

Court

PART 6

COURT

CHAPTER 1

Section 6-101	Organization of Municipal Court
Section 6-102	Definitions
Section 6-103	Jurisdiction of Court
Section 6-104	Judge; Qualifications
Section 6-105	Term of Judge
Section 6-106	Alternate Judge
Section 6-107	Acting Judge
Section 6-108	Appointment of Judge and Alternate Judge
Section 6-109	Salary and Payments to Judges
Section 6-110	Removal of Judge
Section 6-111	Vacancy in Office of Judge
Section 6-112	Disqualification of Judge
Section 6-113	Court Marshal, Chief of Police
Section 6-114	Clerk of the Court; Duties
Section 6-115	Prosecuting Attorney; Duties
Section 6-116	Bond of Clerk
Section 6-117	Rules of Court
Section 6-118	Enforcement of Rules
Section 6-119	Written Complaints to Prosecute Ordinance Violations
Section 6-120	Traffic Ordinance Violations; Procedures for Issuing Citation; Custody, Arrest
Section 6-121	Deposit of Driver's License as Bail for Traffic Violations
Section 6-122	Summons for Arrest
Section 6-123	Form of Arrest Warrant
Section 6-124	Procedures for Bail or Bond
Section 6-125	Arraignment and Pleadings by Defendant
Section 6-126	Trials and Judgments
Section 6-127	Witness Fees
Section 6-128	Fines and Costs
Section 6-129	Failure to Obey Notice to Appear
Section 6-130	Collection Fee

CHAPTER 2
(RESERVED)

Court

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Section 6-101	Organization of Municipal Court
Section 6-102	Definitions
Section 6-103	Jurisdiction of Court
Section 6-104	Judge; Qualifications
Section 6-105	Term of Judge
Section 6-106	Alternate Judge
Section 6-107	Acting Judge
Section 6-108	Appointment of Judge and Alternate Judge
Section 6-109	Salary and Payments to Judges
Section 6-110	Removal of Judge
Section 6-111	Vacancy in Office of Judge
Section 6-112	Disqualification of Judge
Section 6-113	Court Marshal, Chief of Police
Section 6-114	Clerk of the Court; Duties
Section 6-115	Prosecuting Attorney; Duties
Section 6-116	Bond of Clerk
Section 6-117	Rules of Court
Section 6-118	Enforcement of Rules
Section 6-119	Written Complaints to Prosecute Ordinance Violations
Section 6-120	Traffic Ordinance Violations; Procedures for Issuing Citation; Custody, Arrest
Section 6-121	Deposit of Driver's License as Bail for Traffic Violations
Section 6-122	Summons for Arrest
Section 6-123	Form of Arrest Warrant
Section 6-124	Procedures for Bail or Bond
Section 6-125	Arraignment and Pleadings by Defendant
Section 6-126	Trials and Judgments
Section 6-127	Witness Fees
Section 6-128	Fines and Costs
Section 6-129	Failure to Obey Notice to Appear
Section 6-130	Collection Fee

SECTION 6-101 ORGANIZATION OF MUNICIPAL COURT

This Chapter shall govern the organization and operation of the Municipal Criminal Court of the Town of Oologah, as put into operation by resolution, duly passed and filed in accordance with law, as authorized by Sections 27-101 and 27-102 of *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.

State Law Reference: Municipal courts not of record, organization, rules and procedures, *Okla. Stat. Ann. tit 11, Sections 27-101 to 27-131.*

SECTION 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:

1. "Court" means the Municipal Court of the Town of Oologah;
2. "Judge" means the Judge of the Municipal Court, including any Acting Judge or Alternate Judge thereof as provided for by the statutes of this State and this Chapter;
3. "Municipality" or "this municipality" means the Town of Oologah, 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 Town Board of Trustees of the Town of Oologah;
6. "Chief of Police" means the peace officer in charge of the police force of the municipality; and
7. "This judicial district" means the district court judicial district of the State of Oklahoma wherein the government of this municipality is situated.

SECTION 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 prosecutions transferred to the Court in accordance with applicable law.

SECTION 6-104 JUDGE; QUALIFICATIONS

There shall be one (1) Judge of the Court. A Judge may be:

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 thereto.
2. An attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality; or

3. Any suitable person residing in the municipality or within forty (40) miles of the boundaries of the municipality, including the Mayor, upon approval of the Council.

A 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. He may serve as Judge of other municipal courts, if such service may be accomplished consistently with his duties as Judge of this Court, with the consent of the Mayor and Council.

SECTION 6-105 **TERM OF JUDGE**

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

SECTION 6-106 **ALTERNATE JUDGE**

There shall be appointed for each Judge of the Court an Alternate Judge possessed of the same qualifications required of the Judge in this Chapter. 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.

SECTION 6-107 **ACTING JUDGE**

If at any time there is no Judge or Alternate Judge, duly appointed and qualified, available to sit as Judge, the Chairman 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.

SECTION 6-108 **APPOINTMENT OF JUDGE AND ALTERNATE JUDGE**

Judges 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. Should the Mayor fail to make a nomination within thirty (30) days from the expiration of the term of the sitting Municipal Judge, then and in that event the governing body shall, at the next meeting thereof, nominate and appoint a Municipal Judge meeting the qualifications set forth in Section 6-104.

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 Motion or Resolution of the governing body, paid in the same manner as the salaries of other officials of this Municipality.

B. An Alternate Judge or an Acting Judge shall be paid an amount as set by Motion or Resolution of the governing body; however, payments to an Acting or Alternate Judge shall not exceed the salary set for a Judge in whose stead he sits.

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; 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. To present testimony and to cross-examine the witnesses against him; and
3. Have all evidence against him presented in open hearing.

Court

So far as they can be applicable, the provisions of the Oklahoma Administrative Procedures Act governing individual proceedings (*Sections 309 to 317 of 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.

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, the Mayor shall appoint a successor to complete the unexpired term in the same manner as an original appointment is made.

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 procedures 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.

SECTION 6-113 COURT MARSHAL, CHIEF OF POLICE

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.

SECTION 6-114 CLERK OF THE COURT; DUTIES

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. He shall administer oaths required in proceedings before the Court. He shall enter all pleadings, processes, and proceedings in the Dockets of the Court. He shall perform such other clerical duties relating to the proceedings of the Court as the Judge shall direct. He shall receive

Court

and receipt for forfeitures, fines, deposits, and sums of money payable to the Court. He shall pay to the Treasurer of this Municipality all money so received by him, except such special deposits or fees as shall be received to be disbursed by him for special purposes. All money paid to the Treasurer shall be placed in the general fund of the Municipality, or in such other funds 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.

SECTION 6-115 PROSECUTING ATTORNEY; DUTIES

The Attorney for this Municipality, or his duly designated assistant, may be the Prosecuting Officer of the Court. He shall also prosecute all alleged violations of the Ordinances of the Town. He may 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.

SECTION 6-116 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 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.

SECTION 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.

SECTION 6-119 WRITTEN COMPLAINTS TO PROSECUTE ORDINANCE VIOLATIONS

All prosecutions for violations of Ordinances of this Municipality shall be styled "The Town of Oologah vs. (naming Defendant or Defendants)". Except as provided hereinafter, prosecution 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 and approved for filing by the Town Attorney.

SECTION 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 release the person on personal recognizance in accordance with Section 6-121 of this Code, or 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, not later than the date 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 Ordinance violation is committed by a nonresident or resident of this Municipality, the Police Officer may:

1. Release the person after obtaining sufficient information as set out in Subsection A of this Section pending his appearance on a day certain in Court, as specified in the Citation;
2. Take the person into 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 Subsections 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 Subsections A or B of this Section.

SECTION 6-121 **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

Court

license to operate a motor vehicle in exchange for a receipt therefore 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 up to 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 to the provisions of Subsection B of this Section 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 up to One Hundred Dollars (\$100.00) and Court costs. Each such application constitutes a separate offense."

(Ord. No. 2014-01, 09/2014)

SECTION 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 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 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 Oologah, to the Marshal of the Municipal Court of Oologah, 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 therefor forthwith to arrest the above named Defendant and bring the above named (name of Defendant) before me, at the Municipal Courtroom, at _____,

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

Judge of the Municipal Court
Oologah, 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.

SECTION 6-124 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 Board of Trustees and amended from time to time by motion or resolution.

(Ord. No. 2014-01, 09/2014)

SECTION 6-125 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 6-126 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.

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 (1) day imprisonment for each Five Dollars (\$5.00) of fine. If the Defendant 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 judgment creditor.

H. If a Defendant who is financially able refuses or neglects to pay a fine or cost or both, payment may be enforced:

Court

1. By imprisonment until the same shall be satisfied at the rate of Five Dollars (\$5.00) per day; or

2. All prisoners confined to jail for having failed to pay a fine as in paragraph 1 above, may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks, buildings or other public premises or property, and for each day of such work, the prisoner shall be credited Five Dollars (\$5.00) toward any fine or cost until same are satisfied; and further, any persons found guilty of a violation of a Municipal Ordinance who are financially unable to pay their fine and costs, and whose health permits, may volunteer with the Court to satisfy their fine and costs by working on the streets, alleys, avenues, areas, and public grounds of the Municipality, with credit therefor to be at the rate of Five Dollars (\$5.00) per day toward the fine and cost; and

3. The Chief of Police, subject to the direction of the Mayor, shall direct where the work shall be performed. The head of the department in charge of the place under which 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 therefor.

I. If a Defendant who is financially able refuses or neglects to pay a fine or costs or both, payment may be enforced by imprisonment until the same shall be satisfied at the rate of Five Dollars (\$5.00) per day. If the Defendant is without means to pay the fines 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 in the County where the situs of the municipal government is located 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 creditors.

1. All prisoners confined to jail for having failed to pay a fine as in Subsection G above, may be compelled, if their health permits, to work on the public streets, avenues, alleys, parks, buildings or other public premises or property, and for each day of such work, the prisoner shall be credited Five Dollars (\$5.00) toward any fine or costs until same are satisfied; and, further, any persons found guilty of a violation of a Municipal Ordinance who are financially unable to pay their fine and costs, and whose health permit, may volunteer with the Court to satisfy their fine and costs by working on the streets, alleys, avenues, areas, and public grounds of the Municipality, with credit therefor to be at the rate of a minimum of Five Dollars (\$5.00) per day or more, at the discretion of the sentencing Judge toward said fine and costs;

2. The Chief of Police, subject to the direction of the Town Manager, shall direct where the work shall be performed. The head of the department in charge of the place under which 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 provisions therefor.

SECTION 6-127 **WITNESS FEES**

Witnesses in any proceeding in the Court, other than the Police Officers or Peace Officers, shall be entitled to a fee of Fifteen Dollars (\$15.00) per each day of attendance, plus the rate (mileage as set and allowed by the Internal Revenue Service per mile) for mileage actually and necessarily traveled in going to and returning from the place of attendance, if their residence is outside the limits of the Municipality. However, no witness shall receive fees or mileage 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 and mileage 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 his poverty, is unable to provide the fees and mileage 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 6-128 **FINES AND COSTS**

If judgment of conviction is entered, the Clerk of the Court shall tax the costs to the Defendant in the amount of Thirty Dollars (\$30.00), plus the fees and mileage of jurors and witnesses, all of which the Defendant shall pay, in addition to any fine that may be imposed.

SECTION 6-129 **FAILURE TO OBEY NOTICE TO APPEAR**

A. It is unlawful and an offense for any person to violate his written promise to appear given to an Officer upon the issuance of a traffic citation or other complaint containing a notice to appear in Court, regardless of the disposition of the charge for which such notice to appear was originally given and issued. This Section shall not apply to charges actually disposed of prior to the date and time for appearance stated upon the traffic citation, if such offense charged is an offense excepted from the provisions of this Code.

B. A written promise to appear in Court may be complied with by an appearance by counsel.

C. A Judge or Magistrate having jurisdiction to hear and determine the guilt or innocence of a person charged with the violation of a Traffic Ordinance of the Town shall have

authority and the right to dismiss a charge of failure to obey a notice to appear in Court, should he, in his opinion, find that sufficient circumstances existed to excuse a breach of the Defendant's promise to appear.

SECTION 6-130 **COLLECTION FEE**

A collection fee of Thirty-Five Percent (35%) of Court penalties, costs, fines and fees in cases in which the accused has failed to appear or otherwise failed to satisfy a monetary obligation imposed by the Court shall be added to any such case which is referred to a collection agency for collection. (Ord. No. 2014-4, 11/17/14)

Court

Court

CHAPTER 2
(RESERVED)

Court