

**CHAPTER 13**  
**MUNICIPAL COURT**

**Article 1. Municipal Court Created; Organization and Procedure**

Sec. 13-1. Court Created.

1. This chapter shall govern the organization and operation of the Municipal Court of the City of Wilburton, established by resolution duly passed on the day 15 of January, 1969 and filed in accordance with law, all pursuant to Ordinance Title 11 O.S. 27-101 et.seq. as amended.
2. To the extent of any conflict between any provisions of this ordinance and the provisions of any other ordinance of this city, the provisions of this ordinance shall control.

Sec. 13-2. Definitions.

As used in this chapter, unless the context requires a different meaning, the following words shall mean:

1. "Court" means the Municipal Criminal Court of this city.
2. "Judge" means the judge of the Municipal Criminal Court, aforesaid, including any acting judge or alternate judge thereof as provided for by the statutes of this state, and city ordinance.
3. "Municipality" or "this municipality" means the City of Wilburton, Oklahoma.
4. "Clerk" means 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.
5. "Governing body" means the council.
6. "Chief of Police" means that individual in charge of the police force of this municipality.
7. "This judicial district" means the district court judicial district of the State of Oklahoma, wherein the government of this municipality is situated.
8. "Mayor" means the mayor of this municipality.

Sec. 13-3. Jurisdiction.

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 prosecutions transferred to the court in accordance with applicable law.

Sec. 13-4. Judge.

1. There shall be one (1) judge of the court.
2. A judge must be duly licensed to practice law in the State of Oklahoma.
3. He may engage in the practice of 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.
4. He may serve as judge of other municipal criminal courts, if such service may be accomplished consistently with his duties as judge of this court, with the consent of the council.
5. Judge must be at least twenty-one (21) years of age.

Sec. 13-5. Term of Judge.

Said judge shall serve for a term of two {2} years beginning May 1, in each even numbered year and until his successor is appointed and qualified, unless removed for proper cause, as provided by the Constitution and Laws of this State for the removal of public officers, provided that the judge of the municipal court existing in this municipality at the effective date of this ordinance shall act as judge of the court provided for herein until such time as his successor is appointed and qualified as herein provided.

Sec. 13-6. Alternate Judge.

1. There shall be appointed, for each judge of the court, an alternate judge, possessed of the same qualifications as the judge.
2. The appointment shall be for the same term and made in the same manner as the judge.
3. 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, (3) disqualified from acting as judge in the case.

Sec. 13-7. 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 qualified person 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, and such judge need not be an attorney.

Sec. 13-8. Appointment of Judges.

1. Judges and alternate judges shall be appointed by the mayor with the consent of the governing body.
2. 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.
3. The governing body may decide upon the proposed appointment by a majority vote of a quorum present and acting.
4. 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.

Sec. 13-9. Compensation of Judges.

1. A judge, other than alternate judge, or an acting judge, shall receive a salary of Three Hundred dollars (\$300.00) a month, paid in the same manner as the salaries of other officials of this municipality.
2. An alternate judge or an acting judge shall be paid Fifty dollars (\$50.00) for each day devoted to the performance of this duty, except that, for any month, the total payments so calculated shall not exceed the salary of the judge in whose stead he sits.
3. 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.

Sec. 13-10. Vacancy.

A vacancy in the office of judge shall occur if the incumbent:

1. dies, or
2. resigns, or
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, all pursuant to 11 OS 27-104 {A}.

Upon the occurrence of a vacancy in the office of judge, the mayor shall appoint a successor to complete the unexpired term, upon the same procedure as an original appointment is made.

Sec. 13-11. No Change of Venue.

1. In prosecution 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.
2. If a judge is disqualified, the matter shall be heard by an alternate or acting judge, appointed as provided in this Chapter.

Sec. 13-12. Chief of Police.

All writs of process of the court shall be directed, in his official title, to the Chief of Police of this municipality.

Sec. 13-13. Clerk of Court.

1. The clerk, or a deputy designated by him, shall be the clerk of the court. He shall assist the judge in recording the proceedings of the court, and in preparing writs, processes and other papers.
2. He shall enter all pleadings, processes, and proceedings in the dockets of the court.
3. He shall perform such other clerical duties relating to the proceedings of the court as the judge shall direct.
4. He shall receive and receipt for forfeitures, fees, deposits and sums of money payable to the court.

5. He shall pay to the treasurer of this municipality immediately all money so received by him, except such special deposits or fees as shall be received to be disbursed by him for special purposes.
6. All money paid to the treasurer shall be placed in the general fund of the municipality, or in such fund as the governing body 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.
7. He may administer oaths required in proceedings before the court.

Sec. 13-14. Attorney.

1. The attorney for this municipality, or his duly designated assistant, shall be the prosecuting officer of the court.
2. He shall prosecute all alleged violations of the ordinances of the city.
3. He shall be authorized, in his discretion, to prosecute and resist appeals, proceedings in error and review from this court to any other courts of the State, and to represent this municipality in all proceedings arising out of matters of this court.

