

## CHAPTER 13

### MUNICIPAL COURT

#### Article 1. Municipal Court Created; Organization and Procedure

##### Sec. 13-1. Court Created.

This chapter shall govern the organization and operation of the Municipal Court of the Town of Ft. Towson, established by resolution duly passed on the day \_\_\_\_ of \_\_\_\_\_ and filed in accordance with law, all pursuant to Sections 958.2 of Title II, Oklahoma Statutes, as amended. To the extent of any conflict between any provisions of this ordinance and the provisions of any other ordinance of this Town, the provisions of this ordinance shall control.

##### Sec. 13-2. Definitions.

As used in this chapter, unless the context requires a different meaning, the following words shall mean:

- (1) "Court" means the Municipal Criminal Court of this Town.
- (2) "Judge" means the judge of the Municipal Criminal Court, aforesaid, including any acting judge or alternate judge thereof as provided for by the statutes of this state, and Town ordinance.
- (3) "Municipality" or "this municipality" means the Town of Ft. Towson, Oklahoma.
- (4) "Clerk" means the clerk of this municipality, including any deputy or member of the office staff of the clerk while performing duties of the clerk's office.
- (5) "Governing body" means the council.
- (6) "Chief of Police" means that individual in charge of the police force of this municipality.
- (7) "This judicial district" means the district court judicial district of the State of Oklahoma, wherein the government of this municipality is situated.
- (8) "Mayor" means the mayor of this municipality.

Sec. 13-3.                    Jurisdiction.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this municipality is charged, including any such prosecutions transferred to the court in accordance with applicable law.

Sec. 13-4.                    Judge.

There shall be one (1) judge of the court. A judge must be duly licensed to practice law in the State of Oklahoma. He may engage in the practice of his duties as judge, or arising out of facts which give rise to or are connected with cases within the jurisdiction of the court, pending therein or which might become the subject of proceedings therein. (He must be a resident of this municipality.) (He may serve as judge of other municipal criminal courts, if such service may be accomplished consistently with his duties as judge of this court, with the consent of the council.) Judge must be at least twenty-five (25) years of age.

Sec. 13-5.                    Term of Judge.

The official term of the judge shall be two (2) years, expiring on the 31st day of December, and in each odd numbered year. Said judge shall serve until his successor is appointed and qualified, unless removed for proper cause, provided that the judge of the municipal court existing in this municipality at the effective date of this ordinance shall act as judge of the court provided for herein until such time as his successor is appointed and qualified as herein provided.

Sec. 13-6.                    Alternate Judge.

There shall be appointed, for each judge of the court, an alternate judge, possessed of the same qualifications as the judge. The appointment shall be for the same term and made in the same manner as the judge. He shall sit as acting judge of the court in any case if the judge is: (1) absent from the court, (2) unable to act as judge, (3) disqualified from acting as judge in the case.

Sec. 13-7.                    Acting Judge.

If, at any time, there is no judge or alternate judge, duly appointed and qualified, available to sit as judge, the mayor shall appoint some person judge, who shall preside, as acting judge, over the court, in the disposition of pending matters until such time as a judge or alternate judge shall be available, and such judge need not be an attorney.

Sec. 13-8.                    Appointment of Judges.

Judges and alternate judges shall be appointed by the mayor with the consent of the governing body. A proposed appointment shall be submitted in writing to the governing body at

the next to the last regularly scheduled meeting prior to the day upon which the appointment is to take effect, and shall be acted upon at the next regularly scheduled meeting. The governing body may decide upon the proposed appointment by a majority vote of a quorum present and acting. Failure of decision upon a proposed appointment shall not prevent action thereon at a later regularly scheduled meeting of the governing body, unless the mayor, in writing, withdraws the proposed appointment.

Sec. 13-9.                    Compensation of Judges.

(1) A judge, other than alternate judge, or an acting judge, shall receive a salary of (to be determined) dollars (\$\_\_\_\_) a month, paid in the same manner as the salaries of other officials of this municipality.

(2) An alternate judge or an acting judge shall be paid (to be determined) dollars (\$\_\_\_\_) for each day devoted to the performance of this duty, except that, for any month, the total payments so calculated shall not exceed the salary of the judge in whose stead he sits. An alternate or acting judge who sits for an entire month shall receive the amount specified in this chapter as the salary of the judge in whose stead he sits.

Sec. 13-10.                    Vacancy.

A vacancy in the office of judge shall occur if the incumbent:

- (1) dies, or
- (2) resigns, or
- (3) ceases to possess the qualifications for the office, or
- (4) is removed, and the removal proceeding has been affirmed finally in judicial proceedings or is no longer subject to judicial review.

Upon the occurrence of a vacancy in the office of judge, the mayor shall appoint a successor to complete the unexpired term, upon the same procedure as an original appointment is made.

Sec. 13-11.                    No Change of Venue.

In prosecution before the court, no change of venue shall be allowed; but the judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting under the terms, conditions and procedure provided by law for courts of record. If a judge is disqualified, the matter shall be heard by an alternate or acting judge, appointed as provided in this Chapter.

