

**TITLE 3****MUNICIPAL COURT<sup>1</sup>****CHAPTER**

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.
5. SEARCH AND SEIZURE.

**CHAPTER 1****CITY JUDGE****SECTION**

- 3-101. City judge.  
3-102. Jurisdiction.

**3-101. City judge.** (1) Appointment. The city judge designated by the charter to handle judicial matters within the city shall be a licensed attorney appointed by the board of mayor and aldermen and shall serve at the pleasure of the governing body. Vacancies in the office of the city judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the city judge.

(2) Judge pro tem. During the absence of the city judge from his duties for any reason or at any time the office of the city judge is vacant, the board of mayor and aldermen may appoint a city judge pro tem to serve until the city judge returns to his duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge.

**3-102. Jurisdiction.** The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the penalty provisions of this code.

---

<sup>1</sup>Charter references

City judge--city court: § 6-4-301.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of penalties and costs.
- 3-203. Disposition and report of penalties and costs.
- 3-204. Collection of fines, costs and litigations taxes.
- 3-205. Contempt of court.

**3-201. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

**3-202. Imposition of penalties and costs.** All penalties and costs shall be imposed by the city judge and recorded by the court clerk on the city court docket in open court.

All cases heard and determined by the city judge shall impose court costs in the amount to be determined from time to time by the board of mayor and aldermen. One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

In addition, pursuant to authority granted in *Tennessee Code Annotated*, § 67-4-601, the court shall levy a local litigation tax in all cases on which state litigation tax is levied as determined by state law.

Other fines and costs collected shall be forwarded by the court to the Department of Safety as required by state law.

**3-203. Disposition and report of penalties and costs.** All funds coming into the hands of the city judge or city court clerk in the form of penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month the court clerk shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all penalties and costs imposed by the court during the current month and to date for the current fiscal year.

**3-204. Collection of fines, costs and litigation taxes.** (1) Manner of collection. Unless discharged by payment, all fines, costs, penalties, and litigation taxes due may be collected in the same manner as a judgment in a

civil action, and no person shall be imprisoned for being in default solely of payment of costs and/or litigation taxes.

(2) Methods of collection. The city recorder is authorized to employ the services of a collection agency to collect amounts owed to the city court. The contract between the municipality and the collection agency must be in writing and can utilize an existing written contract awarded under the city's procurement procedures. The written contract shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

(a) Except for unpaid parking tickets, if an amount owed to the city is not paid in full within sixty (60) days of the date on which the amount becomes due, the clerk shall send written notice, by regular or certified mail return receipt requested, to the debtor at the debtor's last known address according to the city's records. The notice shall state the amount owed in fines, costs and litigation taxes, if any.

(b) If the amount owed to the city is not paid in full within thirty (30) days of the date of the notice or the date stated in the request for additional time, the city may refer the debt to a collection agency to collect the outstanding amount owed to the city and the collection agency services fee.

(c) The collection agency may be paid an amount not exceeding forty percent (40%) of the sums collected as consideration for collecting the fines and costs, pursuant to *Tennessee Code Annotated*, §40-24-105(e).

**3-205. Contempt of court.** Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

## CHAPTER 3

### SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of summonses.

3-302. Issuance of subpoenas.

**3-301. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge has the discretion to issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him/her, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.

**3-302. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony the judge believes will be relevant and material to matters coming before the court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appeals.

3-402. Bond amounts, conditions, and forms.

**3-401. Appeals.** Any person dissatisfied with any judgment of the city court against him/her may, within ten (10) days<sup>1</sup> thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond to the city court clerk. "Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality.

**3-402. Bond amounts, conditions, and forms.** (1) Appeal bond. An appeal bond in any case shall be two hundred fifty dollars (\$250.00) for such person's appearance and the faithful prosecution of the appeal.

(2) Pauper's oath. A bond is not required provided the defendant/appellant files the following:

(a) Oath of poverty:

I, \_\_\_\_\_, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief;

(b) An accompanying affidavit of indigency. The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated.

---

<sup>1</sup> <sup>1</sup>State law reference

*Tennessee Code Annotated*, § 16-18-307.

