

## CHAPTER 33: MUNICIPAL COURT

### Section

#### **Municipal Court**

- 33.01 Municipal court created
- 33.02 Practices and procedures
- 33.03 Warrant of arrest fee
- 33.04 Dismissal fee

#### **Municipal Judge**

- 33.20 Office of municipal judge created; appointment and term; compensation; oath
- 33.21 Vacancy or incapacity
- 33.22 Removal of judge
- 33.23 Mayor as ex: officio judge
- 33.24 Qualifications

#### **Court Clerk**

- 33.30 Office of court clerk created; appointment
- 33.31 Duties of court clerk

#### **City Prosecutor**

- 33.40 City prosecutor - office established
- 33.41 Appointment; compensation
- 33.42 Term of office
- 33.43 Duties

#### **Municipal Court Technology Fund**

- 33.50 Municipal Court Technology Fund Established
- 33.51 Payment into Fund
- 33.52 Collection and Administration
- 33.53 Use of Funds

### **§ 33.01 Municipal Court Created<sup>1</sup>**

There is hereby created a court in and for the City that shall be known as the Municipal Court of the City of Overton, Texas. This court shall have exclusive original jurisdiction within the city with power to hear and determine all cases of alleged violations of the ordinances of the City and all other cases over which municipal courts are given jurisdiction by state law.

---

<sup>1</sup> **State law reference** - Municipal courts created and jurisdiction established, V.T.C.A., Government Code, §§ 29.002 - 29.003.

### **§ 33.02 Practices and Procedures**

The rules prescribed by state law governing trials in the state justice of the peace courts shall govern the procedures and practices of the municipal court. The City Council may prescribe such additional rules of practice and procedure as are not inconsistent with state law. The municipal judge shall have the power to set time for court sessions as the docket may require.

### **§ 33.03 Warrant of Arrest Fees**

If any person fails to appear before the court, either in compliance with a personal bond or as directed by notice from the municipal court clerk's office, a warrant for his arrest shall be issued and a special expense of \$200.00 shall be charged for the issuance of such warrant, which sum shall be deposited in the general fund. The fee shall not be refundable except on the finding by the court that notice was not properly given.

### **§ 33.04 Dismissal Fee, Safety Driving Course**

The municipal court, at its discretion, may collect a special expense as prescribed in § 3.00 of the Fee Schedule (Appendix I of this Code) from each defendant as a condition of dismissal of any case against the defendant because of actions by or on behalf of the defendant subsequent to the date of the alleged offense, such as the completion by the defendant of a safety driving course. Said sum shall be paid into the general funds of the City.

## **Municipal Judge<sup>2</sup>**

### **§ 33.20 Office of Municipal Judge Created; Appointment and Term; Compensation; Oath**

- (a) There is hereby created the office of judge of the municipal court who shall have all the powers and authority as granted by state law and the ordinances of this City and shall perform all the duties as prescribed by the laws of the State of Texas and the ordinances of this City.
- (b) The office of municipal judge shall be filled by appointment by the City Council. The term of the Municipal Judge shall continue until such time as the City Council removes the appointed Judge and relieves the Judge from his or her duties and responsibilities.
- (c) Compensation for the office of municipal judge shall be set from time to time by the City Council.
- (d) Prior to taking office, the judge of the municipal court shall take the oath of office required by the Constitution and laws of the State of Texas.

---

<sup>2</sup> **State law reference** - Municipal judges, V.T.C.A., Government Code, §§ 29.004 - 29.007.

### **§ 33.21 Vacancy Or Incapacity**

The City Council may appoint by resolution one or more persons to sit for the regular judge of the municipal court or for the presiding judge or any of the associate judges of such court, while such judge or judges, any or all, are temporarily unable to act for any reason. Such appointee or appointees shall possess the same qualifications required of the regular municipal judge, and shall have all the powers and duties of such office and shall receive the compensation set by the City Council for the regular municipal judge. A vacancy in the office of municipal judge shall be filled by the City Council for the unexpired term only.