Sec. 13-15. Clerk's Bond.

1. The clerk of the court shall give bond, in the form provided by 11 O.S. 27-111, in the sum of dollars (\$10,000).
2. When executed, said bond shall be submitted to the governing body for approval.
3. When approved, it shall be filed with the clerk of this municipality and retained in the municipal archives.

Sec. 13-16. Judge May Prescribe Rules.

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.

Sec. 13-17. Contempt, Etc. [Amended 8/2008, Ord. No. 08-1060]

1. Obedience to the orders, rules and judgements 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.

2. Any person who is charged with a violation of City code and who, having been duly issued a summons, or having made a promise to appear, and violates such recognizance, or fails to answer the summons, or fails to honor a promise to appear does not voluntarily appear before the Court on the appointed date and time, regardless of the disposition of the charge for which the citation was originally issued, shall be guilty of an offense.
3. Any person who shall violate the provisions of this section by failure to appear in the Municipal Court shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars (\$50.00).
4. Each citation, summons or promise is a separate offense.
5. If the offender fails to appear, the court may secure his or her appearance by using one or a combination of mechanisms. The court may;
6. Issue a warrant for the defendant's arrest in accordance with the court's contempt powers;
7. Forfeit any bond posted by the defendant;
8. Notify the Department of Public Safety to suspend the defendant's driver's license for certain traffic-related offenses; and or
9. Issue a warrant for defendant's additional charge of failure to appear.

#### Sec. 13-18. Style of Prosecutions.

All prosecutions for violation of ordinances of this municipality shall be styled "The City of Wilburton 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.

#### Sec. 13-19. Traffic Violations.

1. If a police officer observes facts which he believes constitute a violation of the traffic ordinances of this municipality, in lieu of arresting such person, he may take his name, address, operator's license number, the registered license number of the motor vehicle involved, and any other pertinent and necessary information, and may issue to him, in writing in form prescribed by the mayor or his duly designated delegate, a traffic citation embracing the above information, and

- further, stating the traffic violation alleged to have occurred, and notifying him to answer to the charge against him in the court at a time, no later than thirty-one (31) days thereafter specified in the citation. The officer, upon receiving the written promise of the alleged violator, endorsed on the citation, to answer as specified, shall release said 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 by this chapter.
2. The police officer may, however, take the alleged offender into custody under arrest. The arrested person either: (1) shall be taken immediately before the judge for further proceedings according to law, or (2) shall have bail fixed for his release in accordance with the provisions of this ordinance. Upon providing the bail as fixed, and upon giving his written promise to appear at the scheduled court appearance, as provided in the preceding subsection, he shall be released from custody.
  3. 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 (1) of this section, with such variation as the circumstances require. The operator of the vehicle shall be under the same obligation to respond to the citation as if it had been issued to him personally under subsection (1).

Sec. 13-20. Traffic Violations Bureau. *[Amended 5/2004, Ord. No. 04-1030]*

1. 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.
2. Persons who are cited for violation of one of the traffic regulatory ordinances of this municipality, other than:
  - a. a second traffic offense within a twelve-month period, or
  - b. a driver's license offense, or
  - c. an offense punishable by a fine of more than two hundred fifteen dollars (\$215.00) or by imprisonment, may elect to pay a fine in the Traffic Violations Bureau according to the following schedule:

## Description of Offense

SPEEDING	SEC 22-47	
0 TO 15 MPH OVER LIMIT		\$ 80.00
16 to 20 MPH OVER LIMIT		\$100.00
21 AND OVER		\$120.00
CARELESS DRIVING	SEC 22-49	\$100.00
RECKLESS DRIVING	SEC 22-48	\$120.00
DISOBEY STOP SIGN	SEC 22-25	\$ 80.00
DISOBEY TRAFFIC SIGNAL	SEC 22-25	\$ 80.00
FAILURE TO YIELD	SEC 22-66	\$ 80.00
FAILURE TO YIELD AT STOP SIGN	SEC 22-66	\$ 80.00
FAILURE TO YIELD/EMERGENCY VEHICLE	SEC 22-12	\$150.00
FOLLOWING TO CLOSE	SEC 22-46, 47	\$ 80.00
FOLLOWING AN EMERGENCY VEHICLE	SEC 22-79	\$150.00
IMPROPER BACKING	SEC 22-87	\$ 80.00
IMPROPER PARKING	SEC 22-130	\$ 80.00
IMPROPER PASSING/ LANE USE	SEC 22-39, 40	\$ 80.00
IMPROPER U-TURN	SEC 22-57	\$ 80.00
IMPROPER TURN	SEC 22-55	\$ 80.00
NO DRIVERS LICENSE	SEC 22-54	\$100.00
DRIVING UNDER SUSPENSION	SEC 22-54	\$200.00
FAILURE TO STOP FOR SCHOOL BUS	SEC 22-44	\$180.00
OVERWEIGHT VEHICLE	SEC 22-19	\$120.00
FAILURE TO SECURE LOAD	SEC 22-12	\$120.00
PASSING ON THE RIGHT	SEC 22-37	\$ 80.00
WRONG WAY ON A ONE-WAY	SEC 22-64	\$ 80.00
FAILURE TO CARRY INSURANCE	SEC 22-161	\$150.00
FAILURE TO PAY TAXES DUE	SEC 22-21	\$120.00
FAILURE TO REPORT ACCIDENT	SEC 22-13	\$ 80.00
LEAVING SCENE OF NON-INJURY ACCIDENT	SEC 22-14	\$120.00
COMPLIANCE WITH STATE LAW	SEC 22-165	\$150.00
IMPROPER EXHAUST	SEC 22-18	\$ 80.00
NO EYE PROTECTION/HELMET	SEC 22-101	\$ 80.00
D.U.I.	SEC 22-50	\$500.00
T.O.C. BEER	SEC 22-51	\$150.00
T.O.C. LIQUOR	SEC 22-52	\$180.00
MINOR IN POSSESSION	SEC 15-21A	\$150.00
ATTEMPTING TO ELUDE	SEC 22-53	\$250.00
RESISTING ARREST	SEC 15-42	\$250.00
PUBLIC INTOXICATION	SEC 15-21	\$150.00
USE OF LANGUAGE TO PROVOKE ANGER	SEC 15-26	\$150.00
POSSESSION OF MARIJUANA	SEC 15-22	\$250.00
POSSESSION OF DRUG PARAPHERNALIA	SEC 15-22	\$180.00
DISTURBING THE PEACE	SEC 15-26	\$100.00
INTERFERING WITH PEACE OFFICER	SEC 15-42	\$150.00
INDECENT EXPOSURE	SEC 15-17	\$150.00
LITTERING	SEC 15-40A	\$100.00
CARRYING CONCEALED WEAPON	SEC15-23	\$250.00
CONTRIBUTION TO DELINQUENCY OF MINOR	SEC 15-21	\$250.00
CURFEW	SEC 15-8	\$100.00
ASSAULT AND BATTERY	SEC 15-31	\$250.00
RIDING BICYCLE ON SIDEWALK	SEC 22-121	\$ 80.00
SWIMMING IN CITY LAKE	SEC 19-23	\$100.00
SHOPLIFTING	SEC 21-1731.1	\$150.00
ALL OTHER VIOLATIONS		\$ 80.00
COURT COST		\$ 25.00

3. The court may adopt rules to carry into effect this section.
4. Payment of a fine under this section shall constitute a final determination of the cause against the defendant.
5. 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 ordinance.
6. These amounts are in accordance with state statutes.

Sec. 13-21. Summons.

1. 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,
  - a. naming the person charged,
  - b. specifying his address or place of residence, if known,
  - c. stating the offense with which he is charged and
  - d. giving him notice to answer the charge in the court (on a day certain), and
  - e. containing a provision for the official return of the summons, and i
  - f. including such other pertinent information as may be necessary.
2. The summons shall be served by delivering a copy to the defendant personally.
3. 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 ordinance.

Sec. 13-22. Warrant of Arrest.

1. Except as otherwise provided in the ordinances of this municipality, upon the filing of a complaint approved by endorsement by the attorney of this municipality or by the judge, there shall be issued a warrant of arrest, in substantially the following form:

Bond of: The amount of fine plus \$10.00 Day or Night

The City of Wilburton to the Marshal of the Municipal Criminal Court of Wilburton , 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) before me (naming the place). Witness my hand this day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Judge of the Municipal Criminal Court  
of Wilburton, Oklahoma

2. It shall be the duty of the aforesaid marshal, personally, or through a duly constituted member of the police force of this municipality, or through any other persons lawfully authorized so to act, to execute said warrant as promptly as possible.

Sec. 13-23. Defendant's Right to Bail.

Violations in General

1. Upon arrest, or upon appearance without arrest in response to a citation or summons, or at any other 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 the judge, who shall prescribe appropriate rules of court for the receipt of bail.
  - a. In case of arrests 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 less than nor more than the maximum monetary penalty provided by ordinance for the offense charged.
2. The judge of the municipal court shall conduct a session of the municipal court at least once every thirty-one (31) days. Notice of such sessions shall be given as prescribed in Sections 301 through 312 of Title 25 of the Oklahoma Statutes, the Oklahoma Open Meeting Act.

Sec. 13-24. Arraignment.

1. Upon making his appearance before the court, the defendant shall be arraigned.
  - a. The judge or the attorney of the municipality, shall read the complaint to the defendant,
  - b. inform him of his legal rights, including the right of trial by jury, if available, and
  - c. of the consequences of conviction, and
  - d. ask him whether he pleads guilty or not guilty.
    - i. If the defendant pleads guilty, the court may proceed to judgement and sentence or may continue the matter subsequent disposition.
    - ii. 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.

Sec. 13-25. Postponement.

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

Sec. 13-26. Defendant to be Present.

The defendant must be present in person at the trial.

Sec. 13-27. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than two hundred fifteen dollars (\$215.00) and costs.