## CHAPTER 5

### SEARCH AND SEIZURE

#### SECTION

- 3-501. Authority to issue search warrants.
- 3-502. Reasons and procedure for issuing search warrants.
- 3-503. Form of search warrants.
- 3-504. Return day.
- 3-505. Execution of search warrants.
- 3-506. Seizure of property.
- 3-507. Hearings.
- 3-508. Code violation enforcement.
- 3-509. Inspection of residential rental property with code violations.

**3-501. Authority to issue search warrants.** The city judge shall have the same authority to issue search warrants as is provided by the laws of the State of Tennessee for the issuance of search warrants by magistrates or judges of courts of general sessions in the State of Tennessee. (*Tennessee Code Annotated*, § 40-1-106.)

**3-502. Reasons and procedure for issuing search warrants.**

(1) A search warrant may be issued upon any grounds provided by the general laws of the State of Tennessee.

(2) A search warrant may only be issued upon probable cause supported by affidavit naming or describing the property and the place to be searched.

(3) The city judge, before issuing the warrant, shall examine on oath the complainant and any witnesses the complainant may produce and take their affidavits in writing and cause them to be subscribed by the persons making them; the affidavits shall set forth facts tending to establish the grounds of the application or probable cause for believing that they exist.

(4) If the city judge is satisfied of the existence of the grounds for the application or that there is probable cause of grounds to believe their existence, he shall issue a search warrant signed by him/her and directed to any police officer or other lawful officer, commanding the officer to forthwith search the person or place named for the property specified and to bring it forthwith before the city judge.

(5) The city judge shall prepare an original of said search warrant and two (2) exact copies of the same, one (1) of which is to be kept by him as a part of his official records and one of which shall be left with the person or persons on whom said warrant is served. The original search warrant shall be served and returned as provided by law. The city judge shall endorse the warrants showing the hour, date and the name of the officer to whom the warrants were

delivered for execution and the exact copy of such warrant and the endorsement thereof shall be admissible in evidence in the courts.

(6) Failure to comply with subsection (5) of this section shall make any search conducted under said warrant an illegal search or seizure.

**3-503. Form of search warrants.** The search warrant may be issued in substantially the same form as that provided by state courts.

**3-504. Return day.** Unless otherwise stated herein, a search warrant issued under this chapter shall be executed and returned to the city judge within five days after its date, after which time unless executed it is void.

**3-505. Execution of search warrants.** The search warrant may be executed by any officer of the city or any other person to whom it is directed or by any person in aid of such officers.

In order to execute said warrant, any officer may break open any door or window of a house or any part of a house and anything therein if after notice of his authority and purpose, he is refused admittance.

**3-506. Seizure of property.** (1) When any officer takes property under a search warrant, he shall, if required, give a receipt to the person from whom it was taken or in whose possession it was found.

(2) The officer shall make a proper return of the search warrant to the city judge and shall specify with particularity the property taken.

(3) When property is taken under a search warrant and delivered to the city judge, he shall, if it was stolen or embezzled, cause it to be delivered to the owner on satisfactory proof of his title; but if the warrant was issued on the grounds specified in § 3-502(1), (2), (3), (4), or (5), he shall retain the property in his possession subject to the order of the court to which he is required to return the property or of the court in which the offense is triable.

**3-507. Hearings.** (1) If the grounds on which the search warrant was issued be controverted, the city judge shall proceed to hear the testimony which must be reduced to writing and authenticated in the manner prescribed in § 3-502(4).

(2) If it shall appear that the property is not the same as described in the warrant or that there is no probable cause for believing the existence of the grounds for which the warrant is issued, the city judge shall direct it to be restored to the person from whom it was taken.

(3) The city judge shall, if the property is not directed to be restored under the provisions of subsection (2) of this section, annex together the search warrant, the return, and the affidavits and return them to the court having power to inquire into the offense in respect to which the search warrant was issued.

(4) If upon the hearing it appears that there was no probable cause for suing out the warrant, the whole cost may be taxed against the complainant and execution awarded.

**3-508. Code violation enforcement.** (1) Administrative inspection warrants; definitions; penalties. (a) "Issuing officer," as used in this section, means:

(i) Any official authorized by law to issue search warrants;

(ii) Any court of record in the county of residence of the agency making application for an administrative inspection warrant; or

(iii) Any municipal court having jurisdiction over the agency making application for an administrative inspection warrant, provided that the judge of the court is licensed to practice law in the State of Tennessee.

