

TITLE 3

MUNICIPAL COURT

CHAPTER

1. TOWN COURT.

CHAPTER 1

TOWN COURT¹

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3-101. Municipal judge. (1) Appointment and term. A municipal judge shall be appointed by the board of mayor and aldermen for a term of two (2) years, or until the next regular town election to fill vacancies in the office of mayor and/or aldermen next following the appointment of the municipal judge, whichever period is shorter. Vacancies in the office of the municipal judge arising from resignation, disqualification or for any other reason whatsoever, shall be filled in the same manner and for the same term prescribed for the appointment of the municipal judge.

(2) Qualifications. The municipal judge shall be a minimum of thirty (30) years of age, be licensed by the State of Tennessee to practice law, and be a resident of Hamilton County. If the municipal judge for any reason no longer

¹Charter reference

For charter provisions respectively giving the mayor and the recorder, or some other properly appointed person, judicial authority, including jurisdiction concurrent with that of a sessions court, see Tennessee Code Annotated, sections 6-1-406 and 6-2-403.

maintains his domicile in Hamilton County after his appointment, such removal of his domicile shall automatically create a vacancy in the office of municipal judge.

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

(4) Powers and jurisdiction. The municipal judge shall be vested with the judicial powers and functions of the town recorder, and shall be subject to the provisions of law and the town's charter governing the town court presided over by the town recorder. The municipal judge shall have jurisdiction over violations of the charter, ordinances, and resolutions of the Town of Walden. The municipal judge shall be vested with concurrent jurisdiction with judges of the Court of General Sessions, in all cases of violation of the criminal laws of the state, or of the ordinances of the town within the limits of said town. The municipal judge of this court shall have authority to impose fines, costs, forfeitures, and imprisonment in jail or workhouse as provided by the charter and ordinances of said town, and the laws of the State of Tennessee. The municipal judge shall have the power of a committing magistrate, including the power to bind the offender over to the Criminal Court of Hamilton County. The municipal judge shall have such additional powers and shall be charged with such additional duties as are set forth by this chapter.

(5) Oath. The municipal judge before entering on the duties of his appointment shall take an oath, or affirmation, before a Court of Appeals Judge, Circuit Judge, or Chancellor, as follows:

"I, _____, do solemnly swear that I will support the Constitution of the United States and the State of Tennessee and the ordinances of the Town of Walden, Tennessee, and that I will administer justice without respect to persons, and do equal rights to the poor and the rich, and that I will faithfully and impartially discharge all the duties incumbent upon me as a judge to the best of my abilities."

(6) Judge to execute bond. Before assuming his duties, the municipal judge shall execute a bond in a responsible bonding company in the amount of two thousand five hundred dollars (\$2,500.00) conditioned to faithfully account for all funds coming into his hands as such municipal judge. The cost of this bond shall be paid for by the Town of Walden.

(7) Compensation. The compensation of the municipal judge shall be such as may from time to time be fixed by ordinance of the board of mayor and aldermen, but such compensation shall not be altered during the term for which the municipal judge is appointed. (Ord. #70, March 1982, as modified)

3-102. Maintenance of docket. The municipal 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; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (Ord. #70, March 1982)

3-103. Issuance of arrest warrants.¹ Only the municipal judge, mayor and the town recorder shall have the power to issue warrants for the arrest of persons charged with violating town ordinances. He may also issue warrants for the arrest of persons charged with violating the laws of the state. (Ord. #70, modified)

3-104. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the municipal 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 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 town code or ordinance alleged to have been violated. Upon failure of any person to appear before the 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. It shall be unlawful for any person to whom a summons or a citation to appear before the town court has been issued to fail to appear as set out on said summons or citation. (Ord. #36, May 1979 and Ord. #70, March 1982)

3-105. Issuance of subpoenas. The municipal 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. (Ord. #70, March 1982)

3-106. Appearance bonds authorized. (1) Posting bond. When the municipal judge is not available or when an alleged offender requests and has

¹Charter reference

But, see section 6-1-406(7) of charter (authorizing mayor to perform duties of justice of the peace).

State law reference

Tennessee Code Annotated, sections 40-6-202 (power of magistrates) and 40-1-106 (defined).

reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the municipal judge or, in the absence of the judge, with the town court clerk, or in the absence of the town court clerk, with the ranking police officer on duty at the time, provided such alleged offender is not under the influence of alcohol or drugs.

(2) Deposit of driver's license in lieu of bail. Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with a violation of any municipal ordinance regulating traffic, except driving under the influence of any intoxicant or narcotic drug or leaving the scene of an accident, said 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 town court in answer to any such charge before said court.¹

(3) 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 town court, and shall state such period of validity on its face.

(4) Failure to appear. 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 town court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, section 55-7-401 et seq. (Ord. #37, May 1979, as modified and Ord. #70, March 1982)

¹State law reference

See Tennessee Code Annotated, sections 55-50-801 and 55-50-802 for statutory authority.

Municipal code reference

Motor vehicles, traffic and parking regulations: title 15.

3-107. Imposition of fines, penalties, and costs. All fines, penalties, and costs as set by the board of mayor and aldermen¹ shall be imposed and recorded by the municipal judge on the town court docket in open court.

¹See Ord. #97-189 (July 1997) of record in the office of the recorder for costs of the municipal court of the Town of Walden.

In all cases heard or determined by him, the municipal judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases.

3-108. Immediate trial. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the municipal judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (Ord. #79, March 1982)

3-109. Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days² next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.

3-110. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the municipal judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in such sum as the municipal judge shall prescribe, not to exceed the sum of two hundred and fifty dollars (\$250.00), and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond 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. No other type bond shall be acceptable. (Ord. #70, March 1982)

3-111. Disposition and report of fines, penalties, and costs. All fines and costs shall be imposed and recorded by or caused to be recorded by the municipal judge on the town court docket in open court. After any fine and costs have been so imposed and recorded, the judge shall have no power to remit or release the same or any part thereof except when necessary to correct an error.

All funds coming into the hands of the municipal judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over

¹State law reference

Tennessee Code Annotated, section 8-21-401.

²State law reference

Tennessee Code Annotated, section 27-5-101.

daily to the town. 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 fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (Ord. #70, March 1982)

3-112. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (Ord. #70, March 1982)