

CHAPTER 12: MUNICIPAL COURT

Article

1. CREATION, ORGANIZATION AND PROCEDURE

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ARTICLE 1: CREATION, ORGANIZATION AND PROCEDURE**§ 12-1 CREATION.**

This article shall govern the organization and operation of the Municipal Court of the city, as put into operation by resolution duly passed on January 1, 1969, and filed in accordance with law, as authorized by 11 O.S. §§ 27-101 and 27-102. To the extent of conflict between any provisions of this article and the provisions of any other ordinance of this city, the provisions of this article shall control.

(`90 Code, § 12-1)

§ 12-2 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIEF OF POLICE. The peace officer in charge of the police force of the municipality.

CLERK. The City Clerk, including any deputy or member of the office staff of the Clerk while performing duties of the Clerk's Office.

COURT. The Municipal Court of the city.

GOVERNING BODY. The City Council of Guthrie.

JUDGE. The Judge of the Municipal Court, aforesaid, including any Acting Judge or Acting Judge thereof as provided for by the statutes of this state and this article.

JUDICIAL DISTRICT. The district court judicial district of the state, wherein the government of this municipality is situated.

MUNICIPALITY or **THIS MUNICIPALITY.** The City of Guthrie, Oklahoma.
(`90 Code, § 12-2)

§ 12-3 JURISDICTION.

The Court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of the municipality is charged, including any prosecutions transferred to

the Court in accordance with applicable law.
(11 O.S. § 27-103) (90 Code, § 12-3)

§ 12-4 JUDGE; APPOINTMENT AND QUALIFICATIONS.

There shall be one Judge of the Court. The Judge must be duly licensed to practice law in the state. He or she may engage in the practice of law in other courts, but he or she shall not accept employment inconsistent with his or her 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 or she must be a resident of the county. If no attorney licensed to practice law in the state resides in the county, who is at the time of appointment willing to accept the appointment as Judge, the Mayor, with the consent of the City Council, may appoint any suitable and proper person as Judge to act until the appointment and qualification as the Judge of an attorney licensed to practice law in the state. He or she may serve as judge of other municipal courts, if the service may be accomplished consistently with his or her duties as the Judge of the Court, with the consent of the City Council.

(`90 Code, § 12-4)

§ 12-5 TERM OF JUDGE.

The official term of the Judge shall be two years, expiring on the first Monday in May in each odd-numbered year. Each Judge, unless sooner removed for proper cause, shall serve until his or her successor is appointed and qualified, provided that the Judge of the Municipal Court existing in the municipality at the effective date of this article shall act as Judge of the Court herein provided for until the Judge is appointed and qualified under the term of this chapter.

(`90 Code, § 12-5)

§ 12-6 ALTERNATE JUDGE.

(A) There shall be appointed for each Judge of the Court the Alternate Judge, possessed of the same qualifications as the Judge. His or her appointment shall be for the same term and made in the same manner as the Judge.

(B) He or she 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; or

(3) Disqualified from acting as Judge in the case.

(`90 Code, § 12-6)

§ 12-7 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 possessing the qualifications required by this article for the Judge, who shall preside, as Acting Judge, over the Court in the disposition of pending matters until the time as a Judge or Alternate Judge shall be available.

(`90 Code, § 12-7)

§ 12-8 JUDGES; HOW APPOINTED.

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.

(`90 Code, § 12-8)

§ 12-9 COMPENSATION.

A Judge, other than an Alternate Judge or an Acting Judge, shall receive a salary monthly, as shall be determined from time to time by the City Council, and paid in the same manner as the salaries of other officers of the municipality. An Alternate Judge or Acting Judge shall be paid the sum as set by Council for each day devoted to the performance of his or her duties, except that, for any month, the total payments so calculated shall not exceed the salary of the Judge in whose stead he or she sits. An Alternate or Acting Judge who sits for an entire month shall receive the amount specified in this article as the salary of the Judge in whose stead he or she sits.

(`90 Code, § 12-9)

§ 12-10 REMOVAL OF JUDGE.

(A) Judges shall be subject to removal from office, by the governing body, for the causes prescribed by the Constitution and laws of the state for the removal of public officers. Proceedings for removal shall be instituted by the filing of a verified written petition, setting forth facts sufficient to constitute one or more legal grounds for removal. Petitions may be signed and filed by the Mayor or 25 or more qualified electors of the municipality. In the latter event, verification may be executed by one or more of the petitioners. The governing body shall set a date for hearing the matter, and

shall cause notice thereof, together with a copy of the petition, to be served personally upon the Judge at least ten days before the hearing. At the hearing, the Judge shall be entitled to representation by counsel, to present testimony and to cross-examine the witnesses against him or her and to have all evidence against him or her presented in open hearing.

(B) (1) So far as they can be made applicable, the provisions of the State Administrative Procedure Act governing individual proceedings, 75 O.S. §§ 309 through 317, and any amendments or additions thereto in effect at the time of the hearing, shall govern removal proceedings hereunder.

(2) Judgement of removal shall be entered only upon individual votes, by a majority of all members of the governing body, in favor of the removal.

(`90 Code, § 12-10)

§ 12-11 VACANCIES.

(A) A vacancy in the Office of Judge shall occur if the incumbent:

(1) Dies;

(2) Resigns;

(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.

(B) Upon the occurrence of a vacancy in the Office of Judge, the Mayor, with the consent of the governing body, shall appoint a successor to complete the unexpired term, upon the same procedure as an original appointment is made.

(`90 Code, § 12-11)

§ 12-12 CHANGE OF VENUE; DISQUALIFICATION.

In prosecutions before the Court, no change of venue shall be allowed, but the Judge before whom the case is pending may certify his or her disqualification or may be disqualified from sitting under the terms, conditions and procedure provided by laws for Courts of record. If the Judge is disqualified, the matter shall be heard by an Alternate or Acting Judge appointed as provided in this article.

(`90 Code, § 12-12)

§ 12-13 CHIEF OF POLICE.

All writs or processes of the Court shall be directed, in his or her official title, to the Chief of

Police of the municipality, who shall be the principal officer of the Court.
(`90 Code, § 12-13)

§ 12-14 CLERK.

The Clerk, or a deputy designated by him or her, shall be the Clerk of the Court. He or she shall assist the Judge in recording the proceedings of the Court and in preparing writs, processes and other papers. He or she shall administer oaths required in proceedings before the Court. He or she shall enter all pleadings, processes and proceedings in the dockets of the Court. He or she shall perform other clerical duties relating to the proceedings of the Court as the Court Judge shall direct. He or she shall receive and give receipt for forfeitures, fees, deposits and sums of money payable to the Court. He or she shall pay to the City Treasurer, on the first and fifteenth days of each month, all money so received by him or her, except special deposits or fees as shall be received to be disbursed by him or her for special purposes. All money paid to the Treasurer shall be placed in the general fund of the municipality or in another 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.

(11 O.S. § 27-109) ('90 Code, § 12-14)

§ 12-15 CITY ATTORNEY.

(A) The Attorney for the municipality, or his or her duly designated assistant, shall be the prosecuting officer of the Court. He or she shall prosecute all alleged violations of the city.

(B) He or she shall be authorized, in his or her discretion, to prosecute and resist appeals, proceedings in error and review from the Court to any other court of the state, and to represent the municipality in all proceedings arising out of matters in the Court.

(11 O.S. § 27-108) ('90 Code, § 12-15)

§ 12-16 CLERK'S BOND.

(A) The Clerk of the Court shall give bond, in the form provided by 11 O.S. § 27-111, in the sum of \$1,000.

(B) When executed, the bond shall be submitted to the governing body for approval. When approved, it shall be filed with the City Clerk and retained in the municipal archives.

('90 Code, § 12-16)

§ 12-17 RULES.

The Judge may prescribe rules, consistent with the laws of the state and with the ordinances of

the municipality, for the proper conduct of the business of the Court.
(11 O.S. § 27-114) (90 Code, § 12-17)

§ 12-18 CONTEMPT OF COURT.

Obedience to the orders, rules and judgements made by the Judge or by the Court may be enforced by the Judge, who may fine for contempt committed as to him or her while holding Court, or committed against process issued by him or her, in the same manner and to the same extent as the district courts of the state.

(11 O.S. § 27-125) (`90 Code, § 12-18)

§ 12-19 COMPLAINTS.

All prosecutions for violation of ordinance of the municipality shall be styled "The City of Guthrie, Oklahoma v. _____ ." Except as provided hereinafter, 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 offense charged.

(`90 Code, § 12-19)

§ 12-20 TRAFFIC VIOLATIONS.

(A) If a police officer observes facts which he or she believes constitute a violation of the traffic ordinances of the municipality committed by a resident thereof, in lieu of arresting the person, he or she may take his or her 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 or her, in writing in form prescribed by the City Manager, or his or her duly designated delegate, a traffic citation embracing the above information, and further, stating the traffic violation alleged to have occurred, and notifying him or her to answer to the charge against him or her in Court at a time, not later than five 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 the 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 article.

(B) If the alleged traffic violation is committed by a nonresident of the municipality, the police shall take him or her 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 or her release in accordance with the provisions of this article.

(C) Upon providing the bail as fixed, and upon giving his or her written promise to appear upon a day certain, as provided in the preceding subsection of this article, he or she shall be released from custody.

(D) If the alleged offense be a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under 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 division (A) above, with the variation as the circumstances require. The operator of the vehicle shall be under the same obligation to the citation as if it had been issued to him or her personally under division (A) above.

(`90 Code, § 12-20)

§ 12-21 SUMMONS.

(A) Upon the filing of a complaint charging violation of an ordinance, the Judge, unless he or she 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 or her address or place of residence, if known, stating the offense with which he or she is charged and giving him or her notice to answer the charge in the Court on a day certain, Sundays and holidays excepted, after the summons is served upon him or her containing a provision for the official return of the summons, and including other pertinent information as may be necessary.

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

(`90 Code, § 12-21)

§ 12-22 WARRANT OF ARREST.

(A) Except as otherwise provided in the ordinances of the municipality, upon the filing of a complaint approved by endorsement by the attorney of the municipality or by the Judge, there shall be issued a warrant of arrest, in the form set by Council.

(B) It shall be the duty of the aforesaid Chief of Police personally, or through a duly constituted member of the police force of the municipality or through any other person lawfully authorized so to act, to execute the warrant as promptly as possible.

(`90 Code, § 12-22)

§ 12-23 BAIL.

(A) Upon arrest, or upon appearance without arrest in response to 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 or her appearance in an amount and upon condition fixed by the Judge, who

shall prescribe appropriate rules of Court for the receipt for the bail.

(B) In case of arrest made at night or under conditions of emergency or when the Judge is not available, the rules shall authorize the Chief of Police or his or her designated representative to accept

a temporary cash bond, not less than \$10 nor more than the maximum monetary penalty provided by ordinance for the offense charged.

(C) The City Judge may, as part of the rules of Court for accepting bail, prescribe a bond schedule listing bonds to be deposited for each offense or classify offenses and list bonds for each classification.

(`90 Code, § 12-23) (Ord. 2710, passed 9-7-82)

§ 12-24 ARRAIGNMENT; PLEADING.

(A) Upon making his or her appearance before the Court, the defendant shall be arraigned. The Judge or the City Attorney shall read the complaint to the defendant, inform him or her of his or her legal rights and of the consequences of conviction, and ask him or her whether he or she pleads guilty or not guilty. (11 O.S. § 27-1161)

(B) If the defendant pleads guilty, the Court may proceed to judgement and sentence or may continue the matter for 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.

(`90 Code, § 12-24)

§ 12-25 POSTPONEMENT.

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

(`90 Code, § 12-25)

§ 12-26 DEFENDANT'S PRESENCE.

The defendant must be present in person at the trial.

(`90 Code, § 12-26)

§ 12-27 PROCEDURE.

In all trials, as to matters not covered in this article, or by the statutes relating to the Municipal Court, or by rules duly promulgated by the State Supreme Court, the procedure applicable in trials of misdemeanors in the district courts shall apply to the extent that they can be made effective.

(`90 Code, § 12-27)

§ 12-28 JUDGMENT.

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

(`90 Code, § 12-28)

§ 12-29 WORKING OFF FINES.

Any person fined for violation of a municipal ordinance, who is financially able, but refuses or neglects to pay the fine or cost, may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the municipality, under the direction of the Street Superintendent or other proper officer at a rate of \$5 per day for useful labor, until the fine or cost is satisfied.

(`90 Code, § 12-29) (Ord. 2710, passed 9-7-82)

§ 12-30 WITNESSES.

(A) Witnesses in any proceeding in the Court, other than police officers or peace officers, shall be entitled to \$3 per each day of attendance, plus \$.10 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 trial.

(B) 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 the deposit shall not be required from an indigent defendant who files an affidavit setting out:

(1) The names of no more than three witnesses;

(2) That the defendant, by reason of his or her poverty, is unable to provide the fees and mileage allowed by law;

(3) That the testimony of the witnesses is material; and

(4) That their attendance at the trial is necessary for his or her proper defense. The fees of the witnesses shall be paid by the municipality.

(`90 Code, § 12-30)

Statutory reference:

Authority to determine by ordinance the fees and mileage that shall be paid to jurors and witnesses, see 11 O.S. § 27-122.2

§ 12-31 JUDGMENT.

At the close of trial, judgment must be rendered immediately by the Judge who shall cause it to be entered in his or her docket.

(`90 Code, § 12-31)

§ 12-32 ACQUITTAL.

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

(`90 Code, § 12-32)

§ 12-33 SUSPENSION AND DEFERMENT.

After conviction and sentence, the Judge may suspend sentence, in accordance with the provisions of and subject to the conditions and procedures imposed by 11 O.S. §§ 27-123 and 27-124, or upon a verdict or plea of guilty, but before a judgment of guilt, the Judge may, without entering judgment and with the consent of the defendant, defer further proceeding, and place the defendant on probation term, which shall not exceed six months. The defendant shall be discharged without a judgment of guilt and the verdict or plea of guilty shall be expunged and the charge dismissed with prejudice to further action. The dismissal can be with or without cost being charged to the defendant. Upon a violation of any Court imposed condition of probation, the Court may enter a judgment of guilt and proceed to impose sentence.

(`90 Code, § 12-33) (Ord. 2710, passed 9-7-82)

§ 12-34 FINE AND COST.

(A) (1) The fine for petit larceny shall be \$200 and the court may tax cost to the defendant of up to \$40.

(2) The fine for reckless driving shall be up to \$200 and the court may tax cost to the defendant up to \$40.

(3) The fine for any zoning violation or flood plain violation shall be \$200 and the court may tax cost to the defendant up to \$40.

(B) If a deferred sentence is imposed, administrative fee of \$200 may be imposed as cost in the case.

(C) If the court issues an arrest warrant for the appearance of a defendant subsequent to the court having granted the defendant a continuance, stay, postponement, deferment, or suspension, the court at the time of issuance of warrant shall assess cost of \$200 for issuance of the warrant; provided that for

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good cause the court may set aside the cost of the issuance of the warrant; provided further that this division (C) shall only apply to arrest warrants issued by the court after the defendant has pled guilty or has been adjudged guilty or has failed to appear for court.

(`90 Code, § 12-34) (Ord. 2823, passed 8-4-87; Am. Ord. 3073, passed 11-7-00; Am. Ord. 3080, passed 7-17-01; Am. Ord. 3112, passed 4-1-03; Am. Ord. 3126, passed 11-18-03; Am. Ord. 3137, passed 5-4-04)

Cross-reference:

Traffic violations, see § 12-20

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