

CHAPTER 11

MUNICIPAL COURT

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CHAPTER 11

MUNICIPAL COURT

Article 1. Application of Chapter; Jurisdiction of Court.

Article 2. Organization and Procedure.

Article 1. Application of Chapter; Jurisdiction of Court

Section 11-1. Application of Chapter.

1. This Chapter shall govern the organization and operation of the Municipal Court of the Town of Okarche, Oklahoma, as put into operation and continued by "Resolution", duly passed and filed in accordance with State Law, on and after the 12th day of February 1969.

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

Section 11-2. 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 Ordinances or any other Ordinance of the Town of Okarche, Oklahoma, is charged, including any such prosecutions transferred to said Court, in accordance with applicable laws.

Section 11-3 through 11-4. (Reserved for future use.)

Article 2. Organization and Procedure

Section 11-5. Judge; Alternate Judge; Acting Judge.

(See Chapter 1, Section 1-31, this Code of Ordinances)

Section 11-6. Compensation of Judges.

1. A Judge, other than an alternate or an acting Judge, shall be compensated in an amount to be determined by the Town Board of Trustees, and to be paid in the same manner as the salaries of other municipal officials.

2. An alternate or an Acting Judge shall be paid (monthly) an amount not to exceed the amount currently established for the Municipal Judge and in an amount to be determined by the Mayor and approved by the Town Board of Trustees.

Section 11-7. 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 Courts of Record.

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

Section 11-8. Chief of Police.

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

Section 11-9. Municipal 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 Town of Okarche, Oklahoma, and to prosecute and resist appeals and proceedings in error and review from the Court to any other courts of the State. The Municipal Attorney shall also be authorized to represent the Town of Okarche, Oklahoma, in all proceedings arising out of matters of the Court.

Section 11-10. Clerk of Court.

1. The Town Clerk, or a designed deputy, shall be the Clerk of the Court. Duties of the Court Clerk shall include the following:

- A. He shall assist the Municipal Judge in recording the proceedings of the Court and in preparing writs, process and other papers;
- B. He shall administer oaths required in proceedings before the Court;
- C. He shall enter all pleadings, process and proceedings in the dockets of the Court;
- D. He shall perform such other clerical duties relating to the proceedings of the Court, as the Municipal Judge shall direct;
- E. He shall receive and receipt for forfeitures, fees, deposits and sums of money payable to the Court; and
- F. He shall be responsible for placing, or having placed, all money so received by him (except such special deposits or fees as shall be received to be disbursed by him for special purposes), in the General Fund of the Municipality, or in such other fund and in such manner as the Town Board of Trustees may direct, by motion or Resolution.

2. The Clerk of the Court shall give bond to the Town in the sum of one thousand dollars (\$1,000.00).

Section 11-11. Traffic Violations Bureau.

A. There is hereby created a schedule of fines and bonds. The schedule has been set by the municipal judge and is hereby adopted by reference by the Town Board and is on file in the office of the town clerk, to whom all fines and bonds shall be paid unless otherwise provided.

B. Court costs of Thirty Dollars (\$30.00) shall be collected on cases excepting parking, standing and seatbelt violations (but not to include violations of child restraint systems).

C. All traffic violations not otherwise listed in the schedule of fines and bonds shall be bonded for \$200.00 and costs.

D. All Criminal violations not otherwise listed in the schedule of fines and bonds shall be bondable for \$500.00 and costs.

E. In addition to the above-mentioned fines and costs, all appropriate state assessments are required to be paid.

F. The following deferral fees and administrative fees are properly charged in appropriate cases: The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). For all offenses which impose a fine of more than Two Hundred Dollars (\$200.00), excluding court costs, a jury trial shall be had unless waived by the defendant and the Town; effective on and after November 1, 2006, the maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs.

G. The court shall require a person who is actually received into custody at the jail facility, for any offense, to reimburse the Town for the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the Court Clerk as provided for the collection of other fines and costs. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care and psychiatric services. In the event the Town has a contract with the County for the provision of jail services which provides for a barter of services for jail cells, the cost of incarceration charged the criminal defendant shall be in the same amount as the normal and customary amount charged by the County to third parties for such costs of incarceration.

H. There is hereby established a technology fee in the amount of Ten Dollars (\$10.00). The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for all offenses and assessed on every citation disposed of in the municipal court except those that are voided, declined for prosecution, dismissed without costs, or the defendant is acquitted. The revenues generated by this fee shall be deposited in a nontransferable interest-bearing account and used solely and exclusively for the acquisition, operation, maintenance, repair and replacement of data processing equipment and software related to the administration of the criminal justice system and costs of prosecution.

I. The court clerk shall charge a fee of ten dollars (\$10.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon

conviction of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of ten dollars (\$10.00) or more. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the fee imposed to the council on law enforcement education and training and may retain any amount of the fee permitted by state law, if any.

J. The court clerk shall charge a fee of five dollars (\$5.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon conviction of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of ten dollars (\$10.00) or more. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the monies on a monthly basis to the AFIS fund and may retain any amount of the fee permitted by state law, if any.

K. The court clerk shall charge a fee of five dollars (\$5.00), which shall be in addition to and not in substitute for any and all fines and penalties provided for by this section or code, upon conviction of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of ten dollars (\$10.00) or more. "Conviction", for purposes of this section, shall mean any final adjudication of guilt and includes any deferred or suspended sentence. The court clerk shall remit the monies on a monthly basis to the forensic science improvement revolving fund and may retain any amount of the fee permitted by state law, if any.

L. Notwithstanding the stated amount of the state assessment fees as set forth hereabove in subsections I, J and/or K, in the event the Oklahoma Legislature increases any or all of such state assessment fees in the future, upon such stated effective date, such amended state assessment fees shall be charged and collected as if such higher amounts were fully set out herein.

Note: This Section was amended by Ordinance No. 2016-347 approved on November 28, 2016 and by Ordinance No. 2017-354 approved on August 28, 2017.

Section 11-12 Adoption Of Titles 21, 37 & 47 Of The Oklahoma Statutes By Reference.

Titles 21, 37 and 47 of the Oklahoma Statutes are hereby adopted by title and reference and incorporated into the Okarche Municipal Code, and are enforceable by the Town within the Town limits as if set at length herein. Authorized Okarche officers and other persons may charge defendants with violation of such state laws in the municipal court, provided that no penalty shall be permitted in the municipal court greater than the penalty provided by state law. It is the intent of this section that as the statutes in such titles are heretofore amended, that such amendments are hereby adopted by reference and may be charged and used in municipal prosecutions.

Section 11-13 Disqualification of Judge.

In prosecutions before the court no change of venue shall be allowed; but the judge before whom the case is pending may certify disqualification or 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 judge appointed as provided in this chapter.

Section 11-14 Procedure-Judicial Notice of Statutes and Ordinances-writs and Process-service of Arrest Warrants.

Except as otherwise provided for by law, the code of procedure in the municipal court shall be the same as is provided for by law for the trial of misdemeanors. The court shall take judicial notice of state statutes and the ordinances of the Town in which it is located. Writs and processes of the court may be issued by the judge or clerk hereof to any proper officer. All writs and processes of the municipal court in which a violation of a municipal ordinance is charged shall be directed to the chief of police of the city, a county sheriff, or to some other appropriate peace officer. A law enforcement officer of the Town or county sheriff may serve an arrest warrant issued by the municipal court any place within this state. If the warrant is served by a county sheriff, the municipality shall pay the Sheriff's Service Fee Account a fee of Twenty Dollars (\$20.00).

Section 11-15 Municipal Court Clerk.

The municipal court clerk, or deputy designated by such clerk, both of whom must be independent of the municipal police and judicial department, shall be the clerk of the municipal court. The clerk of the court shall:

1. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;
2. Administer oaths required in judicial or other proceedings before the court;
3. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;
4. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and
5. Receive and give receipt for and disburse or deliver to the municipal treasurer all fines, forfeitures, fees, deposits, and sums of money properly payable to the municipal court. Such funds and sums of money while in the custody of the clerk shall be deposited and disbursed upon vouchers as directed by the municipal governing body.

Section 11-16 Municipal Attorney as Prosecutor.

The municipal attorney of the Town may be the prosecutor of the municipal court. The prosecutor shall have full power to prosecute for the violations of any ordinance of the municipality in the municipal court and shall have the power to prosecute and resist appeals and proceedings in error and review from the municipal court.

Section 11-17 Bond of Clerk.

The court clerk of the court shall give bond, in the form provided by Section 27-111 of Title 11 of the Oklahoma Statutes. When executed, the 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.

Section 11-18 Rules of Court.

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.

Section 11-19 Enforcement of Rules.

Obedience to the orders, rules and judgments made by the judge or by the court may be enforced by the judge, who may fine or imprison for contempt committed while holding court, or committed against process issued by any authorized person, in the same manner and to the same extent as the district courts of this state.