### **§ 33.22 Removal of Judge**

The judge of the municipal court may be removed by a majority of the City Council for incompetency, corruption, misconduct, or malfeasance in office, after due notice and an opportunity to be heard in his defense. The judge of the municipal court may also be removed from office by a City Council resolution declaring a lack of confidence in the judge, provided that two-thirds (2/3) of the City Council vote in favor of said resolution.

### **§ 33.23 Mayor as Ex Officio Judge**

The Mayor shall serve as ex officio judge of the municipal court and shall have and exercise the authority, jurisdiction, and powers that are conferred by law upon the judge. In case of the absence, disqualification, or inability of the Mayor, for any cause, to act, then the Mayor Pro Tem shall act as such judge.

### **§ 33.24 Qualifications**

Any person appointed to the office of municipal judge shall have the qualifications required by law for municipal judges by the laws of the State of Texas, as the same may be amended from time to time.

### **Court Clerk<sup>3</sup>**

### **§ 33.30 Office Of Court Clerk Created; Appointment**

(a) The office of municipal court clerk is hereby created.

(b) The clerk for the municipal court shall be appointed and may be removed by the Chief of Police and City Manager.

---

<sup>3</sup> **State law reference** - Municipal court clerks authorized and duties defined, V.T.C.A., Government Code, §§ 29.010 -29.011.

### **§ 33.31 Duties of Court Clerk**

The clerk shall keep records of the proceedings of the municipal court, issue all process, and generally perform the duties of the clerk of a court as prescribed by law for a municipal clerk in so far as the same may be applicable. The clerk, or deputy clerk, shall perform the duties described in V.T.C.A., Government Code, § 29. 010, as the same may be amended from time to time.

## **City Prosecutor**

### **§ 33.40 City Prosecutor - Office Established**

The position of prosecutor of the municipal court of the City is hereby established and the person occupying said position shall be known as the city prosecutor. Said position may be filled by the city attorney.

### **§ 33.41 Appointment; Compensation**

The city prosecutor shall be appointed by the City Council. He shall be paid such compensation for his services as may be provided by the City Council.

### **§ 33.42 Term of Office**

The city prosecutor shall serve for an indefinite term and his services may be terminated at any time by the City Council.

### **§ 33.43 Duties**

The duties and responsibilities of the city prosecutor shall be as follows:

- (1) To assist in the preparation of all complaints to be used in the municipal court.
- (2) To prosecute all cases in the municipal court.
- (3) To assist in the preparation of records for cases appealed from the municipal court.
- (4) To perform such other duties in connection with the operation of the municipal court as may be fixed by the City Council.

## **Municipal Court Technology Fund**

### **§ 33.50 Municipal Court Technology Fund Established**

There shall hereafter be and be established a special fund to be known as the "municipal court technology fund."

### **§ 33.51 Payment into Fund**

(a) Every defendant convicted for a misdemeanor offense in the Municipal Court of the City of Overton, Texas, on or after September 1, 1999, shall be required to pay a four dollars (\$4.00) technology fee as a cost of court.

(b) A person is considered "convicted" if:

(1) A sentence is imposed on the person;

(2) A person receives community supervision, including deferred adjudication community supervision; or

(3) A court defers final disposition of the person's case.

### **§ 33.52 Collection And Administration**

(a) The court clerk shall collect the court costs as established herein and shall pay them to the municipal treasurer, or to any other official who discharges the duties commonly designated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund;

(b) The municipal court technology fund shall be administered by or under the direction of the City Council of the City of Overton, Texas.

### **§ 33.53 Use of Funds**

The fund collected as set forth herein may be used only to finance the following items when used for the purpose of providing technological enhancements for the municipal court:

(1) Computer systems;

(2) Computer networks;

(3) Computer hardware;

(4) Computer software;

(5) Imaging systems;

(6) Electronic kiosks;

(7) Electronic ticket writers; and

(8) Docket management systems.