



From: John Eskew, MTAS Municipal Courts Specialist
Re: Municipal Court Fines Retained by the City and Legal Analysis
Date: May 15, 2023

A common question asked by municipal courts is what fines are retained by the cities, and which fines are submitted to the Department of Safety. What are the statutes in the Tennessee Code Annotated that permit cities to retain certain fines, and which statutes mandate those fines be forwarded to the Department of Safety?

In short, MTAS has long opined that for traditional city courts (i.e. courts not exercising concurrent general sessions jurisdiction) may keep the fine money for almost all city ordinance violations, including those Class C Misdemeanor “Rules of the Road” violations if they are adopted into the city’s code. However, traditional city courts are required to forward the fine money collected to the Department of Safety for these three offenses:

1. Seatbelt offenses – TCA 55-9-603
2. Child Restraint offenses – TCA 55-9-602
3. Driver’s License violations – TCA 55-50-301 et. seq. (assuming those DL violations are Class C Misdemeanors)

For all other motor vehicle violations eligible to be heard in traditional municipal courts, the cities have the authority to retain those fines if the city properly establish jurisdiction under the Municipal Court Reform Act and other applicable case law.

Lastly, cities can keep all fines for municipal ordinance violations that are unrelated to motor vehicles (such as grass too tall, junk cars, leash law violations, noise ordinances, etc.) because those offenses are city specific and do not have any involvement with the Department of Safety.

Tennessee Constitution establishing courts with criminal and civil jurisdictions.

In Article VI, Section 1 of the Tennessee Constitution discusses the various types of courts in Tennessee. It reads as follows:

Section 1. The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery and other **Inferior Courts** as the Legislature shall from time to time, ordain and

establish; in the judges thereof, and in justices of the peace. **The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary.** Courts to be holden by justices of the peace may also be established.

Tenn. Const. Article VI, Section 1. (Emphasis added).

This paragraph establishes circuit courts, chancery courts, and “other inferior courts.” It also establishes “Corporation Courts.” In this case, “other inferior courts” include general sessions courts. General sessions courts are typically county courts and allowed to exercise both civil and criminal jurisdiction. In contrast, “Corporation Courts” are now referred to as traditional city courts.

The Municipal Court Reform Act does permit some municipal courts to exercise concurrent general sessions jurisdiction, which means those courts have the same authority as a county general sessions court to hear criminal cases. Although unlike a county general sessions court, a municipal court with concurrent general sessions jurisdiction cannot hear civil cases, only criminal cases.

Because these municipal courts exercising general sessions jurisdiction are considered “Inferior Courts” their judges are constitutionally required to be elected to an eight-year term and must live within the judicial district. Lastly, these municipal courts exercising concurrent general sessions jurisdiction are permitted to hear the same city ordinance and traffic cases just like a traditional city court.

A Corporation Court, aka, a traditional city court, does not have the legal authority to hear criminal cases. These courts are civil in nature. These judges can either be elected by the voters or appointed by the city council or board of alderman. The city’s charter or municipal code governs the method of judge selection.

In 2001, the Tennessee Supreme Court held in City of Chattanooga v. Davis, 54 S.W.3d 248, 259 (2001) that traditional city courts were “civil in nature” and any fine assessed is limited to \$50 pursuant to Article VI, Section 14 of the Tennessee Constitution. In this case, “civil in nature” means not a criminal court and there is no chance of going to jail for a municipal offense. Also, there are no opportunities for a jury trial in a traditional city court.

At the time of this writing in 2023, there are 275 municipal courts in Tennessee, but only 24 of those courts exercise concurrent general sessions jurisdiction. Therefore, 251 courts are traditional city courts.

Distinguishing between criminal offenses and municipal code offenses.

The most prominent case that distinguishes between a criminal court offense and a municipal code offense is the 2016 case City of La Vergne v. LeQuire 2016 WL 6124117 (Tn. Ct. App. 2016). In this case, a city police officer cited a driver for speeding. The case was set for city court. However, the ticket only referenced the state criminal Class C misdemeanor charge of TCA 55-8-152. The City properly adopted the Rules of the Road ordinance into its municipal code, but unfortunately the police officer did not cite the municipal code section that adopted the Rules of the Road on the ticket.

The defendant driver argued the La Vergne Municipal Court did not have proper jurisdiction to hear the case. The citation only referred to a state criminal charge TCA 55-8-152, and because the La Vergne municipal court is a traditional city court and civil in nature, it did not have jurisdiction to hear criminal cases. He further argued because the ticket only mentioned a state criminal charge, he did not have proper notice to prepare a civil municipal code defense instead of a criminal defense.

The City argued that because the TCA violation was a \$50 fine and the municipal code violation was also a \$50 fine it was a harmless error, and because the City adopted the Rules of the Road ordinance, the two charges were interchangeable.

The Court of Appeals disagreed with the City's argument and ruled in favor of the defendant driver. Ultimately the Court of Appeals ruled that because the speeding statute TCA 55-8-152 is a Class C Misdemeanor, it is a criminal charge. Meanwhile, the City's adoption of the Rules of the Road ordinance also includes the same speeding charge, but a municipal court is civil in nature. While the fine for both the criminal charge and the municipal code charge is a maximum of \$50, the state criminal charge has the possibility of up to 29 days in jail while the municipal code violation never has the possibility of jail. Therefore the Court of Appeals said that these two charges were not interchangeable.

Additionally, the Court of Appeals said that in order to properly establish these motor vehicle offenses in municipal courts, the citation given to the driver must do two things, (1) the ticket must cite the specific

municipal code section adopting the motor vehicle violation, and (2) the ticket must describe what the violation was.

For example, if a city adopts a Rules of the Road ordinance as “Municipal Code Section 15-122,” that city ordinance may only be one paragraph, but that one paragraph may incorporate over 100 different Rules of the Road violations.

For clarity, here is an excerpt from the MTAS sample Rules of the Road Ordinance where you can see one paragraph adopting numerous state motor vehicle violations:

15-XXX. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated § 16-18-302, the Town of (CITY/TOWN) adopts by reference as if fully set forth in this section, the “Rules of the Road,” as codified in Tennessee Code Annotated §§ 55-8-101 through 55-8-131 and §§ 55-8-133 through 55-8-191, § 55-8-193, § 55-8-199, §§ 55-8-203 through 55-8-205, § 55-8-212 and § 55-8-304. Additionally, the Town of (CITY/TOWN) adopts Tennessee Code Annotated §§ 55-4-101 through 55-4-128, §§ 55-4-130 through 55-4-133, §§ 55-4-135 through 55-4-138, §§ 55-9-401 through 55-9-408, §§ 55-9-601 through 55-9-606, § 55-12-139, § 55-50-333, and § 55-50-351, by reference as if fully set forth in this section.

In order to give specificity to the driver so the driver can prepare a defense, the officer would need to indicate on the ticket this was a municipal code violation to establish jurisdiction in city court (i.e. Municipal Code 15-XXX above), and then specify on the ticket which particular violation occurred (i.e., speeding, improper passing, seatbelts, etc.)

In summary, in order to establish proper jurisdiction in a traditional city court the citation needs to refer to both the municipal code section adopting the Rules of the Road, and then specify which violation occurs. If there is no reference to any municipal code section on the ticket handed to the driver, there is precedent that the city court does not have jurisdiction and that ticket should either be amended to reflect the municipal code reference, transferred to general sessions criminal court, or otherwise dismissed for lack of jurisdiction. City of La Vergne, 2016 WL 3124117 at 6.

State statutes establishing jurisdiction to hear motor vehicle violations in city court as city ordinance violations.