Section 11-20 Prosecutions by Verified Complaint.

A. All prosecutions commenced in the municipal court shall be by complaint which shall be subscribed by the person making the complaint and shall be verified before a judge, the court clerk, a deputy court clerk, or a police officer. No warrant for arrest shall be issued until the complaint has been approved by the judge of the municipal court. All prosecutions for the violation of municipal ordinances shall be styled, "The Town of Okarche vs. _____ (naming the person charged.)"

B. The information shall be properly verified if:

1. The issuing officer subscribes the officer's signature on the citation, ticket or complaint to the following statement:

"I, the undersigned issuing office, hereby certify and swear that I have read the foregoing information and know the facts and contents thereof and that the facts supporting the criminal charge stated therein are true."

Such a subscription by an issuing officer, in all respects, shall constitute a sworn statement, as if sworn to upon an oath administered by an official authorized by law to administer oaths; and

2. The citation or ticket states the specific facts supporting the criminal charge and the ordinance or statute alleged to be violated; or

3. A complainant verifies by oath, subscribed on the citation, ticket or complaint, that he has read the information, knows the facts and contents thereof and that the facts supporting the criminal charge stated therein are true. For purposes of such an oath and subscription, any law enforcement officer of the municipality issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

Section 11-21 Creation of Violations Bureau.

A. There shall be established a violations bureau for the city. The judge may establish rules, consistent with the laws of the state and with the ordinances of this municipality, for the violations bureau.

B. The violations bureau shall accept fines which may be paid in lieu of a court appearance for such offenses as may be designated by the judge under the court's rules. The schedule of fines shall be as set out in Section 1-110. A copy shall be kept in the clerk's office.

C. Payment of any fine to the violations bureau shall be deemed a final determination of the cause against the defendant.

D. 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 chapter.

Section 11-22 Traffic Bail Bond Procedures .

A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States which is a participant of the Nonresident Violator Compact, or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation; and

4. The violation does not constitute:

a. A felony;

b. Negligent homicide;

c. Driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances;

d. Eluding or attempting to elude a law enforcement officer;

e. Operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial or cancellation;

f. An arrest based upon an outstanding warrant;

g. A traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph;

h. An overweight violation, or the violation of a special permit exceeding the authorized permit weight; or

i. A violation relating to the transportation of hazardous materials.

B. If the arrested person is eligible for release on person recognizance as provided for in subsection A of this Section, then the arresting officer shall:

1. Designate the traffic charge;
2. Record information from the arrested person's driver's license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;
3. Record the motor vehicle make, model and tag information;
4. Record the arraignment date and time on the citation; and
5. Permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the assigned's promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's drivers license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or his attorney. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time; provided however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in Subsection D of this Section. Procedures for arraignment, continuances and scheduling, timely appearances, pleas of guilty or nolo contendere, posting bail, payment of fines and costs, issuance of arrest warrants, and requests for suspension of drivers license, shall be required by the Town or as provided in state law, Sections 1115.1 through 1115.5 of Title 22 of the Oklahoma Statutes.

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before he is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or on a legible copy thereof, together with the date of the plea and his signature. The defendant shall be responsible for assuring full payment of the fine and costs to the court clerk. Payment of the fines and costs may be made by personal, cashier's traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in the amount presented as bail for the offense. However, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and amount of the fine and costs shall be as prescribed by ordinance for the violation charged or as prescribed by the court or, in the absence of such ordinance, in the amount prescribed by the court.

E. If, pursuant to the provisions of subsection D of this Section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the

court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the State Department of Public Safety that:

1. The defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation;
2. The defendant has failed to appear for arraignment without good cause shown;
3. The defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation; and
4. The citation has not been satisfied as provided by law.

The court clerk shall request the State Department of Public Safety to either suspend the defendant's driver's license to operate a motor vehicle in this state, or notify the defendant's home state and request suspension of the defendant's driver's license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the State Department of Public Safety. The court clerk shall not process the notification and request provided for in this subsection if, with respect to such charges:

1. The defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case;
2. The defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this Section or if released, was not permitted to remain on such personal recognizance for arraignment;
3. The violation relates to parking or standing, an overweight violation, an overweight permit, or the transportation of hazardous materials; or
4. A period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. The court clerk shall maintain a record of each request for driver's license suspension submitted to the State Department of Public Safety pursuant to the provisions of this Section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if defendant personally appears, or shall make such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or as such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall in all other cases, notify the State Department of Public Safety of the resolution of the case. The form of proof and the procedures for notification shall be approved by the State Department of Public Safety. Provided however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the state or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.

Section 11-23 Exceptions to Bail Bond Procedure.

A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section 11-22, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the person's arrest and the case shall be processed pursuant to Section 27-118 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section 11-22 of this code, or if eligible but refuses to sign a written promise to appear, the officer shall deliver the person to the judge for arraignment and the judge shall proceed as otherwise provided for by law. If no judge is available, the defendant shall be placed in the custody of the municipal jailer, to be held until a judge is available or bail is posted.

C. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this Section, but shall be incarcerated separately from any adult offender. Provided, however, the arresting officer shall not be required to:

1. Place a juvenile into custody as provided for in this Section; or
2. Place any other traffic offender into custody:
 - a. Who is injured, disabled, or otherwise incapacitated;
 - b. If custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care; or
 - c. If extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time for arraignment on the citation and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the person's arrest.

Section 11-24 Dishonored Checks or Instruments, Warrants.

A personal check or other instrument tendered to the court clerk for bail or for the payment of fine and costs, if dishonored and returned to the clerk for any reason other than the lack of proper endorsement, shall constitute nonpayment of bail or fine, as the case may be, and the court, in addition to any civil or criminal remedy otherwise provided for by law, may issue a bench warrant for the arrest of the person named on the citation to require his appearance on the charge specified.

Section 11-25 Arrest, Citation and Bail for Ordinance Violations.

A. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer, for the violation of any traffic ordinance for which Section 11-22 does not apply, or is arrested for the violation of a non-traffic ordinance, the officer shall immediately release the person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release the person if it reasonably appears to the officer:

1. That the person may cause injury to himself or others or damage to property if released;

2. That the person will not appear in response to the citation; or
3. The person is arrested for an offense against a person or property.

If the person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled. If the arrested resident is not released by being permitted to sign a citation as herein provided, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which this Section does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

Section 11-26 Summons for Arrest.

A. Upon the filing of a complaint charging violation of any 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, he shall issue a summons, naming the person charged, specifying his address or place or residence, if known, stating the offense with which he is charged and giving him notice to answer the charge in the court on a certain day as specified after the summons is served upon him, and including such other pertinent information as may be necessary.

B. 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 chapter.

Section 11-27 Form of Arrest Warrant.

A. Except as otherwise provided in the ordinances of this municipality, upon the filing of a complaint approved by the endorsement of 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 Okarche to the Police Chief of Okarche, Oklahoma

Complaint upon oath having this day been made by (naming complainant) that the offense (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 defendant and bring the above named (name of defendant) before me, at the municipal courtroom,

Witness my hand this ____ day of _____, 20____.

Judge of the Municipal Court
Okarche, Oklahoma

B. It is the duty of the police chief, personally, or through a duly constituted member of the police force of this municipality, or through any other person lawfully authorized so to act, to execute a warrant as promptly as possible.

Section 11-28 Procedures for Bail or Bond.

A. Upon arrest, or upon appearance without arrest in response to citation or summons, or at any 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 this chapter or 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 or 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 Ten Dollars (\$10.00) nor more than the maximum monetary penalty provided by ordinance for the offense charged.

B. A bail bond schedule may be adopted by the judge and be amended from time to time.

Section 11-29 Arraignment and Pleadings by Defendant.

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 judgment 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.

Section 11-30 Trials and Judgments.

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

B. The defendant must be present in person at the trial or be represented by counsel if permitted by the judge.

C. In all trials, as to matters not covered in this chapter, 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.

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

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

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

G. A judgment that the defendant pay a fine may also direct that he be imprisoned until the fine is satisfied at the rate of one day imprisonment for each Fifty Dollars (\$50.00) of fine or as set out in Subsection H hereof for defendants who are without means to make such payment.

H. If the defendant is without means to pay the fine or costs, the municipal judge 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 status 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 the judgment as are available to any other judgment creditor.

Section 11-31 Witness Fees .

Witnesses in any proceeding in the court other than the police officers or peace officers shall be entitled to a sum per day of attendance. However, no witness shall receive fees 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 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 poverty, is unable to provide the fees allowed by law;
3. That the testimony of the 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.

Section 11-32 Sentencing.

A. The judge may suspend, modify, defer or reduce a sentence in accordance with Sections 27-123 and 27-124 of Title 11 of the Oklahoma Statutes. For all offenses which impose a fine of more than Two Hundred Dollars (\$200.00), excluding court costs, a jury trial shall be had unless waived by the defendant and the City; effective on and after November 1, 2006, the maximum fine requiring a jury trial if demanded shall be a fine greater than Five Hundred Dollars (\$500.00), excluding court costs.

B. A judge who is licensed to practice law in this state in imposing a judgment and sentence, at his discretion, is empowered to modify, reduce or suspend or defer the imposition of such sentence or any party thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the probation term, the defendant shall be discharged without 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. The judge may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of such period of time the judge may allow the municipal attorney to amend the charge to a lesser offense. If a deferred sentence is imposed, an administrative fee of not to exceed One Hundred Dollars (\$100.00) may be imposed as costs in the case. If the municipal judge is not a licensed attorney but has complied with the education requirements of subsection 11 O.S. §27-104F and the education requirements of 47 O.S. §18-101, the maximum fine that the judge may impose shall be Five Hundred Dollars (\$500.00). No Town ordinance may impose a penalty, including

fine or deferral fee in lieu of a fine and costs, which is greater than that established by statute for the same offense. The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Two Hundred Dollars (\$200.00). The maximum fine or deferral fee in lieu of a fine for alcohol-related or drug-related offenses shall not exceed Eight Hundred Dollars (\$800.00). For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred Fifty Dollars (\$750.00). The court shall remit Fifty Dollars (\$50.00) of each alcohol fine or deferral fee to a restricted cash account of the Town that shall be used to defray costs for enforcement of laws relating to juvenile access to alcohol, other laws relating to alcohol and other intoxicating substances, and traffic-related offenses involving alcohol or other intoxicating substances.

Section 11-33 Imprisonment, Work by Prisoners; Cost of Incarceration to Be Collected

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.

B. 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.

C. 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 one day of imprisonment under his sentence.

D. The chief of police, subject to the direction of the governing body, shall direct where the work shall be performed. The head of the department in charge of the place where the work is to be performed, himself, or by some person designated by him, shall oversee the work. If a guard is necessary, the chief of police shall make provision therefore.

E. Assessment of Costs of Incarceration.

1. For purpose of this section, "Costs of incarceration" shall mean the costs of booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services.

2. Upon conviction or receiving a continued sentence, a person who was actually received into custody at a jail facility utilized by the Town for the purposes of housing prisoners for alleged or adjudicated violations of municipal ordinances shall pay for the costs of incarceration. The Court shall order the defendant to reimburse the costs of incarceration, including booking, receiving and processing out, housing, food, clothing, medical care, dental care and psychiatric services.

3. The costs for incarceration shall be determined by the chief of police.

4. The costs for housing shall be in an amount as determined by motion of the Town Board of Trustees per 24 hour day or part thereof, measured from 12:01 a.m. to 12:00 midnight.

5. The cost of incarceration shall be collected by the Clerk of the Municipal Court and deposited with the Town Treasurer as provide for the collection of other costs and fines, which shall be subject to review under the procedures in Section VIII, Chapter 18, Appendix of Title 22 of the Oklahoma Statutes.

6. The Town shall give the defendant notice, either in person or by regular mail of the incarceration costs owed before the costs are collected. The defendant shall have ten days from the date notice is given to object to the amount of the costs solely on the ground that the number of days served is incorrect. If the defendant chooses to make an objection, the defendant shall be directed to the Office of the Municipal Counselor and the Municipal Counselor or his designee Assistant Municipal Counselor shall evaluate the objection to determine the appropriate number of days of incarceration. The Clerk of the Municipal Court shall assess the costs for the appropriate number of days as determined by the Municipal Counselor's Office. If no objection is made, the costs may be collected in the amount stated in the notice to the defendant. Costs of incarceration shall be a dent of the defendant owed to the Town and may be collected as provided by law for collection of any other civil debt or criminal action.

F. Effective November 1, 2004, any person fined for violation of a municipal ordinance who is financially able but refuses or neglects to pay the fine or costs may be compelled to satisfy the amount owed by working on the streets, alleys, avenues, areas and public grounds of the City, subject to direction by the Mayor or other proper officer, at a rate per day of Fifty Dollars (\$50.00) per day for useful labor, until the fine or costs are satisfied.

Section 11-34 **Costs.**

Costs in the amount of Thirty Dollars (\$30.00) plus the fees and mileage of jurors and witnesses shall be charged and collected by the clerk of the municipal court in all cases other than those in which the defendant is acquitted or found not guilty or those which are dismissed upon motion of the defendant or the Town attorney. Court costs in the amount of Thirty Dollars (\$30.00) shall be charged and collected by the clerk of the municipal court in all cases in which the defendant pleads guilty before the traffic violations bureau.

State Law Reference: Costs, 11 O.S. Section 27-126; suspension of judgment or costs, 11 O.S. Section 27-123.

Section 11-35 **Penalty Assessments**

A. For purposes of this section, the word "convicted" shall mean any final adjudication of guilty, whether pursuant to a plea of guilty or nolo contendere or otherwise, and deferred or suspended sentence or judgment.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay:

1. Nine Dollars (\$9.00), less 5.85% of such amount which may be retained and deposited into the City's General Fund. and with the balance paid into certain CLEET Funds as provided by 20 O.S. 1991 Section 1313.2

2. Five Dollars (\$5.00) less \$0.50 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to the A.F.I.S. Fund created by 74 O.S. 150.25.

3. Five Dollars (\$5.00) less \$0.25 of such amount which may be retained and deposited into the City's General Fund, and with the balance paid to as a Forensic Science Improvement Assessment.

C. These penalty assessments shall be in addition to and not in substitution for any and all fines and penalties and costs otherwise provided for such offense. Such penalty assessments shall be deposited as required by state law.

State Law Reference: Similar provision, 20 O.S. Section 1313.1 through 1313.3.

Section 11-36 Issuance of Summons and Warrant.

A. 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, containing a provision for the official return of the summons, and including such other pertinent information as may be necessary.

B. The summons shall be served by delivering a copy to the defendant personally. If he fails to appear to answer the summons within the prescribed period, a warrant shall be issued for his arrest.

C. Upon proper application, the judge is hereby authorized to issue a search warrant if he is satisfied of the existence of grounds of the application or if there is probable cause to believe their existence. Such warrant shall be signed by the judge with his name of office to the police chief, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate, and also to arrest the person in whose possession the same may be found, to be dealt with according to law.

State Law Reference: Complaints, 11 O.S. Section 27-115.

Section 11-37 Security for Costs Before Commencement of Prosecution.

When application is made by any person to commence any prosecution in the municipal court, the municipal judge may, at his discretion, before any such proceeding is commenced, require the person making such application to give good and sufficient security for costs in the event the prosecution should fail.

Section 11-38 Malicious Prosecution; Costs.

If upon the trial of any case in the municipal court, it shall appear to the satisfaction of the court that the prosecution was commenced without probable cause, and from malicious motive, the court shall state the name of the complainant in the finding, and shall impose the costs of prosecution upon him; and the judgment shall be rendered against such complainant that he pay such costs and stand committed until the costs are paid.

Section 11-39 Failure to Obey Promise or Notice to Appear.

A. It shall be unlawful for any person to violate his written promise to appear in the municipal court given to an officer upon the issuance of any promise or notice to appear regardless of the disposition of the charge for which such promise or notice to appear was originally issued.

B. It shall be unlawful for any person to fail to appear in the municipal court pursuant to any notice to appear.

C. A written promise or notice to appear in the municipal court may be complied with by an appearance by counsel.

Section 11-40 Disposition and Records.

A. The chief of police, or other responsible officer, shall cause the original copy of every ticket issued to an alleged violator of any ordinance to be deposited with the municipal court in the manner provided by rule.

B. Upon the deposit of such ticket with the municipal court said ticket may be disposed of only by trial in said court, or other official action by a judge of said court, including forfeiture of bail, or by payment of a fine, to the court clerk; provided however, the provisions of this subsection shall not apply to cases which Town attorney declines to prosecute or are withdrawn by a citizen complainant.

C. It shall be unlawful and official misconduct for any person to dispose of, alter or deface a ticket or any copies thereof, or the record of the issuance or disposition of any ticket or warrant in a manner other than authorized.

D. The chief of police shall maintain or cause to be maintained a record of all warrants issued by the municipal court and which are delivered to the police department for service, and of the final disposition of all warrants.

Section 11-41 Community Service in Lieu of Imprisonment; Failure to Perform.

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 municipal jail, 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.

Section 11-42 Community Service in Lieu of a Fine; Failure to Perform.

Whenever any person is convicted in municipal court for violation of a municipal ordinance, the court may order the defendant to a term of community service or remedial action in lieu of fine or in conjunction with imprisonment. 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.

Section 11-43 **Agreement for Juvenile Offenders.**

The Town of Okarche, Oklahoma, shall maintain working agreements with Canadian and Kingfisher Counties for the purpose of cooperatively handling juvenile offenders.