Sec. 13-12.                    Chief of Police.

All writs of process of the court shall be directed, in his official title, to the Chief of Police of this municipality.

Sec. 13-13.                    Clerk of Court.

The clerk, or a deputy designated by him, shall be the clerk of the court. He shall assist the judge in recording the proceedings of the court, and in preparing writs, processes and other papers. He shall enter all pleadings, processes, and proceedings in the dockets of the court. He shall perform such other clerical duties relating to the proceedings of the court as the judge shall direct. He shall receive and receipt for forfeitures, fees, deposits and sums of money payable to the court. He shall pay to the treasurer of this municipality immediately all money so received by him, except such special deposits or fees as shall be received to be disbursed by him for special purposes. All money paid to the treasurer shall be placed in the general fund of the municipality, or in such fund as the governing body may direct, and it shall be used in the operation of the municipal government in accordance with budgetary arrangements governing the fund in which it is placed. He may administer oaths required in proceedings before the court.

Sec. 13-14.                    Attorney.

The attorney for this municipality, or his duly designated assistant, shall be the prosecuting officer of the court. He shall prosecute all alleged violations of the ordinances of the Town. He shall be authorized, in his discretion, to prosecute and resist appeals, proceedings in error and review from this court to any other courts of the State, and to represent this municipality in all proceedings arising out of matters of this court.

Sec. 13-15.                    Clerk's Bond.

The clerk of the court shall give bond, in the form provided by 11 O.S. 1968 Supp. Section 958.18, in the sum of twelve thousand dollars (\$12,000.00). When executed, said bond shall be submitted to the governing body for approval. When approved, it shall be filed with the clerk of this municipality and retained in the municipal archives.

Sec. 13-16.                    Judge May Prescribe Rules.

The judge may prescribe rules, consistent with the laws of the State and with the ordinances of this municipality, for the proper conduct of the business of the court.

Sec. 13-17.                    Contempt, Etc.

Obedience to the orders, rules and judgements made by the judge or by the court may be enforced by the judge, who may fine or imprison for contempt committed as to him while holding

court, or committed against process issued by him. In the same manner and to the same extent as the District Courts of this State.

Sec. 13-18.                    Style of Prosecutions.

All prosecutions for violation of ordinances of this municipality shall be styled "The Town of Ft. Towson v. (naming defendant or defendants). Except as provided hereinafter, prosecutions shall be initiated by the filing of a written complaint, subscribed and verified by the person making complaint, and setting forth concisely the offense charged.

Sec. 13-19.                    Traffic Violations.

(1) If a police officer observes facts which he believes constitute a violation of the traffic ordinances of this municipality, in lieu of arresting such person, he may take his name, address, operator's license number, the registered license number of the motor vehicle involved, and any other pertinent and necessary information, and may issue to him, in writing in form prescribed by the mayor or his duly designated delegate, a traffic citation embracing the above information, and further, stating the traffic violation alleged to have occurred, and notifying him to answer to the charge against him in the court at a time, no later than seven (7) days thereafter specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation, to answer as specified, shall release said person from custody. If the person to who a citation is issued fails to answer as prescribed in the citation, a complaint shall be filed and the case shall be prosecuted as otherwise provided by this chapter.

(2) The police officer may, however, take the alleged offender into custody under arrest. The arrested person either: (1) shall be taken immediately before the judge for further proceedings according to law, or (2) shall have bail fixed for his release in accordance with the provisions of this ordinance. Upon providing the bail as fixed, and upon giving his written promise to appear upon a day certain, as provided in the preceding subsection, he shall be released from custody.

(3) If the alleged offense be a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under such an ordinance, and the operator be not present, the police officer shall place on the vehicle, at a place reasonably likely to come to the notice of the operator, a citation conforming substantially to that prescribed in subsection (1) of this section, with such variation as the circumstances require. The operator of the vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally under subsection (1).

Sec. 13-20.                    Traffic Violations Bureau.

A Traffic Violations Bureau hereby is established as a division of the office of the clerk of the court, to be administered by the clerk, or by subordinates designated by him for that

purpose. Persons who are cited for violation of one of the traffic regulatory ordinances of this municipality, other than (1) a second traffic offense within a twelve-month period, or (2) a driver's license offense, or (3) an offense punishable by a fine of more than \_\_\_\_ dollars (\$\_\_\_\_) or by imprisonment, may elect to pay a fine in the Traffic Violations Bureau according to the following schedule:

The court may adopt rules to carry into effect this section. Payment of a fine under this section shall constitute a final determination of the cause against the defendant. If a defendant who has elected to pay a fine under this section fails to do so, prosecution shall proceed under the provisions of this ordinance. These amounts are in accordance with state statutes.

Sec. 13-21.                    Summons.

(1) Upon the filing of a complaint charging violation of an ordinance, the judge, unless he determines to issue a warrant of arrest, or unless the defendant previously has been issued a citation or has been arrested and has given bond for appearance, shall issue a summons, naming the person charged, specifying his address or place of residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court (on a day certain), and containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

(2) The summons shall be served by delivering a copy to the defendant personally. If he fails to appear and to answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this ordinance.

