

Conducting the Court

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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Opening the Court

Each judge may establish rules of conduct for the court, subject to the rights of any defendant appearing there. The judge may direct that court be opened formally by a bailiff or other person. The opening may take several forms, but, in essence, it is simply a statement that the court is in session and will proceed with the business before it. The judge may elect to “open” court without a bailiff or police officer.

Most city courts are somewhat less formal than their criminal court counterparts. The city court judge determines just how formal or informal the court will be. It should be noted that citizens appearing before the city court have an expectation of and deserve a professional atmosphere.

Neither the Tennessee Rules of Civil Procedure nor Tennessee Rules of Criminal Procedure apply in municipal court. Municipal courts may adopt portions of the Rules of Civil Procedure but may not adopt Rules of Criminal Procedure as municipal courts are considered civil in nature. Most of the Rules of Civil Procedure cannot apply to municipal court due to the lack of paperwork maintained in case files. For instance, clerks do not have the capability of maintaining case files with written discovery requests and motions as provided for in the Rules of Civil Procedure.

Oath or Affirmation

Witnesses may be sworn as a group before each case is heard, or they may be sworn separately when they are called to testify. Oath forms vary in different courts. The form of the oath used by many courts is:

"Do you solemnly swear or affirm that the testimony you are about to give in this trial is the whole truth and nothing but the truth?"

Occasionally, a witness may decline to take an oath or “swear” due to the person's religious convictions. Such people may affirm that they will speak the truth.

Calling for the Rule

The judge shall, on his/her own motion, or at the request of either party or their attorneys, separate all witnesses. This sequestration of witnesses, commonly referred to as “calling for the rule,” is a requirement that all witnesses except the prosecutor and the defendant leave the courtroom and wait outside for their turn to testify as found in *Rule 615, Tennessee Rules of Evidence*. This rule prevents witnesses from consulting with one another or being influenced by the testimony of others.

Plea of the Accused

After the judge notifies the defendant of the charge against him (speeding, allowing a dog to run at large, failure to stop at stop sign, etc.), the defendant must enter a plea. Usually, this is merely an oral denial of the charge. At this time the defendant may indicate to the court the facts he will be relying upon for his defense.

Accused's Rights as Witness

The accused may testify and admit, explain, or deny any allegation made against him by the prosecution. However, the defendant does not have to testify, and failure to testify shall not be used against him, based on the rights guaranteed by the Fifth Amendment to the United States Constitution.

Examination of Witnesses

The complainant (police officer or private citizen) usually is the first to testify. His complaint, stated to the court under oath, is known as direct or original testimony. Immediately after the conclusion of direct testimony, the other side must be allowed to question or “cross-examine” the witness. All prosecution witnesses testify and may be cross-examined before the defense presents its witnesses. Each defense witness then offers direct or original testimony. At the conclusion of each defense witness' direct testimony, the prosecution has the opportunity to cross-examine.

Direct Testimony

When either side is represented by counsel, leading questions—those that suggest the desired answer—usually can be prohibited if objected to by the other side.

Cross-Examination

Neither side is obligated to cross-examine any witness. Leading questions may be used in cross-examination without restriction. Cross-examination extends to all matters related to the case and is not restricted only to matters brought out by direct examination.

Directed Verdict/Dismissal

At the conclusion of testimony for the prosecution, the judge may dismiss the case without further testimony if he or she is of the opinion that the prosecutor has failed to create a presumption of guilt. For guidance on directed verdicts and dismissals, review Tennessee Rules of Civil Procedure 41.02 and 50. As stated above, the Tennessee rules of court do not apply to municipal courts. The rules are a good source for general guidance, especially when due process and notice are

at issue.

Argument of Counsel

In cases where the parties are represented by counsel, the attorneys on both sides may make an argument to the court, after all evidence is presented, of conclusions drawn from the evidence that are favorable to their clients. Neither side is compelled to make such an argument. The prosecutor has the right to make his argument first, followed by the defense. Neither attorney is a witness, and any representation of fact made during arguments must not be considered fact unless supported by evidence already introduced to the court. The judge may consider arguments based on facts submitted into evidence, applicable statutory law, and prevailing case law.

Final Decision of the Court

After all evidence has been presented, the trial judge must render a decision for or against the accused. In reaching the decision, the judge must weigh all properly introduced evidence presented to the court. To render a decision against the accused for a municipal ordinance violation, the court must find that a preponderance of the evidence has been produced against the accused. Being civil in nature, municipal ordinance violations do not require evidence beyond any reasonable doubt, as criminal cases do.

“Preponderance of the evidence” can best be described in this way: At the start of the trial, the scales of justice are balanced. As each side introduces evidence, the scale is weighted to one side or the other. At the conclusion of the trial, if the weight of evidence has tipped the scales against the accused, even slightly, the court should enter a judgment against the accused. If the scales are still balanced or are tipped in favor of the accused, the court should enter a judgment for the accused.

Results of Final Decision

When the court finds against the accused, the court may assess any fine that conforms to the state constitution, statutory law, and provisions of the charter and ordinances of the city. The accused may appeal a fine assessed for a city ordinance violation to the circuit court of the county in which the municipality is located. Any appeal must be made within 10 days of the final decision, excluding Sundays. At that time the accused must post an appeal bond with the city court clerk in the amount of \$250. T.C.A. § 16-18-307.

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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