With all of this in mind, let's discuss how to properly establish jurisdiction in municipal courts, clarify that these cases are city ordinance violations and not state criminal violations, and lastly, who gets the fine money. There are four main elements to achieve this:

1. Tennessee law allows cities to adopt state Class C Misdemeanors into their municipal codes,
2. Cities must actually adopt these Class C Misdemeanors into their municipal codes,
3. The city ordinance must be the primary violation on each ticket to establish jurisdiction into city court and to make clear that the violation was for a municipal code violation, not a state criminal charge.
4. Cities can keep the fine money unless the state TCA violation specifically says the Department of Safety gets the money.

Let's discuss each step individually.

Step 1: Cities can adopt state Class C Misdemeanors into their city codes

The Municipal Court Reform Act under TCA 16-18-302(a)(2) created the jurisdiction for a city court to hear Class C Misdemeanors in city courts. It reads as follows:

(2) A municipal court also possesses jurisdiction to enforce any municipal law or ordinance that mirrors, substantially duplicates or incorporates by cross-reference the language of a state criminal statute, if and only if the state criminal statute **mirrored, duplicated or cross-referenced** is a Class C misdemeanor and the maximum penalty prescribed by municipal law or ordinance is a civil fine not in excess of fifty dollars (\$50.00).

Tenn. Code Ann. § 16-18-302 (West) (emphasis added).

The key phrase here is "mirrored, duplicated, or cross referenced." A broad, catch all ordinance saying "The city adopts all state misdemeanors" is not sufficient because it does not mirror, duplicate or cross reference any specific statute. In contrast, the Rules of the Road statute does cross reference the eligible statutes and would suffice.

Additionally, TCA 55-10-307(a) provides statutory authority to adopt certain motor vehicle violations into its city code as municipal ordinances.

- (a) Any incorporated municipality may by ordinance adopt, by reference, any of the appropriate provisions of chapter 8 of this title, §§ 55-10-101 -- 55-10-310, 55-12-139, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, and 55-10-312, and may by ordinance provide additional regulations for the operation of vehicles within the municipality, which shall not be in conflict with the listed sections. All fines, penalties, and forfeitures of bonds imposed or collected under the terms of §§ 55-50-311 and 55-50-312, shall be paid over to the appropriate state agency as provided in § 55-50-604.

Tenn. Code Ann. § 55-10-307 (West)

It is worth noting that the “Chapter 8” in that statute refers to TCA 55-8-101 et. seq. which is the Rules of the Road chapter that itemizes many motor vehicle violations like speeding, illegal passing, stop signs, traffic lights, etc.

Please note that we have two separate statutes granting cities authority to adopt Class C motor vehicle violations into its city code to be heard as municipal ordinance violations in city courts. This is very important and we will revisit this issues of jurisdiction and monetary fines later.

Step 2: Cities need to adopt these Class C misdemeanors into their city codes.

Thankfully, this is easy to do. The city should adopt the Rules of the Road into its municipal code as a municipal violation just as it would pass any other ordinance. MTAS has a sample Rules of the Road ordinance for cities to adopt on its website <https://www.mtas.tennessee.edu/courts>.

For many years, the MTAS sample was the short, one paragraph section mentioned above. Recently however, MTAS has developed a longer, more detailed Rules of the Road ordinance that specifically adopts each specific TCA violation as a city ordinance violation. Here is an excerpt for example:

15-XXX **Adoption of state traffic statutes.** By reference granted under Tennessee Code Annotated, § 16-18-302, the City of _____ adopts by reference as if fully set forth in this section, the “Rules of the Road”:

- (1) “Crimes and Offenses,” as set forth in *Tennessee Code Annotated*, § 55-8-103.
- (2) “Compliance with Lawful Orders or Directions of Police Officers,” as set forth in *Tennessee Code Annotated*, § 55-8-104.

- (3) "Riding Animals or Driving Animal Drawn Vehicles," as set forth in *Tennessee Code Annotated*, § 55-8-105.
- (4) "Officers and Employees," as set forth in *Tennessee Code Annotated*, § 55-8-106.
- (5) "Working upon Highway Surface," as set forth in *Tennessee Code Annotated*, § 55-8-107.

This updated ordinance is designed to make it abundantly clear that each TCA motor vehicle violation is adopted one by one into the city code as a separate city offense with a separate subparagraph. This is intended to remove any confusion or ambiguity that these offenses are city ordinance violations, and not state criminal violations.