Sec. 13-22.                    Warrant of Arrest.

Except as otherwise provided in the ordinances of this municipality, upon the filing of a complaint approved by endorsement by the attorney of this municipality or by the judge, there shall be issued a warrant of arrest, in substantially the following form:

The Town of Ft. Towson to the Marshal of the Municipal Criminal Court of Ft. Towson, Oklahoma. Complaint upon oath having this day been made by     (naming complainant)     that the offense of     (naming the offense in particular but general terms)     has been committed and accusing     (name of defendant)     thereof, you are commanded therefore forthwith to arrest the above named     (name of defendant)     and bring     (insert him, her or them)     before me     (naming the place)    . Witness my hand this      day of     , 19    .

\_\_\_\_\_  
Judge of the Municipal Criminal Court



It shall be the duty of the aforesaid marshal, personally, or through a duly constituted member of the police force of this municipality, or through any other persons lawfully authorized so to act, to execute said warrant as promptly as possible.

Sec. 13-23.                    Defendant's Right to Bail.

A.     Violations in General

Upon arrest, or upon appearance without arrest in response to a citation or summons, or at any other time before trial, before or after arraignment the defendant shall be eligible to be released upon giving bail for his appearance in an amount and upon conditions fixed by the judge, who shall prescribe appropriate rules of court for the receipt of bail. In case of arrests made at night or under other conditions of emergency or when the judge is not available the rules shall authorize the chief of police or his designated representative, to accept a temporary cash bond of not less than twenty five dollars (\$25.00) nor more than the maximum monetary penalty provided by ordinance for the offense charged.

Sec. 13-24.                    Arraignment.

Upon making his appearance before the court, the defendant shall be arraigned. The judge or the attorney of the municipality, shall read the complaint to the defendant, inform him of his legal rights, including the right of trial by jury, if available, and of the consequences of conviction, and ask him whether he pleads guilty or not guilty. If the defendant pleads guilty, the court may proceed to judgement and sentence or may continue the matter subsequent disposition. If the plea is not guilty, and the case is not for jury trial, the court may proceed to try the case, or may set it for hearing at a later date.

Sec. 13-25.                    Postponement.

Before trial commences, either part, upon good cause shown, may obtain a reasonable postponement thereof.

Sec. 13-26.                    Defendant to be Present.

The defendant must be present in person at the trial.

Sec. 13-27.                    Procedure.

In all trials, as to matters not covered in this ordinance, or by the statutes relating to municipal criminal courts, or by rules duly promulgated by the Supreme Court of Oklahoma, the

procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

Sec. 13-28.                    Judgement.

If the defendant pleads guilty or is convicted after trial, the court must render judgement thereon, fixing the penalty within the limits prescribed by the applicable ordinance and imposing sentence accordingly.

Sec. 13-29.                    Imprisonment.

A judgement that the defendant pay a fine may direct also that he be imprisoned until the fine is satisfied, at the rate of one day of imprisonment for each \_\_\_ dollars (\$\_\_\_) of fine.

Sec. 13-30.                    Witnesses.

Witnesses in any proceeding in the court, other than police officers or peace officers, shall be entitled to -0- dollars (\$0.00) per day of attendance, plus -0- cents (\$0.00) for each mile actually and necessarily traveled in going to and returning from the place of attendance if their residence is outside the limits of the municipality. However, no witness shall receive fees or mileage in more than one case for the same period of time or the same travel. A defendant seeking to subpoena witnesses must deposit with the clerk a sum sufficient to cover fees and mileage for one day of attendance for each witness to be summoned, but such deposit shall not be required, from an indigent defendant who files an affidavit setting out: (1) the names of no more than three (3) witnesses; (2) that the defendant, by reason of his poverty, is unable to provide the fees and mileage allowed by law; (3) that the testimony of said witnesses is material; and (4) that their attendance at the trial is necessary for his proper defense. The fees of such witnesses shall be paid by the municipality.

Sec. 13-31.                    Judgement to be Made.

At the close of trial, judgement must be rendered immediately by the judge who shall cause it to be entered into his docket.

Sec. 13-32.                    Acquittal.

If judgement is of acquittal, and the defendant is not to be detained for any other legal cause, he must be discharged at once.

Sec. 13-33.                    Suspension of Sentence.

After conviction and sentence, the judge may suspend sentence, in accordance with the provisions of, and subject to the conditions and procedures imposed by, Sections 958.15 and



958.16 of Title 11, Oklahoma Statutes, 1968 Supplement.

Sec. 13-34.            Costs.

If judgement of conviction is entered, the clerk of the court shall tax the costs to the defendant in the sum of fifteen dollars (\$15.00) plus the fees and mileage of jurors and witnesses, all of which the defendant shall pay, in addition to any fine that may be imposed.

Sec. 13-35.            Trial by Jury.

In all prosecutions for violations of ordinances punishable by fine of more than the state statutes will allow, or by imprisonment or by both fine and imprisonment, trial shall be by jury unless waived by the defendant. If trial by jury is waived, trial shall be by the court.