

ORDINANCE NO. 2023-03

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF LUTHER, OKLAHOMA, PART 6, "COURT," CHAPTER 1, "MUNICIPAL COURT," OF THE LUTHER CODE OF ORDINANCES, AMENDING SECTION 6-119, "WRITTEN COMPLAINTS TO PROSECUTE ORDINANCE VIOLATIONS," CHANGING TO "WRITTEN COMPLAINTS; PROPERLY VERIFIED CITATION OR TICKET;" AMENDING SECTION 6-120, "TRAFFIC ORDINANCE VIOLATIONS; PROCEDURES FOR ISSUING CITATION; CUSTODY; ARREST," CHANGING TO "ARRAIGNMENT – FINES IN LIEU OF APPEARANCE;" AMENDING SECTION 6-121, "TRAFFIC VIOLATIONS BUREAU," CHANGING TO "RELEASE UPON PERSONAL RECOGNIZANCE;" AMENDING SECTION 6-122, "SUMMONS FOR ARREST," CHANGING TO "BAIL; AMOUNT AND CONDITIONS; TEMPORARY CASH BOND;" AMENDING SECTION 6-123, "FORM OF ARREST WARRANT," CHANGING TO "FAILURE TO APPEAR ACCORDING TO TERMS OF BOND – FORFEITURE;" AMENDING SECTION 6-124, "PROCEDURES FOR BAIL OR BOND, AMOUNT OF BAIL," CHANGING TO "JURY TRIALS; QUALIFICATIONS OF JURORS; NON-JURY TRIALS;" REPEALING SECTIONS 6-125, "DEPOSIT OF DRIVER'S LICENSE AS BAIL FOR TRAFFIC VIOLATIONS" AND 6-126, "ARRAIGNMENT AND PLEADINGS BY DEFENDANT;" AMENDING SECTION 6-127, "TRIALS," CHANGING TO "ENFORCEMENT OF PAYMENT OF FINES OR COSTS;" AMENDING SECTION 6-128, "SUSPENSION OF SENTENCE," CHANGING TO "JUDGMENT AND SENTENCE;" AMENDING SECTION 6-129, "FINE AND COSTS; IMPRISONMENT," CHANGING TO "COURT COSTS AND FEES;" REPEALING SECTION 6-130, "PRISONERS TO WORK," CHANGING TO "COMMUNITY SERVICE;" AMENDING SECTION 6-131, "TECHNOLOGY FEES;" ALL AMENDMENTS TO BRING THE PROVISIONS OF THESE SECTIONS INTO COMPLIANCE WITH AMENDMENTS TO STATE STATUTE; REPEALING ALL PRIOR ORDINANCES TO THE CONTRARY; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE TRUSTEES OF THE TOWN OF LUTHER, AS FOLLOWS:

SECTION I. Section 6-119 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-119 WRITTEN COMPLAINTS; PROPERLY VERIFIED CITATION OR TICKET

A. All prosecutions for violation of ordinances of the Town 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 the complaint or citation, and setting forth concisely the offense charged.

B. When a law enforcement officer issues a citation or ticket as the basis for a complaint or information, for an offense against a Town ordinance which is declared to be a misdemeanor, the citation or ticket 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 officer, 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 state, county or municipality of the State of Oklahoma issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

SECTION II. Section 6-120 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-120 ARRAIGNMENT – FINES IN LIEU OF APPEARANCE

The arraignment shall be made by the court. The judge or the prosecuting attorney shall read the complaint to the defendant, inform the defendant of the legal rights and of the consequences of conviction, and ask if the defendant pleads guilty or not guilty. The Board of Trustees is authorized by ordinance to prescribe a schedule of fines in which the defendant may pay in lieu of appearance before the municipal court and such payment shall constitute a final determination of the cause against the defendant. The amount in the schedule of fines shall not exceed the maximum fines and costs provided for each offense.

SECTION III. Section 6-121 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-121 RELEASE UPON PERSONAL RECOGNIZANCE

A. If a resident or nonresident of the town is arrested by a law enforcement officer for a misdemeanor violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing violation, and the arrested person is eligible to sign a written promise to appear and be released upon personal recognizance as required by state statute, then the provisions of the State and Municipal Traffic, Water Safety, and Bail Bond Procedure Act shall govern.

B. The Presiding Judge shall prescribe a bail bond schedule for the purposes set forth in subsection A. The bail may be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided in state statute. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed \$1,000.00.

SECTION IV. Section 6-122 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-122 BAIL; AMOUNT AND CONDITIONS; TEMPORARY CASH BOND

A. If a resident of a municipality is arrested by a law enforcement officer for violation of a nontraffic ordinance, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release said person if 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 said 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 provided for in this subsection, the person shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance.

B. If a nonresident is arrested by a law enforcement officer for violation of a nontraffic ordinance, the defendant shall be eligible to be admitted to bail either before or after arraignment.

C. The amount and conditions of bail granted pursuant to the provisions of subsections A and B of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release on personal recognizance. The amount of bail for each offense shall not exceed the maximum fine plus court costs, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of bail shall not exceed \$1,000.00. In the event of arrests at night, emergencies, or when the judge is not available, a court official, the chief of police, or a 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 exceed the maximum fine provided for by ordinance for each offense charged, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond, in which case the amount of the cash bond shall not exceed \$1,000.00. The court official, 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 municipality on personal recognizance.

SECTION V. Section 6-123 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-123 FAILURE TO APPEAR ACCORDING TO TERMS OF BOND - FORFEITURE

A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of a bond, given by a bail bondsman as defined in state statute, either for hearing, arraignment, trial, or judgment, or upon any other occasion when the presence of the defendant in court or before the judge may be lawfully required:

1. The court shall perform the procedures set forth in state statute whereby the municipal court clerk shall issue the required notices; or

2. The municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to appear and stating the reasons therefore. Within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in the county where the municipal government is located. The district court clerk shall treat the certified order of forfeiture as a foreign judgment and proceed in accordance with the provisions of state statute. A surety shall have all remedies available pursuant to state statute.

B. Court costs shall be collectible from the proceeds of a forfeited bond.

SECTION VI. Section 6-124 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-124 JURY TRIALS; QUALIFICATIONS OF JURORS; NON-JURY TRIALS

A. In all prosecutions for any offense for which the Town, with the concurrence of the court, seeks imposition of a fine of more than \$500.00, excluding court costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the Town.

B. Jurors shall be good and lawful citizens of the Town, having the qualifications of jurors in the District Court of Oklahoma County. Selection of the jurors and summons shall be made in accordance with state statutes and the rules of the District Court of Oklahoma County.

C. Prosecutions for all other offenses or in cases wherein a jury is waived by the defendant and the Town, trial shall be to the court.

SECTION VII. Sections 6-125 and 6-126 of the Code of Ordinances of the Town of Luther, Oklahoma, are hereby repealed in their entirety.

SECTION VIII. Section 6-127 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-127 ENFORCEMENT OF PAYMENT OF FINES OR COSTS

Enforcement of payment of fines or costs shall be in conformance with the provisions of Title 22, State Statutes.

SECTION IX. Section 6-128 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-128 JUDGMENTS AND SENTENCES

A. The judge imposing a judgment and sentence, may 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 the sentence under terms or conditions as the judge may specify. Upon completion of the terms and conditions of probation, the defendant shall be discharged without a court judgment of guilt and the verdict, judgment of guilt, 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 terms and conditions of probation have been violated, the judge may enter a judgment of guilty.

B. 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 this period of time, the judge may allow the municipal attorney to amend the charge to a lesser offense.

C. Procedures relating to suspension of the judgment or costs or both shall be as provided in Oklahoma state statutes.

SECTION X. Section 6-129 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-129 **COURT COSTS AND FEES**

A. Court costs shall be \$30.00 per case, plus the fees set by state statute and fees and mileage of jurors and witnesses. Mileage for jurors and witnesses shall be as established by the Internal Revenue Service. Fees for jurors shall be \$50.00 per day. Law enforcement officers called to testify shall not be entitled to compensation beyond that provided through their employer.

B. If a deferred sentence is imposed, an administrative fee not to exceed \$500.00 may be imposed as costs in the case, in addition to any deferral fee otherwise authorized by law.

SECTION XI. Sections 6-130 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-130 **COMMUNITY SERVICE**

Following conviction for violation of a Town ordinance, the judge may order a term of community service in lieu of a 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 XII. Section 6-131 of the Code of Ordinances of the Town of Luther, Oklahoma, is hereby amended to read as follows:

SECTION 6-131 **TECHNOLOGY FEES; COLLECTION FEES**

A. There is hereby established a Technology Fund for the express and sole purpose of funding technology maintenance and improvements for the Town. There shall be a twenty dollar (\$20.00) 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 pertaining to the issuance of citations, the technology required to process the citations and Municipal Court operations, including processing charges.

B. In accordance with 11 O.S. § 22-138, there is hereby established an additional fee of up to 35 percent (35%) on all debts and accounts receivable for fines, fees, and court costs owed the Town that have been referred to a private firm for collection.

SECTION XIII. If any part or parts of this ordinance are deemed unconstitutional, invalid, or ineffective, the remaining portion shall not be affected, but shall remain in full force and effect.

SECTION XIV. All ordinances in conflict herewith are hereby repealed.

SECTION XV. It being immediately necessary for the preservation of the public peace, health, safety, and welfare of the Town of Luther and the inhabitants thereof that this ordinance be put into full force and effect, an emergency is hereby declared to exist by reason whereof this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED and the Emergency Clause ruled upon separately this 26th day of October, 2023.

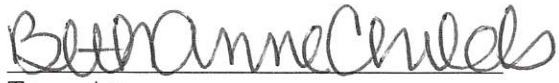

MAYOR WILLIAM TERRY ARPS

ATTEST:


Town Clerk



Approved as to form and legality:


Town Attorney