

TITLE 3

MUNICIPAL COURT¹

[TO BE USED BY CITIES WITH CITY/TOWN COURTS NOT EXERCISING CONCURRENT JURISDICTION WITH COURTS OF GENERAL SESSIONS. IF THE CITY/TOWN COURT EXERCISES CONCURRENT JURISDICTION, SEE THE ALTERNATIVE TITLE 3 FOLLOWING CHAPTER 4.]

CHAPTER

1. CITY/TOWN JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

CHAPTER 1

CITY/TOWN JUDGE

SECTION

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

3-101. City/Town judge. The officer designated by the charter to handle judicial matters within the city/town shall preside over the city court and shall be known as the city/town judge.

[ALTERNATIVELY, IF THE CITY/TOWN WISHES TO PRESCRIBE THE APPOINTMENT, TERM AND DUTIES, ETC., OF THE CITY/TOWN JUDGE, USE THE FOLLOWING § 3-101 AS A GUIDE.]

3-101. City/Town judge. (1) Appointment. The city/town judge designated by the charter to handle judicial matters within the city/town shall be 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/town 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/town judge.

(2) Qualifications. The city/town judge shall be a minimum of _____ (____) years of age, be licensed by the State of Tennessee to practice law, and be

¹Charter reference

a resident of _____ County. If the city/town judge for any reason removes his domicile from _____ County after his appointment, the removal of his domicile shall automatically create a vacancy in the office of city/town judge.

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

3-102. Jurisdiction. The city/town 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 general penalty provision of this code.

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. 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; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

[The following sample section is for cities that want to provide a list of court costs for each item. See the alternative § 3-202 for court costs established as a single set fee.]

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

In all cases heard and determined by him, the city/town judge shall impose court costs in the amount of \$ _____. 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 the amount of thirteen dollars and seventy-five cents (\$13.75) in all cases on which state litigation tax is levied.

3-203. Disposition and report of penalties and costs. All funds coming into the hands of the city judge 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 he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all penalties and costs imposed by his court during the current month and to date for the current fiscal year.

3-204. 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/town judge, the judge may, in his discretion, issue a summons ordering the alleged offender personally to appear before the city/town court at a time specified therein to answer to the charges against him. 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/town court as commanded in a summons lawfully served on him, 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/town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his 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/town court against him may, within ten (10) days¹ thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond.

"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

(a) Files the following 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) Files an accompanying affidavit of indigency.

The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated.

"Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity or the municipality.

¹State law reference

Tennessee Code Annotated, § 16-18-307.

TITLE 3

MUNICIPAL COURT¹

[TO BE USED BY CITIES/TOWNS WITH CITY/TOWN COURTS EXERCISING CONCURRENT JURISDICTION WITH COURTS OF GENERAL SESSIONS.]

CHAPTER

1. CITY/TOWN JUDGE.
2. COURT CLERK.
3. COURT ADMINISTRATION.
4. WARRANTS, SUMMONSES AND SUBPOENAS.
5. BONDS AND APPEALS.

CHAPTER 1

CITY/TOWN JUDGE

SECTION

- 3-101. City/Town judge.
 3-102. Jurisdiction.
 3-103. Popular election, term, salary, etc.

3-101. City/Town judge. The officer designated by the charter to handle judicial matters within the city/town shall preside over the city/town court and shall be known as the city/town judge.

3-102. Jurisdiction. (1) Violation of municipal ordinances. The city/town 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 general penalty provision of this code.

(2) Violation of state laws. The city/town judge shall also have the authority to exercise jurisdiction concurrent with courts of general sessions in all cases involving the violation of the criminal laws of the state within the corporate limits of the city/town.

3-103. Popular election, term, salary, etc. (1) Popular election. At the next regular judicial election held in accordance with art. VII, § 5 of the Tennessee Constitution, and every eight (8) years thereafter, the city/town

¹Charter reference

judge shall be elected by the qualified voters of the city/town for a term of eight (8) years. The city/town judge shall take office September 1 next following his or her election. However, the office of city/town judge during the interim period before the next regular judicial election held in accordance to art. VII, § 5 of the Tennessee Constitution shall be filled as follows:

(a) The board of mayor and aldermen shall appoint a city/town judge to serve until the next regular August general state election;

(b) At the next regular August general state election that takes place at least thirty (30) days after the effective date of this chapter, the qualified voters of the city/town shall elect a city/town judge to serve until the next regular judicial election held in accordance to art. VII, § 5 of the Tennessee Constitution.

(2) Qualifications. The city/town judge shall be a resident of the City/Town of _____ one (1) year and a resident of Tennessee five (5) years immediately preceding his election, at least thirty (30) years old and licensed to practice law in Tennessee.

(3) Vacancies in office. Vacancies in the office of city/town judge shall be filled by the board of mayor and aldermen for the unexpired portion of the term.

(4) Salary. The salary of the city/town judge shall be ____ per month.

