

THE VILLAGE CITY CODE

CHAPTER 14

MUNICIPAL COURT

Charter reference--Municipal court, 34.

Cross references--Penalty for violation of code, 1-9; failure to appear in court, 12-16; offenses against public authority, 12-16 et seq.; payment of traffic fines in advance, 13-33.

Sec. 14-1. Scope.

This chapter shall govern the organization and operation of the municipal court of the city as put into operation by resolution duly passed on January 21, 1969, and filed in accordance with law.

(Code 1976, 9-1-1)

State law reference--Authority to create municipal court, 11 O.S. 27-101.

Sec. 14-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clerk means the city clerk, including any deputy or member of the office staff of the clerk while performing duties of the clerk's office.

Court means the municipal court not of record of this city.

Judge means the judge of the municipal court; aforesaid, including any acting judge or alternate judge thereof as provided for by the statutes of this state, and this chapter.

(Code 1976, 9-1-2)

Sec. 14-3. Jurisdiction.

The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this city is charged,

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including any such prosecutions transferred to the court in accordance with applicable law.

(Code 1976, 9-1-3)

State law reference--Similar provisions, 11 O.S. 27-103.

Sec. 14-4. Judge generally.

- (a) There shall be one (1) judge of the court. The judge must be duly licensed to practice law in the state. He may engage in the practice of law in other courts, but he shall not accept employment inconsistent with his duties as judge, or arising out of facts which give rise to or are connected with cases within the jurisdiction of the court, pending therein or which might become the subject of proceedings therein.
- (b) The judge is appointed for an indefinite term and may be terminated at will by the city council.

(Code 1976, 9-1-4, 9-1-5)

State law reference--Judge generally, 11 O.S. 27-104.

Sec. 14-5. Alternate judge.

There shall be appointed an alternate judge, 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 case if the judge is absent from the court, unable to act as judge, or disqualified from acting as judge in the case.

(Code 1976, 9-1-6)

State law reference--Alternate judges, 11 O.S. 27-106.

Sec. 14-6. Acting judge.

If, at any time, there is no judge or alternate judge, duly appointed and qualified, available to sit as judge, the city council shall appoint some person, possessing the qualifications required by this chapter for the judge, who shall preside, as acting judge, over the court in the disposition of pending matters until such time as a judge or alternate judge shall be available.

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(Code 1976, 9-1-7)

State law reference--Acting judges, 11 O.S. 27-106.

Sec. 14-7. Appointment of judges.

Judges and alternate judges shall be appointed by the city council.

(Code 1976, 9-1-8)

State law reference--Appointment of judges, 11 O.S. 27-104, 27-106.

Sec. 14-8. Removal of judges.

Judges shall be subject to removal from office by the city council.

(Code 1976, 9-1-9)

Sec. 14-9. Vacancies in office of judge.

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.

Upon the occurrence of a vacancy in the office of judge, the city council shall appoint a successor to complete the un-expired term, upon the same procedure as an original appointment is made.

(Code 1976, 9-1-10)

State law reference--Vacancies in office of judge, 11 O.S. 27-107.

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Sec. 14-10. Change of venue; disqualification of judge.

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

(Code 1976, 9-1-11)

State law reference--Similar provisions, 11 O.S. 27-105.

Sec. 14-11. Clerk.

(a) The city clerk, or a deputy designated by him, shall be the clerk of the court. The court clerk shall assist the judge in recording the proceedings of the court and preparing writs, processes and other papers. The court clerk shall administer oaths required in proceedings before the court and shall enter all pleadings, processes, and proceedings in the dockets of the court. The court clerk shall perform such other clerical duties relating to the proceedings of the court, as the judge shall direct and shall receive and receipt forfeitures, fees, deposits, and sums of money payable to the court. The court clerk shall pay to the treasurer of this municipality all such money, except such special deposits or fees as shall be received to be disbursed by the court for special purposes. All money paid to the treasurer shall be placed in the general fund of the municipality, or in such other fund as the city council 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.

(b) The clerk of the court shall give bond, in the form provided by law in the sum of five thousand dollars (\$5,000.00). When executed, said bond shall be submitted to the city for approval. When approved, it shall be filed with the city clerk and retained in the municipal archives.

(Code 1976, 9-1-13, 9-1-15)

State law reference--Clerk, 11 O.S. 27-109, 27-111.

Sec. 14-12. Prosecutor.

The city prosecutor, or his duly appointed assistant shall be the prosecuting officer of the court. He shall prosecute all alleged violations of all

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ordinances. He shall be authorized, in his discretion, to prosecute and resist appeals, proceedings in error and review from the municipal court to any other courts of the state, and to represent this city in all proceedings arising out of matters in the municipal court.

(Code 1976, 9-1-14; 2014 City Code)

State law reference--Similar provisions, 11 O.S. 27-108.

Sec. 14-13. Writs or process.

All writs or process of the court shall be directed, in his official title, to the chief of police who shall be the principal officer of the court.

(Code 1976, 9-1-12)

State law reference--Similar provisions, 11 O.S. 27-110.

Sec. 14-14. Cash bond fund.

The city clerk and the city treasurer shall establish a bank account to be designated as "The Village Municipal Court Cash Bond Fund." All cash bonds posted for violations of ordinances shall be deposited in such fund. All cash bonds posted for violations of ordinances shall be regularly deposited to this fund. When it is determined by the judge that any such bond shall be returned to the person posting the same, in whole, or in part, and approved by the City clerk, the city treasurer shall prepare and give to the person posting such bond a check in the appropriate amount as the method of returning his posted cash bond, in whole or in part, to such person.

From time to time all monies in the fund, which represent forfeitures as, determined by the judge and the city clerk, shall be transferred to the general fund.

(Ord. No. 259, 1(9-1-13a), 8-7-79)

Sec. 14-15. Rules.

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

(Code 1976, 9-1-16)

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State law reference--Similar provisions, 11 O. S. 27-114.

Sec. 14-16. Contempt of court.

(a) 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 as to him while holding court, or committed against process issued by him, in the same manner and to the same extent as the district courts of this state.

(b) It shall be unlawful for any person to be in contempt of court. Any person in contempt of court shall be guilty of a Class A offense punishable by a fine not to exceed Seven Hundred and Fifty (\$750.00) Dollars and up to sixty (60) days imprisonment or both such fine and imprisonment.

(Code 1976, 9-1-17)

State law reference--Similar provisions, 11 O.S. 27-125.

Sec. 14-17. Style of prosecutions; filing of complaints.

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

(Code 1976, 9-1-18)

State law reference--Similar provisions, 11 O.S. 27-115.

Sec. 14-18. Arrests; release by signing citation; bail; amount and conditions; temporary cash bond.

(a) If a resident of the city is arrested for the violation of any ordinance, traffic or non-traffic, by a law enforcement officer, the officer shall immediately release the person if the person 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, that the person will not appear in response to the citation, or 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

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issued for his arrest and his appearance shall be compelled.

- (b) If a resident of the city is arrested by a law enforcement officer for the violation of any ordinance and is not released by being permitted to sign a citation as provided for in subsection (a) of this section, he shall be admitted to bail either before or after arraignment, or shall be released on his own recognizance.
- (c) If a nonresident of the city is arrested for a violation of any ordinance other than a traffic violation by a law enforcement officer, the defendant shall be eligible to be admitted to bail either before or after arraignment.
- (d) A person who is arrested for a municipal traffic violation by a law enforcement officer to comply with the procedures provided by law in Section 1114.1 of Title 22 of the Oklahoma Statutes for state traffic violations with respect to release of the arrested person. The following methods of posting bail shall apply:
 - (1) Posting cash bail; or
 - (2) Depositing with the arresting officer a "guaranteed arrest bond certificate;" or
- (e) The amount and conditions of bail granted pursuant to the provisions of subsections (b) and (c) of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release of one's own recognizance. In the event of arrests at night, emergencies, or when the judge is not available, the chief of police or his designated representative may be authorized by the judge subject to such conditions as shall be prescribed by the judge to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused. The cash bond shall not be more than the maximum fine provided for by ordinance for each offense charged. The chief of police or his designated representative is authorized, subject to such conditions as shall be prescribed by the judge, to release a resident of the city on his own recognizance.

Cross reference--Motor vehicles and traffic, Ch. 13.

State law reference--Similar provisions, 11 O.S. 27-117.

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Sec. 14-19. Summons.

(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 and to answer the summons within the prescribed period, a warrant shall be issued for his arrest.

(Code 1976, 9-1-21)

Cross reference--Failure to appear, 12-16.

State law reference--Forfeiture of bond for failure to appear,
11 O.S. 27-118.

Sec. 14-20. Arrest warrants.

(a) Except as otherwise provided by ordinance, upon the filing of a complaint approved by endorsement by the judge, and there shall be issued a warrant of arrest. In substantially the following form:

The City of The Village, Oklahoma, to the Chief of Police of The Village, Oklahoma. Complaint upon oath having this day been made by (naming complainant) that the offense of (naming the offense in particular but general terms) has been committed and accusing (name of defendant) thereof, you are commanded therefore forthwith to arrest the above named (name of defendant) and bring _____ (insert him, her, or them as appropriate) before me, at _____ (naming the place). Witness by hand this _____ day of _____, 20____.

(b) It shall be the duty of the chief of police personally, or through a duly constituted member of the police force, or through any other persons lawfully authorized so to act, to execute the warrant as promptly as possible.

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(Code 1976, 9-1-22)

State law reference--Issuance of arrest warrants, 11 O.S. 27-115.

Sec. 14-21. Arraignment.

Upon making his appearance before the court, the defendant shall be arraigned. The judge, or the attorney of the municipality, shall read the complaint to the defendant, inform him of his legal rights, 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.

(Code 1976, 9-1-24)

State law reference--Arraignment, 11 O.S. 27-116.

Sec. 14-22. Procedures during trials.

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

(Code 1976, 9-1-27)

Sec. 14-23. Orders of no imprisonment or maximum fine.

(a) Prior to the trial of a case, the judge may enter an order with respect to such case providing for one (1) or both of the following:

- (1) The defendant will not be imprisoned if he is convicted;
- (2) A maximum fine that can be assessed if the defendant is convicted.

(b) If such an order is entered, sentencing must be in accordance with such order.

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(c) This section does not restrict the right of the judge to order imprisonment of a financially able person for failure to pay a fine.

Cross reference--General penalty for violation of Code, 1-9.

Sec. 14-24. Postponement of trial.

Before trial commences, either party, upon good cause shown, may obtain a reasonable postponement thereof. (Code 1976, 9-1-25)

Sec. 14-25. Presence of defendant at trial.

The defendant must be present in person at the trial.

(Code 1976, 9-1-26)

Sec. 14-26. Judgment and sentence.

(a) 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. At the close of trial, judgment must be rendered immediately by the judge who shall cause it to be entered in his docket. After conviction and sentence, the judge may suspend the sentence, in accordance with the provisions of, and subject to the conditions and procedures imposed by law.

State law reference--Suspension of sentence, 11 O.S. 27-123, 27-124.

(b) A judgment that the defendant pay a fine may direct also that he be imprisoned until the fine is satisfied at the rate of one (1) day of imprisonment for each twenty-five dollars (\$25.00) of fine.

State law reference--Similar provisions, 11 O.S. 27-122.

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

(Code 1976, 9-1-28--9-1-32)

Sec. 14-27. Execution of sentences of municipal court; Assessment of Costs, Penalty Assessments and Administrative Fees.

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- A) All sentences of imprisonment shall be executed by the chief of police of the city, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, or workhouse of the city, 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. (Title 11, 27-122.1 A)
- 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 (6) 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 Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the terms of probation, 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. (Title 11, 27-122.1 B)
- 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 (6) 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. (Title 11, 27-122.1 C)
- D) **Administrative Fee.** If a deferred sentence is imposed, an administrative fee not to exceed five hundred (\$500.00) dollars may be imposed as costs in the case, in addition to any deferral fee otherwise authorized by law. (Title 11, 27-122.1 D)
- E) **Deferral Fee.** The maximum fine or deferral fee in lieu of a fine for traffic-related offenses relating to speeding or parking shall not exceed Five Hundred (\$500.00) dollars. For all other offenses, the maximum fine or deferral fee in lieu of a fine shall not exceed Seven Hundred and Fifty (\$750.00) dollars. (Title 11 O.S. Section 14-111 C.) (Ord. No. 599, 2-15-

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- F) **Court Costs.** If the judgment of conviction is entered, or the city agrees to a dismissal of charges with costs, the clerk of the municipal court shall be authorized to tax the costs to the defendant in an amount up to thirty (\$30.00) dollars, all of which the defendant shall pay in addition to any fine. (Ord. No. 642, §1, 08-18-2009; State law reference - Title 11 O.S. Art. XXVII, § 27-126)
- G) **Community Service.** If the judge orders 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 the direction of the public works director or other proper offices, at a rate per day of Twenty Five (\$25.00) Dollars for useful labor until the fine or costs are satisfied. (Title 11 O.S. Section 14-111 A.)
- H) **Penalty Assessment.** The Municipal Court Clerk shall collect Penalty Assessment Fees on a finding of guilt for any offense for which the fine is greater than \$10 as follows:
- 1) *CLEET Assessment: \$9.00*
 - 2) *AFIS Assessment: \$5.00*
 - 3) *Forensic Assessment: \$5.00*

The fees listed herein shall not be assessed for parking violations or for the violation of seatbelt laws pursuant to 47, O.S. §12-417.

(Code 1976, § 9-1-33; Ord. No. 316, § (9-1-34), 1-18-83; Ord. No. 402, §1, 2-2-88; Ord. No. 394, §1, 07-06-2004; 2004 City Code)

State law reference--Assessment of costs, 11 O.S. 27-126; 20 O.S. §1319.2; 11 O.S. § 14-111; 19 O.S. §220. State law reference Title 11, 27-122.1 A, et seq.

Sec. 14-28. Minor Traffic and Parking Fine Schedule

The Judge is authorized to create a minor violations schedule setting forth designated minor violations pertaining to minor traffic and parking violations on request of accused persons who desire to plead guilty and pay fines and cost without having to be arraigned and tried on the matter.

(Ord. No. 692 §1, 04-15-2014) (Charter reference, Article V, Section 34)

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Sec. 14-29. Technology fee assessed.

(a) There is hereby established a technology fee for the express and sole purpose of funding technological maintenance and improvements for the city. There shall be a ten dollar (\$10.00) 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 and provided further that the total fine combined with costs and fees do not exceed the maximum fine allowed by state law. The revenues generated by this fee shall be deposited in the General Fund and accounted for separately from other revenues received by the city. Expenditures of these funds may be made from this account only for technological maintenance and improvements for the city as approved and appropriated by the City Council. This fee shall become effective July 1, 2017.

(Ord. No. 728, §1, 06-19-2017)