



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Penalties for Violations of Municipal Ordinance

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Table of Contents

Penalties for Violations of Municipal Ordinance	3
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A fine for a municipal ordinance violation may not exceed \$50 unless the fine is "remedial." See *City of Chattanooga v. Davis* and *Barrett v. Metropolitan Government of Nashville and Davidson County*, 54 S.W. 3rd. 248 (Tenn. 2001). Examples of fines that are remedial include those that recover administrative expenses, disgorge ill-gotten gains, provide restitution, or are prospectively coercive. Home rule municipalities may recover actual administrative expenses incurred to enforce ordinances that prohibit false threats or hoaxes involving biological weapons, destructive devices, or weapons of mass destruction. T.C.A. § 6-54-306.

It is questionable whether any municipal court in Tennessee may impose jail sentences for municipal ordinance violations. The only exception **may** be the **willful non-payment** of a fine for an ordinance violation. An indigent person may **not** be jailed simply for non-payment of penalties. See, Tenn.Op.Atty.Gen 06-135 (8/21/06), 2006 WL 2929088; T.C.A. § 40-24-104; *Tate v. Short*, 401 U.S. 395, 28 L.Ed. 2d 130 (1971)(equal protection discussion relative to nonpayment of a fine).

T.C.A. § 29-9-108 makes failure to appear without just cause a contempt of court offense punishable by a \$10 fine and up to five days imprisonment. However, this statute applies only to municipal courts with a metropolitan form of government, general sessions courts that also hear violations of municipal ordinances, and city courts that exercise jurisdiction over certain environmental cases in cities in Shelby County. In the latter instance, the defendant also may be punished for contempt of court for failure to correct a violation of the municipal code relating to health, housing, fire, or building and zoning codes.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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