CHAPTER 2
COURT CLERK

SECTION

- 3-201. Election of court clerk.
- 3-202. Qualifications.
- 3-203. Oath.
- 3-204. Duties.
- 3-205. Removal.

3-201. Election of court clerk.¹ At the next regular August general state election, and every four (4) years thereafter, the court clerk shall be elected by the qualified voters of the city/town for a term of four (4) years. The court clerk shall take office on September 1 immediately following the election. However, the office of court clerk during the interim period between the effective date of this chapter and the next regular August general state election shall be filled by the board of mayor and aldermen as follows:

- (1) The board of mayor and aldermen shall appoint a court clerk to serve until the next regular city/town election;
- (2) At the next regular city/town election, the qualified voters of the city/town shall elect a court clerk to serve until the next regular August general state election.

3-202. Qualifications. The court clerk shall be a resident of the City/Town of _____ one (1) year next preceding election, and shall continuously reside within the city/town during the term of office.

3-203. Oath. The court clerk shall take the oath of office prescribed for clerks of courts by state law.²

3-204. Duties. The court clerk shall have all the powers and duties prescribed for clerks of courts of general sessions.³

¹State law reference
Tennessee Code Annotated, §§ 2-3-202 and 18-4-101.

²State law reference
Tennessee Code Annotated, § 18-1-103.

³State law reference
Tennessee Code Annotated, § 18-4-203.

3-205. Removal. The city/town court clerk may be removed from office or ousted for the following reasons:

- (1) Conviction of a misdemeanor in office or of a felony;
- (2) Failing to give security required by law or ordinance;
- (3) Failing to pay over public money collected officially;
- (4) Incompetency or neglect of duty or official misconduct in office;
- (5) Any other cause to which the penalty of removal is attached by law.

CHAPTER 3

COURT ADMINISTRATION

SECTION

3-301. Maintenance of docket.

3-302. Imposition of penalties and costs.

3-303. Disposition and report of penalties and costs.

3-304. Contempt of court.

3-305. Failure to appear.

3-301. Maintenance of docket. The city/town court clerk shall keep a complete docket of all matters coming before the city/town judge. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

3-302. Imposition of penalties and costs. All penalties and costs shall be imposed by the city/town judge and recorded by the court clerk on the city/town court docket in open court. In cases in which the court is exercising general sessions jurisdiction, the costs imposed shall be those amounts provided by the general laws.

In all municipal ordinance violation cases heard and determined by him, the city/town judge shall impose court costs in the amount of _____ (\$_____). 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.

3-303. Disposition and report of penalties and costs. All funds coming into the hands of the city/town judge or clerk in the form of penalties, costs, and forfeitures shall be recorded and paid over daily to the city/town. At the end of each month he/she shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all penalties and costs imposed by his court during the current month and to date for the current fiscal year.

3-304. Contempt of court. Contempt of court is punishable as provided by general law.

3-305. Failure to appear. Any person who fails to appear in city/town court to answer a summons or citation for the violation of any ordinance or provision of this code shall be guilty of a civil offense punishable under the general penalty provision of this code. Any person who fails to appear to answer

a summons or citation for prosecution of a criminal violation of the law may have a warrant issued for their arrest and face further punishment as provided by general law.

CHAPTER 4

WARRANTS, SUMMONSES AND SUBPOENAS**SECTION**

3-401. Issuance of arrest warrants.

3-402. Issuance of summonses.

3-403. Issuance of subpoenas.

3-401. Issuance of arrest warrants.¹ The city/town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

3-402. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city/town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the city/town court at a time specified therein to answer to the charges against him. 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/town court as commanded in a summons lawfully served on him, 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.

3-403. Issuance of subpoenas. The city/town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

¹State law reference

For authority to issue warrants see *Tennessee Code Annotated*, title 40, chapter 6.

CHAPTER 5

BONDS AND APPEALS

SECTION

- 3-501. Appearance bonds authorized.
- 3-502. Appeals.
- 3-503. Bond amounts, conditions, and forms.

3-501. Appearance bonds authorized. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city/town ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city/town court of this city/town in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city/town court, and shall state such period of validity on its face.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city/town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of *Tennessee Code Annotated*, § 55-50-801, *et seq.*

3-502. Appeals. Any defendant who is dissatisfied with any judgment of the city/town court against him may, within ten (10) days¹ next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.

¹State law reference

Tennessee Code Annotated, § 27-5-101.

3-503. Bond amounts, conditions, and forms. (1) Appearance bond.

An appearance bond in any case before the city/town court shall be in such amount as the city/town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city/town court at the stated time and place.

(2) Appeal bond. An appeal bond in an ordinance case shall be two hundred fifty dollars (\$250.00) for such person's appearance and the faithful prosecution of the appeal.

(3) Form of bond. An appearance in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property within the county.

(4) Pauper's oath. A bond is not required provided the defendant/appellant

(a) Files the following 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) Files an accompanying affidavit of indigency.

The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated.