

Citations

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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Reference Number: MTAS-398

Citation in Lieu of Arrest or Warrant

Police officers who have observed an ordinance violation or, upon investigating, have reason to believe a city ordinance violation has occurred may issue a citation to appear for trial instead of making an arrest, provided the person cited signs an agreement to appear and waives a warrant issuance. If the person refuses to sign such an agreement, the usual procedure of arrest, booking, and release on bail (or commitment to jail) applies. This procedure does not apply to non-residents of Tennessee or to a charge of driving while under the influence of intoxicants or drugs. T.C.A. §§ 7-63-101–107.

For arrests under Title 40 of the Tennessee Code, it is mandated that an officer use similar procedures for any misdemeanor. Specifically, T.C.A. § 40-7-118 includes a list of situations in which the officer may use discretion and either issue a citation or detain the person. Another list describes situations in which citations should not be issued. When using this list, the police officer must write on each ticket the reason for not issuing a citation. This statute is somewhat detailed, and city police officials should study it carefully.

Officers are mandated to use citations instead of arrests for traffic violations not requiring the offender to appear before a magistrate or judge. This statute also sets out some exceptions and a detailed procedure that should be studied carefully by police officers involved in traffic control. See, T.C.A. §§ 55-10-207 and 55-10-203.

Citations in Lieu of Arrest for Health and Sanitation Violations

In the areas of sanitation, litter control, and animal control, a city may, by ordinance or resolution, designate employees who have the power to issue ordinance summonses for violations of any ordinance, law, or regulation. Such an ordinance summons is to be treated as a citation in lieu of arrest. If the offender refuses to sign an agreement to appear in court, the employee may request the clerk of the court to issue a summons, or he or she may request a police officer to make an arrest or witness the violation and issue a citation in lieu of arrest, as provided in T.C.A. § 7-63-104. If the offender fails to appear in court after signing an ordinance summons agreement, the court shall issue a warrant.^[1] See *generally*, T.C.A. §§ 7-63-201–204.

^[1] Please take note of the municipal court's contempt powers under the Tennessee Municipal Court Reform Act, specifically T.C.A. § 16-18-306.

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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