Step 3: The police officer must write the city ordinance as the primary violation on each ticket to establish jurisdiction to city court and to make it clear these are city code charges, not criminal charges.

Recall back to our City of La Vergne case. The Court of Appeals said that the police officer must cite the city ordinance as the violation on the ticket to establish jurisdiction in city court, and the ticket must also specify which Rule of the Road was violated (speeding, due care, passing, stop sign, etc.). If you do not have the city ordinance on the ticket, then you have not properly established municipal court jurisdiction and would be subject to a challenge from the defendant on whether this was a city ordinance violation (civil in nature), or a state criminal charge.

If a city adopts the long form, itemized Rules of the Road ordinance, the officer only has to mention the ordinance and specific subparagraph for the violation. So if it were a speeding offense, the ticket would only need to say, "City Code 15-122(55) "Speed Limits," as set forth in *Tennessee Code Annotated*, § 55-8-152."

If the city has previously adopted the short form MTAS sample Rules of the Road, it would need to cite the city ordinance and additionally specify which violation occurred. So if you have a standard paper traffic ticket, you would still check the box for "Speeding, TCA 55-8-152" and write in the narrative the specific city ordinance that adopted the Rules of the Road." For example:



Specific TCA offense violated

VIOLATION	AFORESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:										
	x	TCA 55-8- 152	CONSTRUCTION ZONE:			Y	N	RADAR	OTHER		
	01	SPEEDING 78 MPH IN 65 ZONE	WORKERS PRESENT			Y	N	PACING	LASER		
	20	DUI	Revoked/Suspended DL			OTHER OFFENSE:					
	Offense	22	□ 1 st Offense □ 2 nd or greater								
	T.C.A.	ORDINANCE			City Ordinance 15-125						

City Ordinance adopting State offense – This gives jurisdiction in city court.



The main takeaway from this Step 3 is if you adopt the Rules of the Road ordinance, and the ticket references the city ordinance on the ticket, these are municipal offenses, not state offenses.

Step 4: Cities can keep the fine money unless the state TCA violation specifically says the Department of Safety gets the money.

As mentioned above, TCA 16-18-302(a)(2) and TCA 55-10-307(a) both allow cities to adopt state motor vehicle violations as city offenses in its municipal code. Therefore, these are municipal offenses, not state offenses. Generally speaking, municipalities can keep the fine money for municipal offenses and do not have to send those to the state.

However, it is important to note the exception to this rule. Some TCA offenses explicitly state that the fine money goes to the Department of Safety. As a result, when a city adopts by cross reference these specific offenses, it also adopts the requirement that those particular fines go to the Department of Safety.

For a traditional city court, the most commonly adjudicated offenses where the Department of Safety receives the fine money is as follows:

1. Seat belt offenses – TCA 55-9-603 (where paragraph 603(d)(1) specifically states the fines go to a special fund in the Department of Safety)
2. Child restraint offenses – TCA 55-9-302 (where paragraph 602(f)(1) and (2) specifically states the fines go to a special fund in the Department of Safety)

3. Driver's license offenses – TCA 55-50-604 (where it says all fines for drivers license offenses are to be sent to the Department of Safety by the 15th of each month).

For courts exercising concurrent general sessions jurisdiction, there are more offenses where the state law requires a city to send certain fines and fees to the Department of Safety for alcohol offenses, drag racing, reckless driving, Traumatic Brain Injury Trust Fund offense, etc. For purposes of this memorandum, we will not address those because those offenses are Class A and Class B misdemeanor offenses and a traditional city court cannot hear those.

With all of that being said, if you read all of the other Class C misdemeanor Rules of the Road statutes, you will not find any specific requirements that the fines be sent to the Department of Safety. If you read the speeding statute, the Hands Free law, the Financial Responsibility law, etc. there are no statutory requirements that the state receives the fine money. Therefore, if these offenses are properly adopted as city violations, and they are heard in city courts, the city may keep the fine money because they are city offenses.

Brief discussion of TCA 55-10-303(a) and how this does not override a city's authority to retain fine money.

In the past few years, there has been an argument made that the fines for the Financial Responsibility violations (TCA 55-12-139) and Hands Free violations (TCA 55-8-199) should be sent to the Department of Safety. The statute cited for this was TCA 55-10-303(a). This statute reads as follows:

(a) All fines, penalties and forfeitures of bonds imposed or collected under any of the provisions of chapters 8 and 9 of this title, parts 1-5 of this chapter and § 55-12-139, except such as may be imposed or collected under § 55-10-401, shall, within fifteen (15) days following the last day of the month in which the fines, penalties and forfeitures of bond were received, be paid to the commissioner of safety, with a statement accompanying the same, setting forth the action or proceeding in which the moneys were collected, the name and residence of the defendant, the nature of the offense and fines, penalties, forfeitures or sentence, if any, imposed.

This is different from TCA 55-10-307 which allows cities to adopt these same violations as municipal offenses. That is why it is critical that cities adopt the Rules of the Road and cite the city ordinance on the ticket to establish jurisdiction.

When a police officer cites a city ordinance that adopted the Rules of the Road, the person is not cited for any violation of “chapters 8 and 9 of this title” or the other cited sections. Those are state law violations. If a person is cited for a municipal ordinance violation, those by definition are not state law violations mentioned in “Chapters 8 and 9” and the other cited offenses.

TCA 55-10-303(a) is really focused on violations cited by TN Highway Patrol officers, county sheriff’s deputies, or city police citing offenders directly into a county general sessions or circuit court. In those cases, yes, all fines for those state offenses should be sent to the Department of Safety under this statute. But if a city police officer cites a city ordinance violation into a city court, then TCA 55-10-307(a) governs for jurisdiction and fine retention.

Lastly, TCA 55-10-307(a) only requires the fine money for two specific violations be sent to the Department of Safety.

(a) Any incorporated municipality may by ordinance adopt, by reference, any of the appropriate provisions of chapter 8 of this title, §§ 55-10-101 -- 55-10-310, 55-12-139, 55-50-301, 55-50-302, 55-50-304, 55-50-305, 55-50-311, and 55-10-312, and may by ordinance provide additional regulations for the operation of vehicles within the municipality, which shall not be in conflict with the listed sections. **All fines, penalties, and forfeitures of bonds imposed or collected under the terms of §§ 55-50-311 and 55-50-312, shall be paid over to the appropriate state agency as provided in § 55-50-604.**

Tenn. Code Ann. § 55-10-307 (West) (emphasis added)

This paragraph explicitly states fine money for convictions of TCA 55-50-311 and 312 must be forwarded to the Department of Safety. Those two offenses involve violations of minor children and learners permit cases. Those matters will be heard in juvenile court and not a traditional city court.

Therefore, if the Legislature made a special effort to carve out a rule that the fine money for those two offenses be sent to the Department of Safety, but deliberately did not require any other motor vehicle fine be sent to the Department of Safety, it is proper to believe that the cities can rely on TCA 55-10-307(a) to retain the remaining fine money for violations of Chapter 8 and the other cited statutes.

Conclusion

In order to properly establish jurisdiction of motor vehicle offense in municipal courts and subsequently properly retain the fine money for most offenses, the city should do the following:

1. Adopt the Rules of the Road ordinance.
2. Instruct the police officers to write the city ordinance on the tickets to establish jurisdiction and specify what the offense was to allow the defendant proper notice to prepare a defense.
3. Traditional city court cities can retain the fine money for most motor vehicle violations. In a traditional city court, the Department of Safety is entitled to the fine money for (1) seatbelt offenses, (2) child restraint offenses, (3) Class C Misdemeanor driver's license offenses.

I understand this is a long memorandum and you likely will have follow up questions. As such, please do not hesitate to reach out and discuss these with me.

Thank you,

John Eskew
MTAS Municipal Court Specialist