

House Bill 754 (AS PASSED HOUSE AND SENATE)

By: Representatives Parrish of the 156th, Morris of the 155th, and Jackson of the 142nd

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act to incorporate the Town of Oak Park, in the County of Emanuel, approved
2 July 18, 1929 (Ga. L. 1929, p. 1241), as amended, so as to provide for a municipal court; to
3 provide for a judge of such court; to provide for the jurisdiction, functions, practices,
4 procedures, duties, and responsibilities of such court; to provide for the right of certiorari;
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act to incorporate the Town of Oak Park, in the County of Emanuel, approved July 18,
9 1929 (Ga. L. 1929, p. 1241), as amended, is amended by revising Section 10 as follows:

10 "SECTION 10.

- 11 (a) There shall be a court to be known as the Municipal Court of the Town of Oak Park.
12 (b) The municipal court shall be presided over by a chief judge and such part-time,
13 full-time, or stand-by judges as shall be provided by ordinance.
14 (c) No person shall be qualified or eligible to serve as a judge on the municipal court
15 unless that person shall have attained the age of 21 years and shall be a member of the State
16 Bar of Georgia and shall possess all qualifications required by law. All judges shall be
17 appointed by the mayor and council and shall serve until a successor is appointed and
18 qualified.
19 (d) Compensation of the judges shall be fixed by ordinance.
20 (e) Judges shall serve at will and may be removed from office at any time by the mayor
21 and council unless otherwise provided by ordinance.
22 (f) Before assuming office, each judge shall take an oath, given by the mayor, that such
23 judge will honestly and faithfully discharge the duties of the judge's office to the best of
24 the judge's ability and without fear, favor, or partiality. The oath shall be entered upon the
25 minutes of the town council.

- 26 (g) The municipal court shall be convened at regular intervals as provided by ordinance.
- 27 (h) The municipal court shall try and punish violations of this charter, all town ordinances,
28 and such other violations as provided by law.
- 29 (i) The municipal court shall have authority to punish those in its presence for contempt,
30 provided that such punishment shall not exceed \$200.00 or ten days in jail.
- 31 (j) The municipal court may fix punishment for offenses within its jurisdiction not
32 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and
33 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as
34 now or hereafter provided by law.
- 35 (k) The municipal court shall have authority to establish a schedule of fees to defray the
36 cost of operation and shall be entitled to reimbursement of the cost of meals, transportation,
37 and caretaking of prisoners bound over to superior courts for violations of state law.
- 38 (l) The municipal court shall have authority to establish bail and recognizances to ensure
39 the presence of those charged with violations before such court and shall have discretionary
40 authority to accept cash or personal or real property as surety for the appearance of persons
41 charged with violations. Whenever any person shall give bail for that person's appearance
42 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by
43 the judge presiding at such time and an execution issued thereon by serving the defendant
44 and the defendant's sureties with a rule nisi at least two days before a hearing on the rule
45 nisi. In the event that cash or property is accepted in lieu of bond for security for the
46 appearance of a defendant at trial, and if such defendant fails to appear at the time and
47 place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited
48 to the town, or the property so deposited shall have a lien against it for the value forfeited
49 which lien shall be enforceable in the same manner and to the same extent as a lien for
50 town property taxes.
- 51 (m) The municipal court shall have the same authority as superior courts to compel the
52 production of evidence in the possession of any party; to enforce obedience to its orders,
53 judgments, and sentences; and to administer such oaths as are necessary.
- 54 (n) The municipal court may compel the presence of all parties necessary to a proper
55 disposal of each case by the issuance of summonses, subpoenas, and warrants which may
56 be served as executed by any officer as authorized by law.
- 57 (o) Each judge of the municipal court shall be authorized to issue warrants for the arrest
58 of persons charged with offenses against any ordinance of the town, and each judge of the
59 municipal court shall have the same authority as a magistrate of the state to issue warrants
60 for offenses against state laws committed within the town.
- 61 (p) The right of certiorari from the decision and judgment of the municipal court shall exist
62 in all criminal cases and ordinance violation cases, and such certiorari shall be obtained

63 under the sanction of a judge of the Superior Court of Emanuel County under the laws of
64 the State of Georgia regulating the granting and issuance of writs of certiorari.

65 (q) With the approval of the mayor and council, the judge shall have full power and
66 authority to make reasonable rules and regulations necessary and proper to secure the
67 efficient and successful administration of the municipal court; provided, however, that the
68 mayor and council may adopt in part or in toto the rules and regulations applicable to
69 municipal courts. The rules and regulations made or adopted shall be filed with the town
70 clerk, shall be available for public inspection, and, upon request, a copy shall be furnished
71 to all defendants in municipal court proceedings at least 48 hours prior to such
72 proceedings."

73 **SECTION 2.**

74 Said Act is further amended by revising Section 13 as follows:

75 "SECTION 13.

76 Reserved."

77 **SECTION 3.**

78 Said Act is further amended by revising Section 14 as follows:

79 "SECTION 14.

80 Be it further enacted that the mayor shall be the chief executive officer. The mayor shall
81 see that all ordinances and laws are faithfully executed and obeyed, and appoint special
82 police when necessary, over whom the mayor shall have full control."

83 **SECTION 4.**

84 Said Act is further amended by revising Section 19 as follows:

85 "SECTION 19.

86 Reserved."

87 **SECTION 5.**

88 All laws and parts of laws in conflict with this Act are repealed.