(b) "Building official," as used in this section, means any local government building official certified pursuant to § 68-120-113; provided, that such official is acting in their capacity as an official of a municipality or county, and provided that the official is seeking to enforce the ordinances or codes of such local government; and

(c) "Agency," as used in this section, means any county, city, or town employing a building official certified pursuant to § 68-120-113.

(2) In the event that a building official is denied permission to make an inspection and a warrant is required by the Constitution of the United States or the State of Tennessee to perform such inspection, a building official may obtain an administrative inspection warrant in accordance with the procedures outlined in this section. The provisions of title 40, chapter 6, part 1, shall not apply to warrants issued pursuant to this section.

(3) The issuing officer is authorized to issue administrative inspection warrants authorizing a building official to inspect named premises. In so doing, the issuing officer must determine from the affidavits filed by the building official, acting as an officer of the agency requesting the warrant, that:

(a) The agency has the statutory authority to conduct the inspection;

(b) Probable cause exists to believe that a violation of law has occurred or is occurring. For the purposes of this section, probable cause is not the same standard as used in obtaining criminal search warrants. In addition to a showing of specific evidence of an existing violation, probable cause can be found upon a showing of facts justifying further inquiry, by inspection, to determine whether a violation of any state law or local building, fire, or life safety code is occurring. This finding can be based upon a showing that:



(i) Previous inspections have shown violations of law and the present inspection is necessary to determine whether those violations have been abated;

(ii) Complaints have been received by the agency and presented to the issuing officer, from persons who by status or position have personal knowledge of violations of law occurring on the named premises;

(iii) The inspection of the premises in question was to be made pursuant to an administrative plan containing neutral criteria supporting the need for the inspection; or

(iv) Any other showing consistent with constitutional standards for probable cause in administrative inspections;

(c) The inspection is reasonable and not intended to arbitrarily harass the persons or business involved;

(d) The areas and items to be inspected are accurately described and are consistent with the statutory inspection authority; and

(e) The purpose of the inspection is not criminal in nature and the agency is not seeking sanctions against the person or business for refusing entry.

(4) The issuing officer shall immediately make a finding as to whether an administrative inspection warrant should be issued and if the issuing officer so determines, issue such warrant. No notice shall be required prior to the issuance of the warrant.

(5) All warrants shall include at least the following:

(a) The name of the agency and building official requesting the warrant;

(b) The statutory or regulatory authority for the inspection;

(c) The names of the building official or officials authorized to conduct the administrative inspection;

(d) A reasonable description of the property and items to be inspected;

(e) A brief description of the purposes of the inspection; and

(f) Any other requirements or particularity required by the Constitutions of the United States and the State of Tennessee regarding administrative inspections.

(6) All warrants shall be executed within ten (10) days of issuance.

(7) Any person who willfully refuses to permit inspection, obstructs inspection or aids in the obstruction of an inspection of property described in an administrative inspection warrant commits a Class C misdemeanor.

(8) Any person aggrieved by an unlawful inspection of premises named in an administrative inspection warrant may in any judicial or administrative proceeding move to suppress any evidence or information received by the agency pursuant to such inspection.

(9) If the court or the administrative agency finds that the inspection was unlawful, such evidence and information shall be suppressed and not considered in the proceeding. (*Tennessee Code Annotated*, § 68-120-117.)

**3-509. Inspections of residential property with code violations.**

If any residential rental property has three (3) code violations cited on three (3) separate dates within a six (6) month period, the municipal agency or department that is responsible for enforcement of building codes is authorized to conduct an in-home inspection of the property, regardless of whether the landlord or a tenant is in possession of the property.

(1) The municipal agency or department that is responsible for enforcement of building codes may enter the dwelling unit only:

(a) With the consent of the tenant in possession;

(b) With a validly issued search warrant; or

(c) In the event of an emergency presenting an immediate threat to the health, safety, and welfare of the tenant in possession.

(2) Entry shall comply in all respects with Amendment IV of the Constitution of the United States, as well as Article I, § 7 of the Constitution of Tennessee. Entry shall be made in such manner as to cause the least possible inconvenience to the tenant in possession. (*Tennessee Code Annotated*, § 6-54-511)