

Chapter 34

COURT

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ARTICLE I. IN GENERAL

Sec. 34-1. Municipal court.

Cases arising out of violations of the Charter and ordinances of the city shall be tried by the municipal court created by state law, or a lawful successor of the court created by state law. (Ord. No. 2289, § 1, 5-27-08)

Sec. 34-2. City judge, city prosecutor; appointment, removal.

The city judge and city prosecutor shall be appointed by the city manager, subject to confirmation by the city council. The city judge and city prosecutor shall serve at the pleasure of the city manager, and may be removed by the city manager. (Ord. No. 2290, § 1, 5-27-08)

Secs. 34-3—34-25. Reserved.

ARTICLE II. MUNICIPAL COURT NOT OF RECORD*

DIVISION 1. GENERALLY

Sec. 34-26. Application of article.

This article shall govern the organization and operation of the municipal court of the city, as put into operation by resolution duly passed on February 10, 1969, and filed in accordance with law. (Code 1974, § 16-1)

Sec. 34-27. Clerk's bond.

The bond of the clerk of the municipal court shall be in the sum of \$10,000.00. When executed, the bond shall be submitted to the city council for approval and, when approved, it shall be filed with the city clerk and retained in the municipal archives.

(Code 1974, § 16-17)

State law reference—Bond required and form prescribed, 11 O.S. § 27-111.

***Charter reference**—Municipal court, § 5-1.

Cross reference—Administration, ch. 2.

State law reference—Municipal courts not of record, 11 O.S. § 27-101 et seq.

Sec. 34-28. Frequency, notice of sessions.

The judge of the municipal court shall conduct a session of the municipal court at least once every 16 days. Notice of such sessions shall be given as prescribed in the Oklahoma Open Meeting Act, 25 O.S. § 301 et seq. (Code 1974, § 16-23(b))

Sec. 34-29. Postponement of trial.

Before a trial commences in the court, either party, upon good cause shown, may obtain a reasonable postponement thereof. (Code 1974, § 16-25)

Sec. 34-30. Defendant must be present at trial.

The defendant must be present in person at the trial of his case in the court. (Code 1974, § 16-26)

Sec. 34-31. Witness fees.

Witnesses in any proceeding in the court, other than police officers or peace officers, shall be entitled to \$2.00 for each day of attendance, plus \$0.10 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 city. 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 of the court, 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 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 city.

(Code 1974, § 16-28)

State law reference—Witness fees to be prescribed by ordinance, 11 O.S. § 27-121.

Sec. 34-32. Rendition and recording of judgment generally.

At the close of a trial in the court, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket.

(Code 1974, § 16-29)

Sec. 34-33. Discharge of defendant upon acquittal.

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

(Code 1974, § 16-30)

Sec. 34-34. Rendition of judgment on plea of guilty or conviction after trial.

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

(Code 1974, § 16-31)

Sec. 34-35. Costs upon judgment of conviction.

(a) If judgment of conviction is entered, the clerk of the court shall tax the costs to the defendant in a sum of not to exceed \$30.00, plus the fees and mileage of jurors and witnesses, together with any collection fee which may be charged, all of which the defendant shall pay, in addition to any fine that may be imposed.

(b) Also, there is hereby established a technology fund for the express and sole purpose of funding technological maintenance and improvements for the city. There shall be a \$25.00 fee assessed in addition to any other costs or fees assessed on every citation disposed of in the municipal court except those that are voided, declined for prosecution or on which the defendant is acquitted. The revenues generated by this fee shall be deposited in a nontransferable inter-

est bearing account. Expenditures may be made from this account only for technological maintenance and improvements for the city.

(c) In addition, regarding any such fines, costs or fees which exceed the sum of \$50.00 and which remain unpaid by any individual who has filed a state income tax return, the clerk of the court may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the city be deducted from any state income tax refund due to that individual, all in compliance with the provisions of O.S. § 68-205.2 et seq.

(Code 1974, § 16-32; Ord. No. 2175, § 1, 6-22-04; Ord. No. 2206, § 1, 9-27-05; Ord. No. 2334, § 2, 9-22-09; Ord. No. 2455, § 1, 3-12-13)

State law reference—Council to determine costs by ordinance, 11 O.S. § 27-126.

Sec. 34-36. Work performed by prisoners.

(a) All prisoners confined to jail on conviction or on plea of guilty may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks, buildings or other public premises or property. For each day of such work, the prisoner shall be credited for serving two days of imprisonment under his sentence.

(b) The chief of police, subject to the direction of the city manager, shall direct where the work referred to in subsection (a) shall be performed. The head of the department in charge of the place where the work is to be performed, or some person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall make provision therefor.

(Code 1974, § 16-33)

Sec. 34-37. Copy of judgment of imprisonment as warrant for execution of sentence.

If, after conviction, judgment of imprisonment is entered, a copy thereof, certified by the clerk, shall be delivered to the chief of police, the sheriff of the county or other appropriate police officer. Such copy shall be sufficient warrant for execution of the sentence.

(Code 1974, § 16-34)

Sec. 34-38. Failure to appear.

(a) Any person who is charged with a violation of this Code and who, having been duly issued a summons, or having been arraigned and released on recognizance, or having made a promise to appear, and violates such recognizance, or fails to answer the summons, or fails to honor a promise to appear and does not voluntarily appear before this court on the appointed date and time, regardless of the disposition of the charge for which the citation was originally issued, shall be guilty of an offense.

(b) Any person who shall violate the provisions of this section by failing to appear in the municipal court shall be deemed guilty of an offense and upon conviction thereof shall be punishable by a fine not to exceed \$200.00 and cost. (Ord. No. 2061, § 1, 4-8-97)

Sec. 34-39. Execution of sentences of municipal court.

(a) All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm, or workhouse of the municipality, in the discretion of the court, for the time specified in the sentence; provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

(b) The judge of the municipal court imposing a judgment and sentence, at the judge's discretion, is empowered to modify, reduce, suspend, or defer the imposition of a sentence or any part thereof and to authorize probation for a period not to exceed six months from the date of sentence under terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in 11 O.S. § 27-123. Upon completion of the terms of probation, the defendant shall be discharged with-

out a court judgment of guilt, and the verdict, judgment of guilty, or plea of guilty shall be expunged from the record and the charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty.

(c) The judge of the municipal court may continue or delay imposing a judgment and sentence for a period of time not to exceed six months from the date of sentence. At the expiration of this period of time the judge may allow the municipal attorney to amend the charge to a lesser offense.

(d) If a deferred sentence is imposed, an administrative fee not to exceed \$500.00 may be imposed as costs in the case, in addition to any deferral fee otherwise authorized by law. (Ord. No. 2246, § 1, 9-26-06)

Secs. 34-40—34-50. Reserved.

DIVISION 2. JUDGE*

Sec. 34-51. Number; qualifications.

There shall be one judge of the court, who must be duly licensed to practice law in the state. (Code 1974, § 16-5)

State law references—Council to determine number of judges; judge's qualifications, 11 O.S. § 27-104(A).

Sec. 34-52. Term of office.

The official term of the judge expires on February 12, in each odd-numbered year. (Code 1974, § 16-7)

State law reference—Judge's term to be two years, expiring on date fixed by ordinance, 11 O.S. § 27-104(A).

Sec. 34-53. Alternate and acting judges.

There shall be appointed an alternate judge of the court, possessed of the same qualifications as the judge. His 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

***Cross reference**—Officers and employees, § 2-66 et seq.

State law reference—Municipal judges, 11 O.S. § 27-104 et seq.

case if the judge is absent from the court, unable to act as judge, or disqualified from acting as judge in the case.

(Code 1974, § 16-11(a))

State law reference—Alternate or acting judge, 11 O.S. § 27-106.

Sec. 34-54. Removal.

Proceedings for removal of a municipal judge 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 by 25 or more qualified electors of this city. In the latter event, verification may be executed by one or more of the petitioners. The council 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, and to have all evidence against him presented in open hearing. So far as they can be made applicable, the provisions of the Oklahoma 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. Judgement of removal shall be entered only upon individual votes, by a majority of all members of the city council, in favor of such removal.

(Code 1974, § 16-13)

State law reference—Removal of judge, 11 O.S. § 27-104(A).

Sec. 34-55. Vacancy in office.

A vacancy in the office of judge shall occur if the incumbent dies, resigns, ceases to possess the qualifications for the office or is removed, and the removal proceedings have been affirmed finally in judicial proceedings or are no longer subject to judicial review.

(Code 1974, § 16-14)

State law reference—Vacancies, 11 O.S. §§ 27-104(A), 27-107.

Chapters 35-37

RESERVED