04, subdivision 4;
- (b) Of any action for divorce;
- (c) Of any action to recover damages for false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction, or breach of promise to marry;
- (d) Of any action wherein equitable relief is demanded;
- (e) Of any action against an executor or administrator, as such;
- (f) Of any action against a city, village, borough, county, school district, or any other governmental subdivision or agency;
- (g) To issue writs of habeas corpus, quo warranto, exeat, mandamus, prohibition, injunction, coram nobis, or certiorari;
- (h) Of any matter concerning a trust, the estate of a deceased person, or person under guardianship.

Subd. 2. Whenever a counterclaim in excess of \$1,000 is asserted, an equitable defense interposed, or it shall otherwise appear that the municipal court is without jurisdiction in a cause pending therein, the fact shall be recorded, and the clerk shall transmit to the clerk of the district court a certified transcript of the record and all papers filed in the case. Thereafter the cause shall proceed to judgment in the district court as if it had there been commenced, and the costs shall abide the event.

Subd. 3. Except as otherwise herein stated, garnishment summons, subpoenas, and all other civil and criminal process and orders may be served and enforced anywhere within the state. The summons in a civil action or in an action of forcible entry and unlawful detainer may be served only within a county of the court's jurisdiction.

Subd. 4. Where two or more municipal courts exist in any county, the defendant in any civil action commenced in any one of them may have a change of venue therefrom to the municipal court in the county nearest his place of residence by filing, with the clerk of the municipal court in which the action is pending, an affidavit by himself or his attorney, stating definitely his place of residence and the location of the nearest municipal court thereto in the county, accompanied by a demand for such change of venue, not less than three days before the opening day of the term of such municipal court at which such action may be noticed for trial. When such a demand for change of venue is made, the fact shall be recorded and the clerk of the municipal court shall transmit to the municipal court to which the action is transferred all papers filed in the cause. Thereafter the cause shall proceed to judgment as if there had been no demand for change of venue and the costs shall abide the event.

[1959 c 660 s 5]

488.06 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.06 JUDGES. Subdivision 1. If the governing body of the city, village, or borough determines that there be two judges, one shall be designated the municipal judge, the other may be designated the special municipal judge. If a special municipal judge is designated, he acts only in the absence, disability, or disqualification of the municipal judge.

Subd. 2. If the governing body of the city, village, or borough determines that there be more than two judges, the judges shall select one of their number as the chief municipal judge who shall be responsible for assigning to the judges the work of the court. If there are only two judges and one is not designated the special municipal judge, the governing body shall designate one as the chief municipal judge.

Subd. 3. Each judge shall be learned in the law and a resident of the county or counties in which the municipal court has jurisdiction. Before entering upon the duties of office each judge shall take and subscribe an oath, in the form prescribed by law for judicial officers, and the oath shall be filed in the office of the secretary of state.

Subd. 4. Each judge shall be elected at the regular city, village, or borough election for a term of six years, beginning on the first Monday of the month next following his election and until his successor qualifies.

Subd. 5. When a new court is organized more than 90 days prior to a regular city, village, or borough election, or whenever there is a vacancy in the office of judge, the governor shall appoint a qualified person to fill the vacancy to hold

office until a successor is elected and qualified. If there is no qualified person who will accept the appointment the governor may appoint a suitable person not learned in the law to the office of judge to take office the first Monday of the month next following the next regular city, village, or borough election. The successor shall be elected for a six year term in the next regular city, village, or borough election occurring more than one year after such appointment. In the absence or disability of the municipal judge and special municipal judge of said court, if there be one, the governor may appoint a practicing attorney to sit as special judge instead of such municipal judge from day to day.

Subd. 6. The present judges of any municipal court existing in any city, village, or borough are hereby confirmed and continued in office. Each such judge shall serve for the balance of his present term and until his successor is elected and qualified. Each incumbent municipal judge or special municipal judge, in office on the effective date of Laws 1959, Chapter 660 is deemed learned in the law for the purpose of his continuance in, and re-election to, his office.

[1959 c 660 s 6; 1961 c 4 s 1; 1961 c 683 s 1]

NOTE: Laws 1965, Chapter 760, Section 1, Subdivision 1, reads as follows:

"Section 1. Subdivision 1. Notwithstanding the provisions of Minnesota Statutes 1961, Section 488.06, the judge of the municipal court, and the special judge of the municipal court of Fridley shall be designated as chief municipal judge and municipal judge, respectively."

488.07 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.07 POWERS OF JUDGES. Subdivision 1. Each municipal judge or special municipal judge has the powers of judges of courts of record and all other powers necessary to give effect to the municipal court act.

Subd. 2. Each such judge may administer oaths, take and certify acknowledgments, and is a conservator of the peace.

Subd. 3. A municipal or special municipal judge may punish for contempt of court by a fine not exceeding \$100 or by imprisonment in the county jail, or a city, village, or borough jail for not exceeding 90 days.

Subd. 4. The judge of each municipal court, the chief municipal judge of a municipal court with two judges, or a majority of judges of a municipal court if there be more than two, exclusive of special municipal judge, may promulgate court rules consistent with the municipal court act.

[1959 c 660 s 7]

488.08 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.08 RESTRICTIONS ON JUDGES OF MUNICIPAL COURT AND OTHERS.

A judge or other officer of a municipal court, except a special municipal judge, is prohibited from appearing or acting for a party in any action or proceeding in such municipal court. A special municipal judge is not prohibited from practicing in the municipal court of which he is an officer. But he shall not sit in the trial of any cause or proceeding wherein he may be interested, directly or indirectly, as counsel or attorney, or otherwise.

[1959 c 660 s 8]

488.09 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.09 SESSIONS OF MUNICIPAL COURT. Each municipal court shall be opened daily, except on Sundays and holidays, for the hearing and disposition of all matters pending before it. A general term for the trial of civil actions shall be held at least on and following the first Tuesday of each month. All sessions of and terms of the court shall be prescribed by rules consistent with this section.

[1959 c 660 s 9]

488.10 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.10 CLERK OF MUNICIPAL COURT. Subdivision 1. The judge of the municipal court, or the judge, senior in office, if there is more than one, shall appoint a clerk of the court and such deputy clerks as the court may require to serve at the pleasure of the appointing judge.

Subd. 2. (a) The clerk and each deputy shall take and subscribe an oath to support the constitutions of the United States of America and the state to perform faithfully the duties of his office. The oath shall be filed in the office of the secretary of state;

(b) The clerk and each deputy shall give bond to the state in at least the sum of \$1,000 to be approved by the appointing judge, conditioned for the faithful discharge of his official duties, and for the payment as required by law or by order of the court of all moneys coming into his hands. Each bond shall be filed in the office of the secretary of state;

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(c) The clerk shall delegate and supervise the work of the deputy clerk;

(d) The clerk and each deputy may administer oaths and affirmations and take acknowledgements. Each deputy shall perform the duties and exercise the powers of the clerk which are delegated to him. The clerk has all the powers and shall perform all the duties incident to the office of a clerk of a court of record or necessary to carry out the purposes of the municipal court act;

(e) The clerk shall make minutes, records, and indices of all proceedings; enter all orders, judgments and sentences; issue all process; keep proper accounts; have custody of all records of the court; and tax all costs and disbursements.

Subd. 3. The clerk of the municipal court or deputy thereof may be an officer or employee of the city, village, or borough in which the court is situated provided the official duties of such officer or employee are not incompatible with that of clerk or deputy clerk of the municipal court.

Subd. 4. The compensation of the clerk of municipal court and each deputy shall be fixed by the governing body of the city, village, or borough in which the court is situated.

Subd. 5. The present clerk of court and each deputy of any municipal court existing in any city, village, or borough are hereby confirmed and continued in office. But each clerk and each deputy shall serve at the pleasure of the judge of the municipal court and of the judge, senior in office, if there is more than one.

Subd. 6. (a) Except where otherwise specifically provided by law, or any ordinance, charter provision, rule or regulation of a city, village, or borough in which the court is situated or of any other city, village, or borough in the county of the court's jurisdiction, all fees, fines, and costs collected by the municipal court, or the clerk thereof, shall be paid to the treasurer of the city, village, or borough in which the court is situated and credited to the general fund;

(b) On or before the tenth day of each month, the clerk shall file with the treasurer a varified report showing:

(1) The names of all persons convicted during the preceding month, and the nature of the offense;

(2) The fine or other punishment imposed;

(3) The amount paid by cash, and the amount of cash deposited in lieu of bail, since his last report;

(4) The total amount of money received from all sources during the same period;

(5) The names of all persons discharged from jail by order of the court.

(c) The clerk shall receive all fines, deposits, penalties, and other moneys paid into court and keep detailed accounts thereof;

(d) Upon filing the reports required by this subdivision, he shall pay to the treasurer of the city, village, or borough, in which the court is situated, all sums in his hands to which the treasurer is entitled; he shall pay all other moneys to the other public officers entitled thereto; and he shall inform the treasurer of all moneys remaining in his hands pursuant to law or court order;

(e) The clerk shall pay such fees and mileage to witnesses as may be ordered by the judge in any action or proceeding involving a charged violation of a criminal law or municipal ordinance. The clerk shall obtain receipts therefor as vouchers for the sums paid and shall deduct these payments from the amounts otherwise due the officers to whom the clerk is required to pay fees, costs, and fines. If the clerk is without funds to make the payments required by this paragraph, the jurors and witnesses shall be paid, upon certification by the clerk, by the county or the city, village, or borough which would be entitled to all or any part of the fines, fees, and costs. No witness fees or compensation or mileage for jurors under this paragraph shall be paid in advance. No public officer or employee shall be paid any witness fees when he is called upon to testify in a matter resulting from his public employment.

[1959 c 660 s 10; 1961 c 683 s 2]

488.11 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.11 COURT OFFICERS. Subdivision 1. The constable, marshal, or chief of police is the court officer of the municipal court in any city, village, or borough of less than 5,000 inhabitants in which a municipal court is established and organized. In all other cities, villages, or boroughs in which a municipal court is established and organized, the governing body thereof may appoint one or more, not exceeding three, court officers who shall have the powers and receive the compensation of

policemen, or may direct such policemen as the chief of police may assign to perform such duties. Each court officer so appointed shall give bond to the city, village, or borough conditioned upon the faithful performance of his duties for the benefit of all persons interested, the bond to be approved by the governing body.

Subd. 2. A court officer shall serve all papers of the municipal court placed in his hands, and receive the fees allowed constables as provided by Minnesota Statutes, Section 357.12, and acts amendatory thereto. Whenever a court officer receives no salary, he may retain the fees collected; otherwise such fees shall be deposited with the clerk of municipal court to be paid into the treasury of such city, village, or borough in which the court is situated.

Subd. 3. Each court officer shall attend the sessions of the municipal court and perform all duties in connection therewith, when ordered by the court.

[1959 c 660 s 11]

488.12 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.12 **REPORTER.** Subdivision 1. The governing body of any city, village, or borough in which a municipal court is situated may by resolution provide for the appointment of a court reporter and fix his compensation. When a resolution has been adopted, the municipal judge, and if more than one, the judge, senior in office, may employ the court reporter and may dismiss him at pleasure.

Subd. 2. When requested by a party, the reporter shall make and furnish a typewritten transcript of the whole, or any part, of the testimony taken or of any proceeding in court, upon being paid therefor such sum per folio as the court, by its rules, prescribes. When directed by a judge, the reporter shall furnish a copy for the judge's use, and act as a referee to take and report testimony without compensation other than his salary.

[1959 c 660 s 12]

448.13 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.13 **FEES PAYABLE TO CLERK.** Subdivision 1. The fees payable to the clerk in civil actions are:

(a) \$3 payable by the plaintiff, in addition to any other fee which may be required by law, when the action is entered or when the first paper of the plaintiff is filed;

(b) \$3 payable by the defendant, other adverse or intervening party, any one of several defendants, or other adverse or intervening parties appearing separately from the others when his or their appearance is entered in the action or when the first paper on his or their part is filed.

(c) \$5 for trial by jury of six persons, \$10 for trial by jury of 12 persons. The fee paid for trial by jury shall be refunded if a jury panel is not sworn for voir dire in the action.

No trial fee is payable by any party when trial is by a judge without a jury.

Subd. 2. Except as provided in subdivision 1, the fees payable to the clerk are the same in amount as the fees for like services payable to the clerk of district court in any county of the municipal court's jurisdiction.

Subd. 3. Fees for services of the clerk of the court not covered by this section shall be fixed by rules of the court.

Subd. 4. All fees are payable to the clerk in advance.

Subd. 5. No fees of the clerk of the court are payable by the state, county, city, village, or borough, except as herein provided in subdivision 6.

Subd. 6. The following fees shall be taxed in all cases where applicable:

(a) The state of Minnesota and any governmental subdivision within the jurisdictional area of any municipal court herein established may present cases for hearing before said municipal court;

(b) In the event the municipal court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than the city, village, or borough in which the court is situated, all fines, penalties, and forfeitures collected shall be paid over to the treasurer of the governmental subdivision which submitted a case for prosecution under ordinance violation and to the county treasurer in all other cases except where a different disposition is provided by law, in which case, payment shall be made to the public official entitled thereto. The following fees shall be taxed to the county or to the state or governmental subdivision which would be entitled to payment of the fines, forfeiture or penalties in any case, and shall be paid to the clerk of the court for disposing of the matter:

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(1) In all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without trial\$5

(2) In arraignments where the defendant waives a preliminary examination\$10

(3) In all other cases where the defendant stands trial or has a preliminary examination by the court\$15.

[1959 c 660 s 13]

488.14 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.14 COSTS AND DISBURSEMENTS. Subdivision 1. Costs in civil action shall be allowed as follows:

(a) To the plaintiff, upon a judgment in his favor of \$50 or more in an action for the recovery of money only; when no issue of law or fact is joined, \$5; when issue is joined, \$10; in all other actions, \$5;

(b) To the defendant, upon discontinuance or dismissal, \$5; upon a judgment in his favor upon the merits, \$5; if the amount of plaintiff's claim be \$50 or or more, \$10;

(c) To the prevailing party on motion, in the discretion of the court, \$10 or less, which may be made absolute or to abide the event.

Subd. 2. In all cases the prevailing party shall be allowed his disbursements.

[1959 c 660 s 14]

488.15 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.15 JURY TRIALS. Subdivision 1. Except as otherwise provided in the municipal court act, the laws relating to jury trials in the district court apply to jury trials in a municipal court.

Subd. 2. Petit jurors for the trial of all types of actions shall be selected in accordance with this section.

Subd. 3. Before the first day of September of each year, the mayor and city clerk of each city, village and borough having a municipal court, or in the absence or disability of either, the officer authorized to perform his duties, meeting with the judge or judges of the municipal court shall select from the qualified electors of the city, village, or borough in which the court is situated a list of not less than 72 and not more than 144 persons properly qualified to serve as petit jurors and certify the list to the clerk of municipal court. If there is a deficiency of persons on the list, the said mayor and city clerk, or in the absence or disability of either, the officer authorized to perform his duties, meeting with the judge or judges of the municipal court may select from the qualified electors of the city, village or borough, additional persons to cover the deficiency and certify and deliver to the clerk a supplementary list which shall thereafter stand as a part of the original list. The validity of the selection is not affected by the fact that any person selected is disqualified from serving as a juror.

Subd. 4. Petit jurors shall be drawn from the list of persons properly qualified as certified. Upon receipt of such a list or supplemental list the clerk or, if there is no clerk, the municipal judge or senior judge shall write each name appearing on such list on a separate slip of paper. Each slip shall be folded as nearly as possible in the same manner, so that the name is not visible, and all the slips shall then be deposited in a box. Whenever the judge or judges determine that petit jurors are needed for the business of the court, the clerk, in the presence of one or more of the judges and one of the court officers, or if there is no clerk, the judge or senior judge in the presence of one of the court officers, shall draw from the box the names of as many persons as the judge or judges may determine to serve as such jurors. The clerk or, if there is no clerk, the judge shall forthwith issue a venire to one or more of the court officers commanding him or them to summon said persons to jury duty on such dates and hours as the judge or judges direct. The summons shall be served forthwith and service may be made by registered or certified mail to the last known address of the person, or by personal service, or by leaving it with a person of suitable age residing at the residence of the person to be summoned. The officer making the service shall return the venire to the court before the opening thereof, specifying who was summoned and the manner in which each was notified. No person shall be drawn as a juror more than once in two years, nor shall any juror be required to serve more than 15 days and until completion of the case on which he is sitting.

Subd. 5. When necessary, the court may issue a special venire.

Subd. 6. Failure to attend as a juror when duly drawn and summoned is punishable as contempt of court.

Subd. 7. In civil actions jurors shall be paid by the city, village, or borough in which the court is situated the same compensation and mileage as prescribed by law for the jurors of the district court. The clerk of municipal court shall deliver to each juror a certificate showing the number of days of service and the mileage for which he is entitled to receive compensation. This certificate shall be filed with the clerk of the city, village, or borough in which the court is situated and the amount due shall be paid from the treasury of such city, village, or borough. The certificate is a proper and sufficient voucher for the issuance of a warrant. Any juror regularly summoned who actually attends at the time named in such summons is entitled to per diem and mileage whether or not sworn as a juror.

Subd. 8. Whenever a petit jury is desired by a party to a proceeding in municipal court, and such jury is permitted by law, such party shall request such jury, in writing, when the case is set for trial and pay the fees prescribed by the municipal court act.

Subd. 9. The names of the persons summoned as provided in subdivision 4 shall be written on separate slips of paper and placed in a box by the clerk, or, if there is no clerk, by the judge or senior judge. When a jury is to be selected for the trial of any case, the clerk, or, if there is no clerk, the presiding judge shall draw from the box the names of as many persons as the judge may determine, who shall be examined as to their qualifications to sit as jurors. If any such persons are excused or challenged, the names of other persons may be drawn in their place until there are a sufficient number of jurors qualified to sit.

[1959 c 660 s 15; 1961 c 683 s 3, 4, 5]

488.16 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.16 PLEADING, PRACTICE, AND PROCEDURE IN CIVIL ACTIONS.

Subdivision 1. Pleading, practice, procedure, and the forms thereof in civil actions in a municipal court are governed by the rules for municipal courts promulgated from time to time by the supreme court of this state under Laws 1947, Chapter 498, or by the statutes governing the district court of this state insofar as the rules promulgated by the supreme court or the provision of the municipal court act do not contain any applicable provision. Any provision of the municipal court act inconsistent with a rule of the supreme court heretofore or hereafter promulgated is superseded thereby.

Subd. 2. The defeated party in an action wherein the title to land is involved, and which has been determined against him, may secure a second trial thereof in the district court by:

(1) Depositing with the clerk, within 24 hours after notice of the judgment, the amount of all costs and disbursements included therein;

(2) Serving notice upon the adverse party, within 48 hours, that he will apply to the court, on the first day of the next term occurring more than four days thereafter, for an order transferring the case to the district court for such trial, and fixing the amount of the bond hereinafter mentioned; the names of his proposed sureties shall be inserted in such notice;

(3) Giving bond to the adverse party, in such amount and with such sureties as the court shall fix and approve, conditioned for the payment to him or his assigns of all costs and disbursements which he shall recover upon such second trial and of all rents, profits, and damages accruing or resulting to him during the pendency of the action, and to abide by any order the court may make therein.

Upon filing of such bond, duly approved, within five days after the amount thereof is so fixed, the court shall cause the case to be forthwith certified and transmitted to the clerk of the district court, with all the papers on file therein.

Upon service of the notice herein provided for, all proceedings under the judgment shall be stayed until otherwise ordered.

Subd. 3. No judgment of a municipal court shall be a lien upon the real estate until a transcript thereof is filed and docketed with the clerk of the district court. If no execution thereon be outstanding, the judgment creditor may cause such transcript to be docketed in the same county, and thereafter execution may issue from either court. The clerk with whom the transcript is so filed may issue transcripts to be filed and docketed in other counties, as in the case of a judgment originally rendered in his court. When docketed as herein provided, the judgment

shall have the same force and effect, in all respects, as a judgment of the district court.

Subd. 4. Writs of replevin, attachment, and execution may be issued in accordance with the practice and procedure for such writs in district court, but a judge rather than a sheriff or police officer shall approve all bonds requiring approval.

Subd. 5. When a writ of execution has been delivered to an officer for enforcement, any person indebted to the judgment debtor may pay the amount of such debt, or so much thereof as may satisfy the execution, to the officer holding the writ and the receipt of that officer reciting the facts is a sufficient discharge and satisfaction of so much of said debt as is so paid.

Subd. 6. Proceedings against garnishees may be instituted in the same manner as in the district court of the state. The garnishment summons may be served either by an officer or any person not a party to the action, at any place within the state of Minnesota, and the service shall in all cases be personal. The disclosure of the garnishee shall be made and all further proceedings had in the same manner as if the proceedings were in the district court, but the summons shall require disclosure within ten days after service, and service upon the defendant shall be made not later than ten days after the service on the garnishee.

[1959 c 660 s 16]

488.161 MUNICIPAL COURTS; RAMSEY COUNTY; GARNISHMENT. In all municipal courts in the county of Ramsey subject to the provisions of the municipal court act, Laws 1959, Chapter 660, in proceedings against garnishees, in addition to and supplemental of the provisions of section 488.16, subdivision 6, the service of the garnishment summons shall become null and void and ineffective for any purpose unless not later than three days after such service the original or a copy of the summons and complaint in the main action between the parties is filed in the office of the clerk of the court. Any judge may issue an order ex parte dismissing a garnishment and discharging the garnishee upon a showing by certificate of the clerk that the summons and complaint have not been filed within the period of time herein required.

[1961 c 649 s 1]

488.17 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.17 PLEADING, PRACTICE, AND PROCEDURE IN CRIMINAL AND RELATED PROCEEDINGS. Subdivision 1. Except as otherwise provided in the municipal court act, pleading, practice, procedure, and the forms of actions charging violations of a criminal law or a municipal ordinance, charter provision, rule, or regulation are governed by the pleading, practice, procedure, and the forms of actions in similar matters in the district court.

Subd. 2. The judges of the municipal courts of the state when assembled pursuant to section 488.18 may adopt rules governing pleading, practice, procedure, and forms in actions charging violation of a criminal law or municipal ordinance, charter provision, rule, or regulation which are not inconsistent with the provisions of the municipal court act or any other law of the state. Such rules shall apply in each municipal court.

Subd. 3. Complaints charging violation of a criminal law or a municipal ordinance, charter provision, rule, or regulation shall be sworn to before the clerk or any judge of the court and shall be filed with the clerk.

Subd. 4. Where alleged offenders are in custody and brought before the court or the clerk without process, the clerk shall enter upon the records of the court a brief statement of the offense with which the defendant is charged, which shall stand in place of a complaint unless the court shall direct a formal complaint to be made.

Subd. 5. The plea of the defendant shall be "guilty" or "not guilty." In case of a failure to plead, the clerk shall enter a plea of "not guilty." Former acquittal or conviction for the same offense may be proved under a plea of "not guilty."

Subd. 6. The judge, clerk, or deputy clerk of a municipal court may issue warrants.

Subd. 7. Any judge may set the amount of bail for any violation of a law of this state or a municipal ordinance, charter provision, rule, or regulation for which bail is allowed under the laws of the state. A bail bond in such amount may be posted or the person to give bail, in lieu of bail bond, may deposit with the clerk a sum of money equal to the amount of the bail so fixed.

Subd. 8. The clerk shall keep minutes of preliminary hearings on indictable offenses and make proper return to the court before which the person charged with the offense may be bound to appear.

Subd. 9. Violations of a municipal ordinance, charter, rule, or regulation of a city, village, borough, and misdemeanors occurring within the boundaries thereof, shall be prosecuted by the city, village, or borough attorney of the place where the violation occurred. All other offenses shall be prosecuted by the county attorney of the county in which the violation occurred, except that in counties containing a city of the first class, misdemeanors shall be prosecuted by the city or village attorney of the place where the court is situated. If a change of venue is effected in any such misdemeanor case, the city or village attorney of the place where the court from which such action was moved is situated, shall continue the prosecution in the court to which such venue was changed.

[1959 c 660 s 17; 1961 c 229 s 1]

488.18 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.18 MUNICIPAL JUDGES ASSOCIATION, RULES OF PRACTICE. The judges of the municipal courts of the state may assemble annually at such time and place as may be designated by the president of the Minnesota municipal judges association. When so assembled the judges may formulate and revise the general rules of practice in such courts as they deem expedient, conformable to law, which rules shall not be inconsistent with the municipal court act or the rules for municipal courts promulgated from time to time by the supreme court. Any other proper business pertaining to such municipal courts may also be transacted. Any city, village, or borough of this state, however organized, may appropriate through its governing body, out of its general fund, money to pay the actual and necessary expenses of such judges in attending such assembly.

[1959 c 660 s 18]

488.19 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.19 FORCIBLE ENTRY AND UNLAWFUL DETAINER ACTIONS. Subdivision 1. In forcible entry and unlawful detainer actions, the summons shall be issued by the clerk and may be made returnable on any day not less than three days after the issuance of such summons.

Subd. 2. In forcible entry and unlawful detainer actions, the municipal court shall be governed by Minnesota Statutes, Sections 566.01 to 566.16. The forms therein prescribed with appropriate modifications may be used.

Subd. 3. Whenever a duly verified complaint in an action of forcible entry or unlawful detainer shows one of the causes of action set forth in Minnesota Statutes, Section 566.03, and on the return day of the summons the defendant does not appear, the judge, upon proof of the due service of summons, shall enter an order adjudging the defendant to be in default, and thereafter the clerk shall enter judgment for the plaintiff without the introduction of evidence.

[1959 c 660 s 19]

488.20 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.20 APPEALS TO DISTRICT COURT. Appeals may be taken to the district court of the county from the judgments of municipal courts in the same cases, upon the same procedure, and with the same effect as provided by law respecting appeals from justice courts, and all laws relating to such last named appeals shall be adapted and applied to appeals from the municipal courts. The time for appeal shall not start to run until the judgment has been perfected, the costs taxed, and notice of entry of judgment served upon the adverse party. On appeal to district court the appellant shall not be entitled to a trial by jury if trial by jury was held in municipal court.

[1959 c 660 s 20; 1961 c 683 s 6]

488.21 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.21 SALARIES IN PARTICULAR MUNICIPALITIES. Subdivision 1. The annual salary of any judge of a municipal court situated or hereafter established in a city, village or borough named in this section, shall be as set forth below.

Subd. 2. Ada	\$ 2,400
Adrian	750
Albert Lea	6,500
Alexandria	5,500
Anoka	7,200
Appleton	2,400

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488.21 MUNICIPAL COURTS

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Austin	\$5,000
Baudette	750
Bemidji, chief municipal judge	5,600
Bemidji, municipal judge	2,400
Blaine, Spring Lake Park, joint court	4,500
Brainerd	6,500
Buhl	1,620
Burnsville	4,800
Canby	1,080
Cass Lake	3,000
Chisholm	4,500
Cloquet	5,310
Columbia Heights	6,000
Coon Rapids	6,000
Crookston	2,700
Crosby	1,800
Dawson	1,200
Detroit Lakes	4,800
East Grand Forks	2,400
Ely	5,448
Eveleth	4,800
Faribault	9,500
Fergus Falls	6,000
Fridley	2,500
Gaylord	1,500
Gilbert	2,340
Glencoe	3,600
Grand Rapids	5,000
Granite Falls	1,800
Hastings	5,500
Hibbing	5,000
Hutchinson	3,600
International Falls	4,300
Jordan	420
Kasson	900
Keewatin	900
Lake City	1,383
LeSueur	1,800
Little Falls	6,000
Long Prairie	3,000
Luverne	2,400
Madison	1,400
Mahnomen	2,759
Mankato	7,200
Maplewood, Vadnais Heights, Little Canada and Gem Lake, joint court	8,900
Marshall	4,692
Montevideo	2,600
Montgomery	600
Moorhead	8,000
Moose Lake	1,500
Morris	1,800
Mound	2,400
Nashwauk	1,500
New Brighton	4,500
New Prague	750
New Ulm	4,300
Northfield	1,900
North St. Paul	5,000
North Mankato	4,800
Ortonville	1,080
Owatonna	4,536
Perham	2,600
Pine Island	2,600

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MUNICIPAL COURTS 488.22

Pipestone	\$4,500
Proctor	680
Red Wing	7,200
Redwood Falls	1,800
Rochester	12,500
Roseau	1,800
Roseville	7,200
St. Charles	750
St. Cloud	12,000
Sauk Center	3,000
Shakopee	2,600
Sleepy Eye	2,800
South St. Paul	8,400
Springfield	2,400
Staples	1,500
Thief River Falls	2,040
Tower	240
Tracy	1,800
Two Harbors	2,280
Virginia	6,500
Waseca	2,622
Waterville	1,320
West St. Paul	6,700
White Bear Lake	6,000
Willmar	7,200
Winona	8,000
Worthington	7,000

Subd. 3. Any judge of a municipal court situated in a city, village or borough named in this section having conciliation court powers, as prescribed by Minnesota Statutes, Chapter 491, shall receive in addition to the annual salary prescribed in subdivision 2 an annual salary of \$500.

NOTE: For the salary of a municipal judge serving as a conciliation judge in Mankato and North Mankato, see Laws 1965, Chapter 723, Section 2, Subdivision 2.

[1959 c 691 s 1; Ex1959 c 68 s 4; 1961 c 68 s 1; 1961 c 246 s 1; 1961 c 247 s 1; 1961 c 250 s 1; 1961 c 253 s 1; 1961 c 254 s 1; 1961 c 255 s 1; 1961 c 256 s 1; 1961 c 368 s 1; 1961 c 619 s 1; 1961 c 635 s 1; 1961 c 659 s 1; 1961 c 682 s 1; 1961 c 684 s 1; 1961 c 708 s 1; 1961 c 709 s 1; Ex1961 c 57 s 1; Ex1961 c 69 s 1; 1963 c 49 s 1; 1963 c 223 s 1; 1963 c 224 s 1; 1963 c 225 s 1; 1963 c 233 s 1; 1963 c 235 s 1; 1963 c 266 s 1; 1963 c 292 s 1; 1963 c 294 s 1; 1963 c 295 s 1; 1963 c 297 s 1; 1963 c 298 s 1; 1963 c 339 s 1; 1963 c 340 s 1; 1963 c 341 s 1; 1963 c 344 s 1; 1963 c 345 s 1; Ex1967 c 44 s 1]

NOTE: Laws 1963, Chapter 441, as amended by Laws 1965, Chapter 587, reads: "Section 1. Any act fixing or increasing the salaries of a judge of the probate court or the judge or special judge of a municipal court enacted after the effective date of this section is a temporary act and the salaries fixed thereby shall terminate on June 30, 1967 unless such subsequent act expressly provides that the provisions of this section are not applicable thereto.

"Sec. 2. The provisions of section 1 shall not apply to the judges of municipal court in a city of the first class or to the judges of the probate court in a county having a city of the first class.

"Sec. 3. This act is in effect from and after its final enactment and shall expire on June 30, 1967."

Extra Session Laws 1967, Chapter 44, Sections 3 and 4, read:

"Sec. 3. The salary of a municipal judge heretofore fixed to expire on or before June 30, 1967 by any law shall continue in force and effect until June 30, 1969. This section does not apply to the salary of any judge fixed by law as a permanent salary.

