



Definitions of Ordinance and Penalties

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,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

Table of Contents

Definitions of Ordinance and Penalties	3
--	---

Definitions of Ordinance and Penalties

Reference Number: MTAS-302

Definition of Ordinance

Any city ordinance passed by the local governing body is binding upon the community, but it is not a “law” in the legal sense. Municipal courts have long been considered “civil” courts rather than “criminal” courts. Unless a municipal court has concurrent general sessions criminal jurisdiction, only ordinance violations can be heard in municipal court.

Municipalities are authorized to adopt ordinances that mirror, substantially duplicate, or reference certain state laws for offenses that are Class C misdemeanors. The penalty for violating the ordinance cannot exceed \$50 and the municipal court cannot order imprisonment. Many cities have older ordinances in their codes that cannot be enforced, as the state offenses mirrored are not Class C misdemeanors.

Cities having a population of more than 150,000 may also adopt state laws for driving without a valid driver’s license, reckless driving, and adult underage purchasing or possession of alcoholic beverages. Smaller cities may no longer enforce ordinances adopting such offenses, as they are Class A and B misdemeanors under state law.

Mirroring a state law means that the ordinance reads exactly the same as the state law, and “substantially duplicating” means that the ordinance contains the same general language or intent. Adopting a state statute by reference allows the city to pass an ordinance adopting a specific state statute by referencing the “citation” number of the statute. While the full content of the state statute would be in the ordinance, any future changes in the state law would automatically be included in the ordinance.

Definition of Penalties

The Tennessee constitution provides that no fine shall exceed \$50 unless it is assessed by a jury. Municipal courts do not have statutory authority to hold jury trials. The Tennessee Supreme Court has ruled that the constitutional limitation on fines applies to penalties for municipal ordinance violations that are punitive in nature, rather than remedial as referenced in *City of Chattanooga v. Davis* and *Barrett v. Metropolitan Government of Nashville and Davidson County*, 54 S.W.3d 248 (Tenn. 2001). In the Davis opinion, the court describes briefly the requirements that must be met in order to qualify a fine as remedial. These requirements include providing a detailed statement of expenses incurred by the city due to the individual offense cited. The court admits that it is difficult for cities to make the distinction between remedial and punitive fines. It has been recommended that all penalties for municipal ordinance violations be limited to \$50, pending further direction from the courts.

A violation of a municipal ordinance in and of itself cannot be punished by incarceration, since penalties for violations of municipal ordinances are civil in nature as seen in *Bristol v. Burrow*, 73 Tenn. 128 (1880); *Deitch v. Chattanooga*, 195 Tenn. 245, 258 S.W.2d 776 (1953); *Memphis v. Smthye*, 104 Tenn. 702, 58 S.W. 215 (1900); *Guidi v. Memphis*, 196 Tenn 13, 263 S.W.2d 532 (1953); *Metro Government of Nashville & Davidson County v. Allen*, 529 S.W.2d 699 (Tenn. 1975); *City of Chattanooga v. Myers*, 787 S.W.2d 921, 922 (Tenn. 1990); *Mullins v. State*, 380 S.W.2d 201 (Tenn. S.Ct. 1964); and *Chattanooga v. Davis*, 54 S.W.3d 248 (Tenn.S.Ct. 2001).

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.

Source URL (retrieved on 01/23/2020 - 5:21am): <https://www.mtas.tennessee.edu/reference/definitions-ordinance-and-penalties-0>



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE