

CHAPTER 13

MUNICIPAL COURT

Article 1. Application of Chapter; Jurisdiction of Court.

Article 2. Organization and Procedure.

Article 3. Penalty.

Article 1. Application of Chapter; Jurisdiction of Court

Section 13-1. Application of Chapter.

1. This Chapter shall govern the organization and operation of the Municipal Court of the City of Elk City, Oklahoma, as put into operation and continued by Resolution, duly passed and filed in accordance with State Law.

2. To the extent of conflict between any provisions of this Chapter and the provisions of any other Ordinance of the City of Elk City, Oklahoma, the provisions of this Chapter shall control.

Section 13-2. Jurisdiction of Court.

The Municipal Court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any provision of this Code of Ordinance or any other Ordinance of the City of Elk City, Oklahoma, is charged, including any such prosecutions transferred to said court, in accordance with applicable laws.

Sections 13-3 through 13-9. (Reserved for future use.)

Article 2. Organization and Procedure

Section 13-10. Judge; Alternate Judge; Acting Judge.

(See Chapter 1, Section 1-40, this Code of Ordinances.)

Section 13-11. Compensation of Judges.

The compensation of the Judges and the Alternate or Acting Judges of the Municipal Court of the City of Elk City, Oklahoma, shall be as determined by the City Manager.

Section 13-12. No Change of Venue; Disqualification of Judge.

1. In prosecutions before the Municipal Court, no change of venue shall be allowed, but the Municipal Judge before whom the case is pending may certify his disqualification or he may be disqualified from sitting, under the terms, conditions and procedures provided by law for the Courts of Record.

2. If the Municipal Judge is disqualified, the matter shall be heard by an Alternate Judge, appointed as provided in this Code of Ordinances.

Section 13-13. Chief of Police.

All writs or process of the Municipal Court shall be directed to the Chief of Police of the City of Elk City, Oklahoma, who shall be the principal officer of the Court.

Section 13-14. Attorney.

The Municipal Attorney, or his duly designated assistant, shall be the prosecuting officer of the Municipal Court. He shall be authorized to prosecute all alleged violations of the Ordinances of the City of Elk City, Oklahoma, and to prosecute and resist appeals and proceedings in error and review from the Court to any other courts of the State; he shall also be authorized to represent the City of Elk City, Oklahoma, in all proceedings arising out of matters of the Court.

Section 13-15. Clerk of Court.

1. The City Clerk, or a deputy designated by him, shall be the Clerk of the Court. Duties of the Court Clerk shall include the following:

- a. Assist the Municipal Judge in recording the proceedings of the Court and in preparing writs, process and other papers.
- b. Administer oaths required in proceedings before the Court.
- c. Enter all pleadings, process and proceedings in the dockets of the Court.
- d. Perform such other clerical duties relating to the proceedings of the Court as the Municipal Judge shall direct.
- e. Receive and receipt for forfeitures, fees, deposits and sums of money payable to the Court.
- f. Pay to the City Treasurer or the City Clerk all money so received (except

such special deposits or fees as shall be received to be disbursed for special purposes), to be placed in the General Fund of the municipality, or in such other fund and in such manner as the City Commission may direct.

2. The Clerk of the Court shall give bond to the City in the sum of five thousand dollars (\$5,000.00).

Section 13-16. Traffic Violations Bureau.

1. A Traffic Violations Bureau is hereby established as a division of the Office of the Clerk of the Court, to be administered by said Clerk, or by subordinates designated by him for that purpose.

2. Persons who are cited for violation of any of the traffic ordinances of the City of Elk City, Oklahoma, may elect to pay a fine in the Traffic Violations Bureau according to the schedule adopted as a part of the Court rules.

3. The court may adopt further rules to implement this Section. Payment of a fine under this Section shall constitute a final determination of the case against the defendant. If a defendant who has elected to pay a fine under this Section fails so to do, prosecution shall proceed under other provisions of this Chapter.

Section 13-17. Traffic Violations.

1. If a police officer observes facts which he believes constitute a violation of the traffic Ordinances of the City of Elk City, Oklahoma, by a resident thereof, in lieu of arresting such person, he may take his name, address, operator's license number, the license number of the motor vehicle involved and any other pertinent information, and may issue to him, in writing in a form prescribed by the Mayor (or his duly designated delegate), a traffic citation embracing the above information, stating the traffic violation alleged to have occurred and notifying him to answer to the charge against him in the Municipal Court at a time specified in the citation. The officer, upon receiving the written promise of the alleged violator (on the citation) to answer as specified, shall release said person from custody. If the person to whom 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 in this Chapter.

2. If the alleged traffic violation is committed by a non-resident of said City, the police officer shall take him into custody under arrest. The arrested person shall either (a) be taken immediately before the Municipal Judge for further proceedings according to law, or shall (b) have bail fixed for his release in accordance with the provisions of this Chapter. Upon providing bail, and upon giving his written promise to appear upon a day certain, as provided in Subsection 1 (above), he shall be released from custody.

3. If the alleged offense constitutes violation of any parking Ordinance and the operator

is not present, the police officer shall place on the vehicle, at a place reasonably likely to come to the notice of the operator, an appropriate citation (Subsection 1, above), with such variations 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 other provisions of this Section.

Section 13-18. Style of Prosecutions.

All prosecutions for violation of this Code of Ordinances or other Ordinances of the municipality shall be styled "The City of Elk City, Oklahoma, Plaintiff, vs. (naming defendant or defendants). Except as otherwise provided with respect to traffic violations, prosecutions shall be initiated by the filing of a written complaint, subscribed and verified by the person making the complaint and setting forth concisely the offence charged.

Section 13-19. Summons.

1. Upon the filing of a complaint charging a violation of this Code of Ordinances or other Ordinance(s) of the City of Elk City, Oklahoma, the Municipal Judge, unless he determines to issue a warrant of arrest, unless the defendant previously has been issued a citation, or unless he has been arrested and given bond for his 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 Municipal Court on a day certain, five (5) days hence (Sundays and holidays excepted), or the next Municipal Court date after the summons is served upon him, 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 answer the summons within the prescribed period, a warrant shall be issued for his arrest, as provided by this Chapter.

Section 13-20. Complaints Against a Corporation.

1. Upon complaint against a corporation being filed with the Municipal Judge of the City of Elk City, Oklahoma, said Judge shall issue a summons in a form as outlined in this Chapter, signed by him with his title of office, requiring the corporation to appear before him at a specific time and place to answer the complaint.

2. The summons must be served at least two (2) days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, secretary, cashier or managing agent or director of the corporation.

3. At the time appointed in the summons, the Municipal Judge shall try the complaint in the same manner as in the case of any other person brought before him.

4. When a fine is imposed upon conviction, it may be collected by the Municipal Judge by making a transcript of his proceedings thereof, together with the judgment of the Court duly

certified and filed with the Clerk of the District Court, and execution shall be issued thereon and served by the Sheriff of the County as in cases of execution generally.

Section 13-21. Warrant of Arrest.

1. Except as may otherwise be provided in this Code of Ordinances, upon the filing of a complaint, approved by the endorsement of the City Attorney or by the Municipal Judge, there shall be issued a warrant of arrest in substantially the following form:

The City of Elk City, Oklahoma, to the Chief of
Police of the Municipal Court of Elk City, Oklahoma:

Complaint upon oath having this day been made
by _____ that the offense of
_____ has been committed
and accusing _____, thereof,
you are commanded therefore forthwith to arrest
the above named (Defendant or Defendants) and
bring (him, her, and them) before me at my office
at the Elk City, Oklahoma Municipal Court Room.

Witness my hand this _____ day of _____, 19 ____.

Judge of the Municipal
Court of the City of
Elk City, Oklahoma

2. It shall be the duty of the Chief of Police to execute such warrant as promptly, either (a) personally, (b) through a duly constituted member of the police force of the City of Elk City, Oklahoma, or (c) through any other person lawfully authorized to act.

Section 13-22. Bail; Temporary Bonds.

1. Whenever a resident of the City of Elk City, Oklahoma, is arrested for a violation of any ordinance by a police officer of said City, the officer shall immediately release such person if he acknowledges receipt of a citation by signing it, unless it reasonably appears to the officer that the person may cause injury to himself or others, or damage to property, if released, or if it reasonably appears that the person will not appear in response to the citation. (if such person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance in Court shall be compelled).

2. Whenever a resident of the City of Elk City, Oklahoma, is arrested by a police officer of said City of the violation of any Ordinance, and is not released by being permitted to sign a citation as provided hereinabove (Subsection 1), said resident shall be admitted to bail either before or after arraignment, or released on his own recognizance.

3. Whenever a non-resident of the City of Elk City, Oklahoma, is arrested by a police officer of said City for a violation other than a traffic violation, the defendant shall be eligible to be admitted to bail either before or after arraignment.

4. The City of Elk City, Oklahoma, may require any person who is arrested by a police officer of said City for a municipal traffic violation to comply with Statutory procedures for State traffic violations, with respect to the release of the arrested person. The following methods of posting bail shall apply:

- a. Posting cash bail, in exchange for a receipt therefore, issued by the arresting officer;
- b. Depositing with the arresting officer a "guaranteed arrest bond certificate"; or
- c. Depositing with the arresting officer a valid motor vehicle operator's license, in exchange for receipt therefore, issued by the arresting officer, which shall be recognized as an operator's license and shall authorize the person's license and shall authorize the person's operation of a motor vehicle to the date of his hearing; provided, that said date shall not exceed twenty (20) days from the date of arrest.

5. The amount and any conditions of bail granted under this Section shall be determined by the Municipal Judge, who shall prescribe rules for the receipt of bail and for release by personal recognizance. In the event of arrest at night, other emergencies or when the Municipal Judge is not available, the Chief of Police (or his designated representative) shall be authorized by the Municipal Judge, under such conditions as shall be prescribed by said Judge, to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused, but in no event shall the cash bond be more than the allowable maximum fine for each offense charged. The Chief of Police (or his designated representative) is authorized, subject to such conditions as shall be prescribed by the Municipal Judge, to release a resident of the City of Elk City, Oklahoma, on his own recognizance.

Section 13-23. Arraignment.

Upon making his appearance before the Municipal Court, the defendant shall be arraigned. The Municipal Judge or the City Attorney shall read the complaint to the defendant, inform him of his legal rights, 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 judgment and sentence or may continue the matter for subsequent disposition. If the plea is not guilty, the Court may proceed to try the case or may set it for hearing at a later date.

Section 13-24. Postponement of Trial.

Before a trial commences in the Municipal Court, either party, upon good cause shown, may obtain a reasonable postponement thereof.

Section 13-25. Trial Procedure.

In all trials in the Municipal Court as to matters not covered (a) in this Chapter, (b) by the Statutes relating to the Municipal Criminal Courts or 8 by rules duly promulgated by the Supreme Court of Oklahoma, the procedure applicable in trials of misdemeanors in the District Court shall apply, to the extent that they can be made effective.

Section 13-26. Contempt.

1. Obedience to the orders, rules and judgments made by the Municipal Judge or by the Municipal Court, may be enforced by said Judge, who may file 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 Court of this State.

2. It shall be an offense to be in contempt, directly or indirectly, of the Municipal Court of the City of Elk City, Oklahoma, and of its orders.

Section 13-27. Defendant to be Present at Trial; Failure to Appear.

1. The defendant must be present in person at the trial of his case in the Municipal Court.

2. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in Court or before the magistrate may be lawfully required, the Municipal Judge may direct that fact to be entered upon the Court minutes, thereby declaring the bond to be forfeited. Without advancing Court costs, said Judge shall then cause the forfeiture to be certified to the District Court of the county wherein the situs of government is situated, where it shall be entered upon the judgment docket and shall have the full force and effect of a District Court Judgment Docket. The District Court Clerk shall proceed in accordance with the applicable provisions of State Statutes.

Section 13-28. Judgment.

1. At the close of a trial in the Municipal Court, judgment must be rendered by the Municipal Judge, who shall cause it to be entered in his docket.

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

3. If the defendant pleads guilty or is convicted after trial, the Municipal Court must render judgment thereon, fixing the penalty within the limits prescribed by this Code of Ordinances or other applicable Ordinance, and imposing sentence accordingly.

Section 13-29. Costs Upon Judgment of Conviction; Court Costs.

1. If judgment of conviction is entered, the Clerk of the Court shall tax the costs to the defendant, in a sum not to exceed twenty dollars (\$20.00), or the maximum allowed by State law, whichever is greater, together with special assessments and fees the collection of which is otherwise required by State law, plus the fees and mileage of jurors and witnesses. All funds collected shall be deposited in the appropriate fund.

Section 13-30. Enforcement of Payment of Fines or Costs by Imprisonment; Persons Unable to Pay.

1. If a defendant, who is financially able, refuses or neglects to pay a fine or costs, or both, payment may be enforced by imprisonment, until the same shall be satisfied at the rate of five dollars (\$5.00) per day.

2. If the defendant is without means to pay the fine or costs, the Municipal Judge of the City of Elk City, may direct the total amount due to be entered upon the Court minutes and to be certified to the District Court of the county wherein the situs of government is situated, where it shall be entered upon the District Court Judgment Docket and shall have the full force and effect of a District Court Judgment. Thereupon, the same remedies shall be available for the enforcement of said judgment as are available to any other judgment creditor.

