

PART 6
COURT

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CHAPTER 1
MUNICIPAL COURT

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6-101: **ORGANIZATION OF MUNICIPAL COURT¹:** This chapter shall govern the organization and operation of the Municipal Criminal Court of the Town of Luther, as put into operation by resolution duly passed and filed in accordance with law as authorized by title 11 of the Oklahoma Statutes. To the extent of conflict between any provisions of this chapter and the provisions of any ordinance of this Town, the provisions of this chapter shall control. (Prior Code § 12-1)

6-102: **DEFINITIONS:** As used in this chapter, unless the context requires a different meaning, the following words shall have the meanings ascribed to them in this section:

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

CLERK: The Clerk of this Municipality, including any Deputy or member of the office staff of the Clerk while performing duties of the Clerk's Office.

COURT: The Municipal Criminal Court of the Town of Luther.

GOVERNING BODY: The Board of Trustees of the Town of Luther.

JUDGE: The Judge of the Municipal Criminal Court, including any Acting Judge or Alternate Judge thereof as provided for by the statutes of this State and this chapter.

MUNICIPALITY OR THIS MUNICIPALITY: The Town of Luther, Oklahoma County, Oklahoma.

THIS JUDICIAL DISTRICT: The District Court Judicial District of the State of Oklahoma wherein the government of this Municipality is situated. (Prior Code § 12-2)

6-103: **JURISDICTION OF COURT:** The court shall exercise original jurisdiction to hear and determine all prosecutions wherein a violation of any ordinance of this Municipality is charged, including any such

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prosecutions transferred to the court in accordance with applicable law.
(Prior Code § 12-3)

6-104: **APPOINTMENT OF JUDGES:** Judge 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. (Prior Code § 12-8)

6-105: **JUDGE; QUALIFICATIONS:**

- A. There shall be one Judge of the court. The Mayor, with the consent of the Governing Body, may appoint as Judge:
1. An attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county;
 2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in this Municipality; or
 3. Any suitable resident of the Municipality;

A judge or alternate judge who is a licensed attorney 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. (Prior Code, Secs. 12-4, 12-6)

SECTION 6-106 TERM OF JUDGE.

The official term of the judge shall be two (2) years expiring on the 13th day of February, in each odd-numbered year. Each judge, unless sooner removed for proper cause, shall serve until his successor is appointed and qualified. (Prior Code, Sec. 12-5)

SECTION 6-107 ALTERNATE JUDGE.

There shall be appointed for each judge of the court 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:

1. Absent from the court;
2. Unable to act as judge; or
3. Disqualified from acting as judge in the case.

(Prior Code, Sec. 12-6)

SECTION 6-108 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 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 to qualify and to serve. (Prior Code, Sec. 12-7)

SECTION 6-109 SALARY AND PAYMENTS TO JUDGES.

A. A judge, other than an alternate judge or an acting judge, shall receive a salary as set by the governing body by motion or resolution, paid in the same manner as the salaries of other officials of this municipality.

B. An alternate judge shall be paid an amount as set by the governing body for each day devoted to the performance of his duties. Such payments shall be from funds that would have otherwise gone to the judge. The total payments so accumulated for an alternate or acting judge during any month shall not exceed the salary of the judge in whose stead he sits. An alternate or acting judge who sits for an entire month shall receive the amount specified in this chapter as the salary of the judge in whose stead he sits. (Prior Code, Sec. 12-9)

SECTION 6-110 REMOVAL OF JUDGE.

Judges shall be subject to removal from office by the governing body for the causes prescribed by the Constitution and laws of this 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:

1. The mayor and the entire governing body; or
2. Twenty-five (25) or more qualified electors of this municipality. Verification of the number or qualifications of electors shall 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 (10) days before the hearing. At the hearing, the judge shall be entitled to:

1. Representation by counsel;
2. Present testimony and to cross-examine the witnesses against him; and
3. Have all evidence against him presented in open hearing. So far as they can be applicable, the provisions of the Oklahoma Administrative Procedures Act governing individual proceedings (Title 75 of the Oklahoma Statutes as amended) shall govern removal proceedings hereunder. Judgment of removal shall be entered only upon individual votes, by a majority of all members of the governing body, in favor of such removal.

(Prior Code, Sec. 12-10)

SECTION 6-111 VACANCY 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 proceedings have been affirmed finally in judicial proceedings or are no longer subject to judicial review.

Upon the occurrence of a vacancy in the office of judge or alternate judge, the mayor shall appoint a successor to complete the unexpired term in the same manner as an original appointment is made. (Prior Code, Sec. 12-11)

SECTION 6-112 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 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 appointed as provided in this chapter. (Prior Code, Sec. 12-12)

SECTION 6-113 POLICE CHIEF.

All writs or process of the court shall be directed, in his official title, to the chief of police of this municipality, who shall be the principal officer of the court. (Prior Code, Sec. 12-13)

6-114: **CLERK OF THE COURT; DUTIES:** The town clerk, or a deputy designated by him, shall be the clerk of the court, unless the board of trustees determines that an individual designated "chief municipal court officer", to be hired by the town board, is designated by the town board to serve.

The court clerk shall have authority to carry out the duties of the position as required by law; provided, that the person who serves as court clerk may separately perform other duties for the municipality. The clerk of the court shall:

- A. Assist the judge in recording the proceedings of the court, preparation of writs, processes, or other papers;
- B. Administer oaths required in judicial or other proceedings before the court;
- C. Be responsible for the entry of all pleadings, processes, and proceedings in the dockets of the court;
- D. Perform such other clerical duties in relation to the proceedings of the court as the judge shall direct; and
- E. 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. (Ord. 2009-07-01, 7-14-2009)

6-115: **PROSECUTING ATTORNEY; DUTIES; CONFLICT OF INTEREST:** The attorney for this municipality, or his duly designated assistant, shall be the prosecuting officer of the court. He shall also prosecute all alleged violations of the ordinances of the city. He shall be authorized, in his discretion, to prosecute and resist appeal, proceedings in error and review from this court to any other court of the state, and to represent this municipality in all proceedings arising out of matters in this court. (Prior code § 12-15)

6-116: **BOND OF COURT CLERK:** The court clerk of the court shall give bond, in the form provided by 11 Oklahoma Statutes, in the sum of three thousand dollars (\$3,000.00). 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. (Prior code § 12-16)

6-117: **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. (Prior code § 12-17)

6-118: **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 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. (Prior code § 12-18)

6-119: **WRITTEN COMPLAINTS TO PROSECUTE ORDINANCE VIOLATIONS:** All prosecutions for violation of ordinances of this municipality shall be styled "The Town Of Luther, Oklahoma vs. (Naming Defendant Or Defendants)". Except as provided hereinafter, prosecution shall be initiated by the filing of a written complaint or citation, subscribed and verified by the person making complaint or citation, and setting forth concisely the offense charged. (Prior code § 12-19)

6-120: **TRAFFIC ORDINANCE VIOLATIONS; PROCEDURES FOR ISSUING CITATION; CUSTODY, ARREST:**

- A. If a police officer observes facts which he believes constitute a violation of the traffic ordinances of this municipality, in lieu of arresting such a person, he may take his name, address, operator's license number, and registered license number of the motor vehicle involved and any other pertinent and necessary information and may issue him in writing in form prescribed by the mayor or his duly designated delegate, a traffic citation embracing the above information, and also stating the traffic violation alleged to have occurred, and notifying him to answer to the charge against him at a time specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation to answer as specified, may then 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 chapter.

- B. If the alleged traffic violation is committed by a person, the police officer may also:

1. Release the person after obtaining sufficient information as set out in subsection A of this section, including the deposit of the person's driver's license pending his appearance on a day certain in court, as specified in the citation; or

2. Take the person in custody and demand that bond for the offense charged be posted according to the provisions of this chapter; or

3. Take the person into custody under arrest. The arrested person either shall be taken immediately before the judge for further proceedings according to law or shall have bail fixed for his release in accordance with the provisions of this chapter. Upon providing bail as fixed, and upon giving his written promise to appear upon a day certain, as provided in subsection A of this section, the person shall be released from custody.

- C. If the alleged offense be a violation of an ordinance restricting or regulating the parking of vehicles, including any regulations issued under such 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 subsection A or B of this section, with such variation as the circumstances require. The operator of this vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally under subsection A or B of this section. (Prior code §§ 12-20, 20-46A; amd. Ord. 79-2, 1-16-1979)

6-121: TRAFFIC VIOLATIONS BUREAU:

- A. A traffic violations bureau hereby is established as a division of the office of the clerk of the court, to be administered by the clerk, or by subordinates designated by him for that purpose. Persons who are cited for violation of one of the traffic regulatory ordinances of this municipality other than:

1. A second traffic offense within a twelve (12) month period; or

2. A driver's license offense,

may elect to pay a fine in the traffic violations bureau according to a schedule of fines adopted by the board of trustees, and as it may be amended from time to time. A copy of the current fine schedule shall be kept in the clerk's office. A schedule of traffic fines levied by the bureau as adopted and amended from time to time by the town board shall be adopted and incorporated herein by reference. It shall be applicable, until amended, to all specified traffic violations as fully as if set out at length herein.

- B. The court may adopt rules to carry into effect this section. Payment of a fine under this section shall constitute a final determination of the cause against the defendant. 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. (Prior code § 12-21)

6-122: 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 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 certain day after 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, as provided by this chapter. (Prior code § 12-22)

6-123: 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 Luther, Oklahoma to the Chief of Police of the Municipal Court of Luther, 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 therefor forthwith to arrest the above named defendant and bring _____ before me, at the municipal courtroom,

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

*Judge of the Municipal Criminal Court
of Luther, Oklahoma.*

- B. It is the duty of the chief of police, 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. (Prior code § 12-23)

6-124: **PROCEDURES FOR BAIL OR BOND, AMOUNT OF BAIL:**

- 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. When arrests are made at night or under other conditions of 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 more than the maximum monetary penalty provided by ordinance for the offense charged, or take possession of the person's driver's license as provided in this chapter.
- B. The offenses for which bail may be accepted and the amounts thereof plus court costs shall not exceed the following schedule, which may be amended from time to time by motion or resolution. A copy of the current schedule shall be kept in the clerk's office.

Brakes inadequate or defective	\$ 35.00
Depositing or throwing any trash on highway	100.00
Depositing or throwing destructive or injurious material on highway	100.00
Driving left of center, in wrong lane, or in wrong direction on one-way	50.00
Driving less than posted minimum speed or impeding the normal and reasonable flow of traffic	35.00
Driving under the influence of alcohol	200.00
Failure to obey official traffic control signal	35.00
Failure to stop at stop sign	35.00
Failure to stop for school bus displaying stop signal	100.00
Failure to yield the right of way	35.00
Following too closely	35.00
Illegal turn, turn approach or failure to signal	35.00
Improper passing	35.00
No operator's or chauffeur's license or violation of restrictions	35.00
Reckless driving	200.00
Speeding:	
1. Minimum bond	\$20.00 plus \$2.00 per each mile over limit up to 24 miles per hour
2. Over 25 miles per hour over limit	\$100.00
Transporting open container of alcoholic liquor accessible while vehicle in motion	100.00

All other bondable traffic violations shall be fifty dollars (\$50.00), plus court costs. (Prior code § 12-24; amd. Ord. 82-5, 12-21-1982; Ord. 83-1, 4-2-1983)

6-125: **DEPOSIT OF DRIVER'S LICENSE AS BAIL FOR TRAFFIC VIOLATIONS:**

- A. In addition to the other methods for providing or posting of bail authorized in this chapter upon arrest for traffic violations, the defendant may deposit with the police officer a valid license to operate a motor vehicle in exchange for a receipt therefor issued by the police officer. The receipt issued by the police officer shall be recognized as an operator's license and shall authorize the operation of a motor vehicle until the time and date of the hearing indicated on the receipt or traffic citation, but not to exceed twenty (20) days. The operator's license and traffic citation shall be delivered by the police officer to the clerk of the municipal court.
- B. Any person who applies for a duplicate license to operate a motor vehicle while his license is deposited in accordance with subsection A of this section shall be fined one hundred dollars (\$100.00) and court costs. Each such application shall constitute a separate violation. In order for the fine to be applicable to a violator applying for a duplicate license, notice of the provisions of this subsection shall be included in receipt issued pursuant to this section. The receipt for deposit of the driver's license shall contain essentially the following notice:

NOTICE

This receipt for deposit of a valid license to operate a motor vehicle constitutes a temporary operator's license until your hearing date on _____, but in no case shall this temporary license remain in effect more than twenty (20) days. Keep this receipt in your possession at all times while operating a motor vehicle.

Application for a duplicate license to operate a motor vehicle while your license is deposited as bail is a crime punishable by a fine of One Hundred Dollars (\$100.00) and court costs. Each such application constitutes a separate offense.

(Ord. 82-5, 12-21-1982)

- 6-126: **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. (Prior code § 12-25)

6-127: **TRIALS:**

- 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 except as may be otherwise provided.
- 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. (Prior code §§ 12-26 – 12-29, 12-32, 12-33)

6-128: **SUSPENSION OF SENTENCE:** 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 Oklahoma Statutes. (Prior code § 12-34)

6-129: FINE AND COSTS; IMPRISONMENT:

- A. If judgment of conviction is entered, the Clerk of the Court shall tax the costs to the defendant plus the fees and mileage of jurors and witnesses, but the total amount of fine and costs may not exceed the amount provided. The amount of court costs shall be forty four dollars (\$44.00) plus the fees and mileage of witnesses. (Ord. 2007-1, 2-13-2007)
- 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 day of imprisonment for each five dollars (\$5.00) of fine. (Prior Code § 12-35)

6-130: PRISONERS TO WORK:

- A. All prisoners confined to jail, if their health permit, may be compelled to work on the public streets, avenues, alleys, parks or other public premises or property. For each such day of work, the prisoner shall be credited for serving two and one-half ($2\frac{1}{2}$) days of imprisonment under his sentence.
- B. It is the duty of the Chief of Police, subject to direction by the Governing Body, to 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 some other person designated by him, shall oversee such work. If a guard is necessary, the Chief of Police shall see that such is provided. (1984 Code)

6-131: TECHNOLOGY FEES: There is hereby established a Technology Fund for the express and sole purpose of funding technological maintenance and improvements for the Town. There shall be a fifteen dollar (\$15.00) 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 interest-bearing account. Expenditures may be made from this account only for technological maintenance and improvements for the Town. (Ord. 2017-15, 9-12-2017)