Sec. 4. This act shall become effective on July 1, 1967 and shall expire, except as to the city of Moorhead on June 30, 1969."

The following acts were passed after Laws 1963, Chapter 441:

Laws 1963, Chapter 618, Cloquet municipal court, provides health, insurance and vacation benefits for judge subject to approval of city council

Laws 1963, Chapter 779, International Falls municipal court, judge's salary, \$5,100

The following act was passed after Laws 1965, Chapter 587:

Laws 1965, Chapter 776, which reads, in part, as follows:

Austin municipal court, judge's salary, \$7,000

Crookston, municipal judge's salary, \$4,800

Lake City, municipal judge's salary, \$1,900

Morris, municipal judge's salary, \$3,800

Thief River Falls, municipal judge's salary, \$3,000

488.22 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.22 SPECIAL JUDGE; SALARY. Subdivision 1. Except as provided in subdivision 2, the salary of any special judge of a municipal court situated in a city, village or borough named in section 488.21, shall be \$30 per day.

Subd. 2. The salary of any special judge of a municipal court in the city of Rochester and in the city of St. Cloud shall be \$50 per day.

[1959 c 691 s 2; 1961 c 563 s 5; Ex1967 c 44 s 2]

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488.23 MUNICIPAL COURTS

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NOTE: Extra Session Laws 1967, Chapter 44, Sections 3 and 4, read:

"Sec. 3. The salary of a municipal judge heretofore fixed to expire on or before June 30, 1967 by any law shall continue in force and effect until June 30, 1969. This section does not apply to the salary of any judge fixed by law as a permanent salary.

Sec. 4. This act shall become effective on July 1, 1967 and shall expire, except as to the city of Moorhead on June 30, 1969."

488.23 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.23 OTHER COURTS, SALARIES OF JUDGES. The salary of any municipal judge of a municipal court now existing or hereafter established and not prescribed in section 488.21 shall be the sum of \$600 per annum.

[1959 c 691 s 3]

488.24 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.24 OTHER COURTS, SALARIES OF SPECIAL JUDGES. The salary of any special municipal judge of a municipal court now existing or hereafter established and not prescribed above shall be the sum of \$25 per day.

[1959 c 691 s 4]

488.25 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.25 FEES, DISPOSITION. All fees collected by a municipal court shall be deposited with the treasurer of the city, village or borough in which the court is situated for disposition by the governing body thereof.

[1959 c 691 s 5]

488.26 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.26 SALARIES HERETOFORE PAID, RATIFICATION. The amount of salaries heretofore paid any municipal judge or special municipal judge is hereby confirmed and ratified.

[1959 c 691 s 6]

488.27-488.29 M.S. 1957 [Repealed, 1959 c 660 s 22]

488.30 PAYMENTS TO MUNICIPALITIES BY COUNTIES. Any county within the state having a population of less than 100,000 within which is located one or more municipal courts established and organized under the municipal court act, may, by resolution of the board of county commissioners thereof, pay to each municipality within which a court is located a sum of money not exceeding one-half of the costs of the court to the municipality. This sum shall not in any event exceed the sum of \$3,000 per year for each court.

[1921 c 276 s 1; 1947 c 339 s 1; 1959 c 660 s 21]

NOTE: Becker County, see Laws 1967, Chapter 663.

488.31 JOINT MUNICIPAL COURTS; DEFINITIONS. Subdivision 1. For purposes of sections 488.31 to 488.37, the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Municipality" means any city, village, or borough except a city of the first class.

Subd. 3. "Municipal court" means a court organized and operated pursuant to the municipal court act.

Subd. 4. "Joint municipal court" means a court organized and operated by two or more municipalities as provided in sections 488.31 to 488.37.

[Ex1961 c 32 s 1]

488.32 ESTABLISHMENT; AGREEMENT; NAME; WITHDRAWAL; DISOLUTION. Subdivision 1. If two or more municipalities have a combined population of 1,000 or more or if one is a county seat, a joint municipal court is established in such municipalities with jurisdiction coextensive with and limited to the county or counties in which such municipalities are located; but no joint municipal court so established is organized until such municipalities enter into an agreement approved by a four-fifths vote of each governing body. If a municipal court has been organized in any municipality entering into such an agreement, the agreement may provide that the existing municipal court shall be the joint municipal court and in that event the judge or judges of the existing court shall continue to serve as judges of the joint municipal court until the expiration of their terms of office and until their successors are elected and qualified as provided in section 488.35, subdivision 1. If the agreement does not so provide, the agreement and the jurisdiction of the joint municipal court shall not become effective in any municipality having an existing municipal court until the expiration of the term of office of the judge or judges of that court. Upon expiration of the term of office of the incumbent judge or judges of the existing municipal court, the court is abolished and its functions, powers and duties, and pending cases are transferred to the joint municipal court.

Subd. 2. The name of such court shall be the "Municipal Court of.....," inserting the names of the municipalities participating in the agreement.

Subd. 3. The term of the agreement shall be indefinite subject to the right of withdrawal as provided in subdivision 4 or dissolution of the court as provided in subdivision 6. The agreement may be altered from time to time consistent with sections 488.31 to 488.37.

Subd. 4. No municipality shall withdraw from a joint municipal court agreement if such withdrawal terminates the court, but otherwise any municipality participating in such an agreement may withdraw therefrom at any time. No withdrawal shall become effective until the expiration of the term of the judge or judges in office at the time of the withdrawal. At that time the joint municipal court shall cease to have jurisdiction over cases thereafter arising in any municipality withdrawing from the agreement.

Subd. 5. If all but one of the municipalities participating in a joint municipal court agreement withdraw therefrom, the court shall continue to exist as the municipal court in the remaining municipality as though organized therein under the municipal court act, and shall be subject to all of the provisions of that act. The location of the court shall be changed, if necessary, to the remaining municipality.

Subd. 6. By concurrent resolutions adopted by a four-fifths vote of the governing body of each municipality participating in a joint municipal court agreement, the question of dissolving the court may be submitted to the voters at an election held as provided in section 488.35, subdivision 1, or at a special election held at the same time in each municipality participating in the agreement. If a majority of the total vote cast upon the question in all participating municipalities is in favor of dissolution, the court is dissolved upon the expiration of the term of office of the incumbent judge or judges of the court, and court records and pending cases shall thereupon be disposed of as in the case of dissolution under the municipal court act.

[*Ex1961 c 32 s 2*]

488.33 CONTENT OF AGREEMENT. An agreement establishing a joint municipal court shall

(a) Designate the municipality in which the court is to be located and authorize the court to provide for court sessions in the other participating municipalities if sessions are to be held in more than one municipality;

(b) Specify the number of judges and provide for additional judges from time to time as the needs of the court may require;

(c) Provide suitable space and other facilities for operations of the court;

(d) Provide for the appointment and the bonds of court officers and other personnel except for the clerk and deputy clerk;

(e) Provide for the manner in which the expense of establishing and operating the court is to be apportioned and paid by the participating municipalities, including the compensation of the clerk, deputy clerk, and other court officers and personnel;

(f) Provide for disposition of the fees and other moneys collected by the court in civil actions and the fines, fees, and costs which would otherwise be paid to the individual municipalities participating in the agreement under the municipal court act;

(g) Provide for the distribution of any property acquired as a result of the agreement, and the return of any surplus funds in proportion to the contributions of the contracting parties upon withdrawal of any municipality from the agreement or dissolution of the court;

(h) Include such other provisions, not inconsistent with sections 488.31 to 488.37 and with the authority otherwise possessed by the court to make rules for its own operations, as may be necessary for establishment and operation of the court.

[*Ex1961 c 32 s 3*]

488.34 JUDGES. Subdivision 1. If a joint municipal court agreement provides for more than one judge, the judges shall be designated and the work of the court shall be assigned as provided in the municipal court act.

Subd. 2. Each judge shall be learned in the law and a resident of the county or counties in which the joint municipal court has jurisdiction.

[*Ex1961 c 32 s 4*]

488.35 ELECTIONS. Subdivision 1. Each judge shall be elected at the regular municipal election if all municipalities participating in the agreement hold their regular municipal election at the same time. If the participating municipi-

palties hold their regular municipal elections at different times, each judge shall be elected on the first Tuesday after the first Monday in November in the even-numbered year.

Subd. 2. Affidavits or applications of candidacy for the office of judge shall be filed with the clerk of the municipality in which the court is located within the period and in the manner provided by law or charter for filing for office in that municipality. Immediately after the last day for filing, the clerk shall certify the names of all the candidates to the clerk of each municipality participating in the joint municipal court agreement, and the names shall be included on the regular municipal election ballot, or, if the election is held on the first Tuesday after the first Monday in November as provided in subdivision 1, on a separate non-partisan ballot conforming to the ballot used at the regular municipal election. After the canvass of votes is completed, the results of the election for judge shall be certified to the clerk of the municipality in which the court is located. The clerk shall thereupon issue to each successful candidate a certificate of his election. No candidate for judge shall be deemed elected unless he receives a plurality of the total votes cast for the office in all municipalities participating in the joint municipal court agreement. When two judges are to be elected and one is not designated the special municipal judge or when more than two judges are to be elected the candidates, to a number equal to the number of judges to be elected, who receive the highest number of votes shall be deemed elected.

Subd. 3. Except as provided in subdivisions 1 and 2, all of the provisions of sections 205.01 to 205.17 relating to municipal elections shall apply to and govern the election of the judge or judges of a joint municipal court.

Subd. 4. Each judge shall serve for a term of six years beginning on the first Monday of the month next following his election and until his successor qualifies.

Subd. 5. When a joint municipal court is organized more than 90 days prior to the election at which the judge or judges are to be elected as provided in subdivision 1, or whenever there is a vacancy in the office of judge, the governor shall appoint a qualified person to serve until a successor is elected and qualified. The successor shall be elected for a six-year term at the next election which occurs as provided in subdivision 1 more than one year after such appointment.

[*Ex1961 c 32 s 5*]

488.36 JURIES; DUTIES OF MAYOR AND CLERK. Petit jurors for the trial of all types of actions shall be selected as provided in the municipal court act; but for purposes of sections 488.31 to 488.37 the duties of the mayor and clerk shall be performed by the mayor and clerk of the municipality in which the court is located and persons to serve as jurors may be selected from the qualified electors of the municipalities participating in the joint municipal court agreement.

[*Ex1961 c 32 s 6*]

488.37 APPLICATION OF MUNICIPAL COURT ACT. Except as otherwise provided in sections 488.31 to 488.37 all the provisions of the municipal court act shall apply to and govern the operations of a joint municipal court.

[*Ex1961 c 32 s 7*]