Section 13-31. Suspension of Sentence.

After conviction and sentence of a defendant in the Municipal Court of the City of Elk City, Oklahoma, the Municipal Judge may suspend sentence in accordance with the provisions of, and subject to the conditions and procedures imposed by, applicable provisions of Title 11, Oklahoma Statutes, 1981, as amended.

Section 13-32. Witness Fees.

1. Witnesses in any proceeding in the Municipal Court, other than police officers or peace officers, shall be entitled to two dollars (\$2.00) for each day of attendance, plus ten cents (\$.10) for each mile actually and necessarily traveled in going to, and returning from, the place of attendance, if their residence is more than five (5) miles outside the corporate limits of the City of Elk City, Oklahoma. No witness shall receive fees or mileage in more than one (1) case for the same

period of time or the same travel.

2. A defendant seeking to subpoena witnesses must deposit, with the Clerk of the Court, a sum sufficient to cover fees and mileage for one (1) day of attendance for each witness to be summoned; such deposit shall not be required from an indigent defendant who files an affidavit setting out:

- a. The names of no more than three (3) witnesses:
- b. That the defendant, by reason of his poverty, is unable to provide fees and mileage allowed by law;
- c. That the testimony of such witness is material; and
- d. That their attendance at the trial is necessary for his proper defense.

3. The fees of witnesses in such cases (Subsection 2 above) shall be paid by the City of Elk City, Oklahoma.

Section 13-33. Jury Trials; Qualifications of Jurors.

In all prosecutions in the municipal court, for any offense for which the municipality, with the concurrence of the Court, seeks imposition of a fine of more than two hundred dollars (\$200.00) or by imprisonment, or by both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has complied its penal ordinances in accordance with the provisions of State Law (11 O.S. 1981, 14-109 and 14-110). If the municipality has not complied its ordinances as provided by law, the fine shall not exceed fifty dollars (\$50.00). In prosecutions for all other offense, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five (5) of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

Section 13-34. Selection and Summons of Jurors.

Jurors in the municipal court shall be selected under the same terms and conditions as are provided for by law for the district courts. Upon written request of the judge of the municipal court for a stated number of jurors to the chief judge of the appropriate district court, it shall be the duty of the clerk of the district court to draw from the jury wheel a requested number of jurors in the same manner as is provided by addresses appear to reside within the corporate limits of the municipality, is drawn, and to prepare a list of names drawn and certify such list to the judge of the municipal court. On completion of the draw, the clerk shall immediately return to the jury wheel all names drawn which are not placed on the certified list. The judge of the municipal court shall make written request to the chief judge of the allowance of claimed statutory exemptions, the listed number is found to set out by ordinance, and may be served in person by chief of police or any member of the police force of the municipality, or may be served by the clerk of the municipal court by mail.

Section 13-35. Failure to Appear.

1. It shall be unlawful for any person to fail to appear in Municipal Court at the time and place ordered by the Court in a Notice to Appear mailed or delivered to such person, or by an Order of the Court made at the previous hearing. Such appearance is required and failure to appear is a violation, regardless of whether such appearance is for arraignment, trial, or to show cause why a Defendant has not yet complied with an Order of the Court; provided that this section shall not apply:

- a. To any person who voluntarily appears before the Court personally, and not by telephone, within two weeks of his or her failure to appear, and before any Warrant for the non-appearance is served.
- b. To any person who provides documentation from a government agency that he or she was incarcerated continuously from the date of the non-appearance until the date the case involving the violation of this Ordinance was filed.
- c. To any person who provides documentation from a medical facility that he or she was an inpatient in the facility continuously from the date of the non-appearance until the date the case involving the violation of this Ordinance was filed.

2. Any person who shall violate this Section shall be guilty of an offense separate and apart from the case in which he or she failed to appear, and upon conviction thereof, shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00), plus costs.

Sections 13-36 through 13-39. (Reserved for future use.)

Article 3. Penalty

Section 13-40. Penalty.

1. If the Judge of the Municipal Court of the City of Elk City, Oklahoma, is a licensed attorney, the maximum fine may not exceed five hundred dollars (\$500.00) plus costs; provided, furthermore, that the fine may not exceed the maximum as specified for the specific offense, as set forth in this Code of Ordinances or other Ordinances now or in the future in effect.

2. If the Municipal Judge is not a licensed attorney, trial shall be to the court, and the court may not impose a fine greater than fifty dollars (\$50.00) and costs, and may not order the defendant imprisoned, except for the nonpayment of fine or costs, or both.