



Municipal Court Foundations TCMA - Knoxville

Fall 2023



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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As Seen Across Tennessee

Since I started with MTAS, I have visited 193 cities at least once.

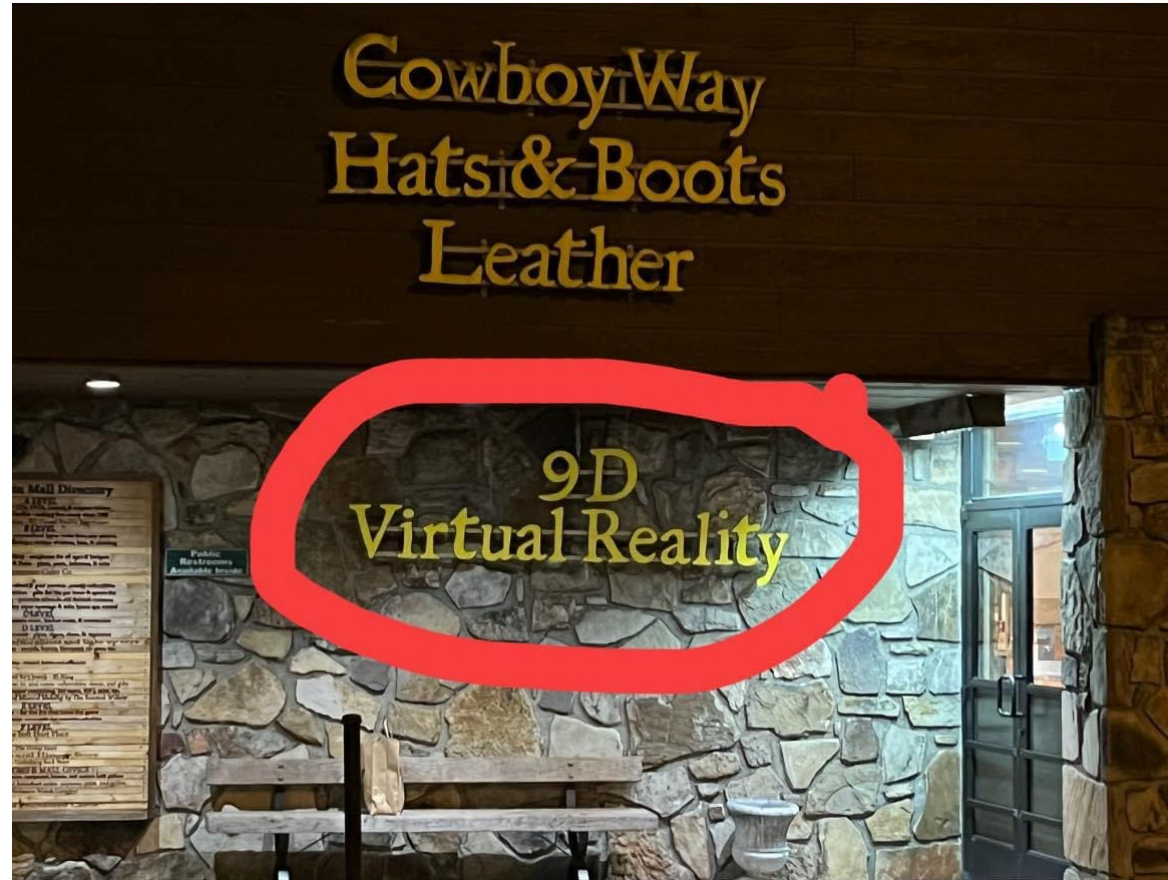
I have made 361 city visits during my three years so far.

I've seen some pretty amazing things that I've highlighted in my Foundations and Updates Class

However, these deserve their own honorable mentions.



Gatlinburg – Somehow discovered 6 additional scientific dimensions



Linden - Signs are Just Advisory



Graysville – Septic Industry Setting the Bar



Waverly –Oil Changes for the Health Conscious



Dyer – I'm afraid to ask.



Johnson City – Fries with a side of Inspiration



Gatlinburg – Cancel my plans, I'm going here.



Lastly – Johnson City – we all need this shirt



Modules

1

Municipal
Court
Reform Act

2

Fees, Court
Costs, and
Taxes

3

Reporting to
the State

4

Payment
Plan Laws

5

Frequent
Items and
New Stuff



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Jurisdiction for Municipal Courts

Charter

Code of Ordinances

Municipal Court Reform Act

Other state statutes



Charters – A city's birth certificate

Issued by the TN General Assembly

“What the legislature giveth, the Legislature can taketh away!”
– If the Legislature revokes the charter, the city dissolves.

Says what a city can do and cannot do.

Lays out the type of government structure you use. (Strong Mayor vs. Weak Mayor; City Manager form)



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Charters – Three different types



Charters – Three different types



Charters – Three different types

Charter
COMMUNICATIONS



Charters – A city's birth certificate

Three types of charters

- Private Acts – specific to a city (these must have been in existence prior to 1953)
- General Laws – apply to all cities within a certain class, city may adopt “form charter” that are written into the state code
- Home Rule – writes charter and adopts it in referendum.

Code of Ordinances

City's laws and its regulations

Passed by the city council or board of aldermen

Should be available for public viewing (online or in-office)

Can adopt certain state misdemeanors into code and enforce in city courts



Charter and Municipal Court's Jurisdiction

Charters
establish the
municipal court

Determines
power of the city
court

Determines if
judges are
elected or
appointed

Determines if
court clerks are
elected or
appointment

Municipal Court Reform Act – passed in 2004

Municipal Court Reform Act – TCA 16-18-301 et. seq. covers:

- Jurisdiction of Municipal Courts
- Types of offenses heard
- Clerk Duties
- Appeals
- Legal authority for fines, fees, court costs, taxes
- Judge and court clerk training

MCRA is a good guide but doesn't cover everything.

Definitions - TCA 16-18-301

There are two definitions in the Municipal Court Reform Act. These two definitions play a role in how one may interpret some of the actions or roles of a city court.

- TCA 16-18-301(b)(1) - “Any law to the contrary” includes, but is not limited to, any conflicting provision of any general statute, local law, private act, charter provision, municipal law, or municipal ordinance;
- TCA 16-18-301(b)(2) – “Municipal court” includes the city, town, mayor’s, recorder’s or municipal court, or other similarly functioning court, however designated, for any city, town, municipality or metropolitan government, whether the court exists pursuant to general statute, local law, private act, charter provision, municipal law, municipal ordinance or other legal authorization.

Municipal Court Jurisdiction – TCA 16-18-302(a)

The Municipal Court Reform Act starts off like this:

“For any municipality that does not have, on May 5, 2009, a municipal court that was ordained and established by the general assembly, a municipal court is created to be presided over by a city judge...”



Establishing a new municipal court

1. Pass ordinances establishing a municipal court (Title 3)
2. If have police, pass Rules of the Road ordinance (Title 15)
3. Property maintenance enforcement (Title 13)
4. Department of Revenue account
5. Court ID number (AOC will create one for you)
6. Court location, finance setup, misc.
7. Judge and court clerk
8. Call me and I come visit (because I'm super fun).



Municipal Court Jurisdiction – TCA 16-18-302

Pursuant to **T.C.A. § 16-18-302(a)(1) and (a)(2)** a municipal court can hear the following:

Part (1)

- Cases for violation of the laws and ordinances of the municipality; or
- Cases arising under the laws and ordinances of the municipality; **and**

Part (2)

- **City Ordinances that mirror/duplicate/ incorporate by reference State criminal laws that are Class C misdemeanors where the maximum penalty is a civil fine that does not exceed \$50**



Mostly traffic court, but really any Class C Misdemeanor

Two types of jurisdiction

Traditional jurisdiction vs. General Sessions jurisdiction

Tennessee Constitution – Article VI, Sec.1

ARTICLE VI.

Judicial Department.

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.

Two types of jurisdiction

Traditional Jurisdiction

- **Corporation Court**
- “Civil in Character”
- Hears municipal code ordinance violations
- Hears Class C misdemeanors adopted into the city code
- No risk of going to jail
- Most common

Concurrent General Sessions Jurisdiction

- **Inferior Court**
- Civil and criminal cases
- Hears municipal code violations
- Hears Class A, B, and C misdemeanors
- There is a risk of going to jail

“Inferior” vs. “Corporate” courts detailed in Town of South Carthage v. Barrett, 840 S.W.2d 895 (1992).



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City of LaVergne v. LeQuire

Key case about civil versus criminal court jurisdiction –

City of LaVergne v. LeQuire, 2016 WL 6124117

This case involves:

1. Municipal court jurisdiction.
2. What constitutes a city ordinance charge (civil, municipal court).
3. What constitutes a state criminal charge (state criminal court).
4. Are those two charges interchangeable?
5. What does your citation need to look like?
6. What happens if you cite the wrong thing?

But first...What are Rules of the Road?

Tennessee Code Annotated – TCA 55-8-101 through 307.

Laws passed by the legislature regulating traffic and operations of motor vehicles.

Examples:

- Speeding (TCA 55-8-152)
- Due Care (TCA 55-8-136)
- Running stop lights (TCA 55-8-110)
- Driving with an unlicensed mullet

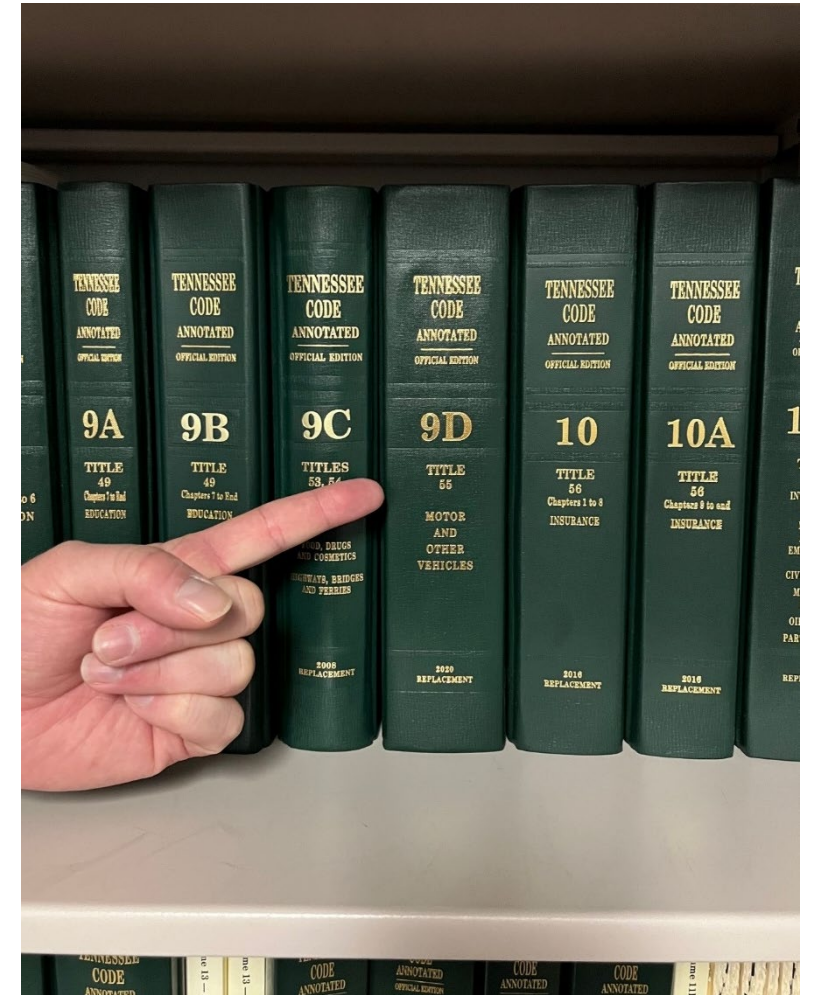


Side note – What is
the TCA?

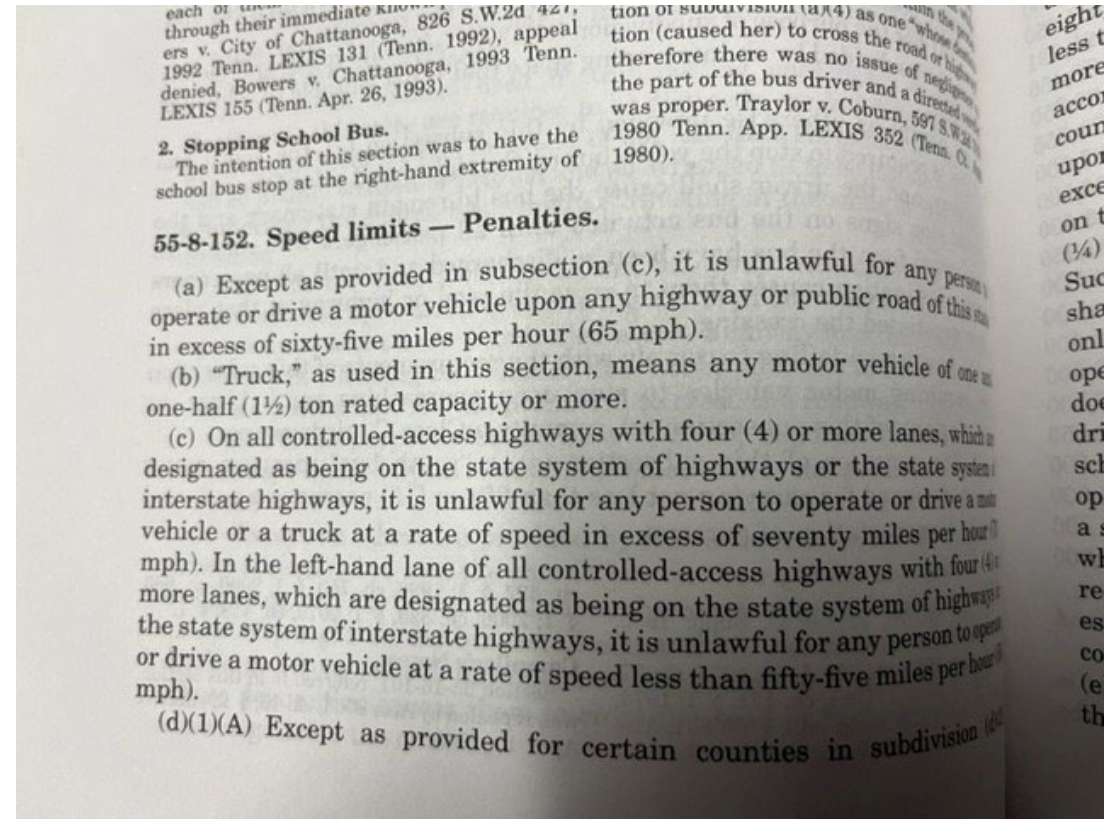
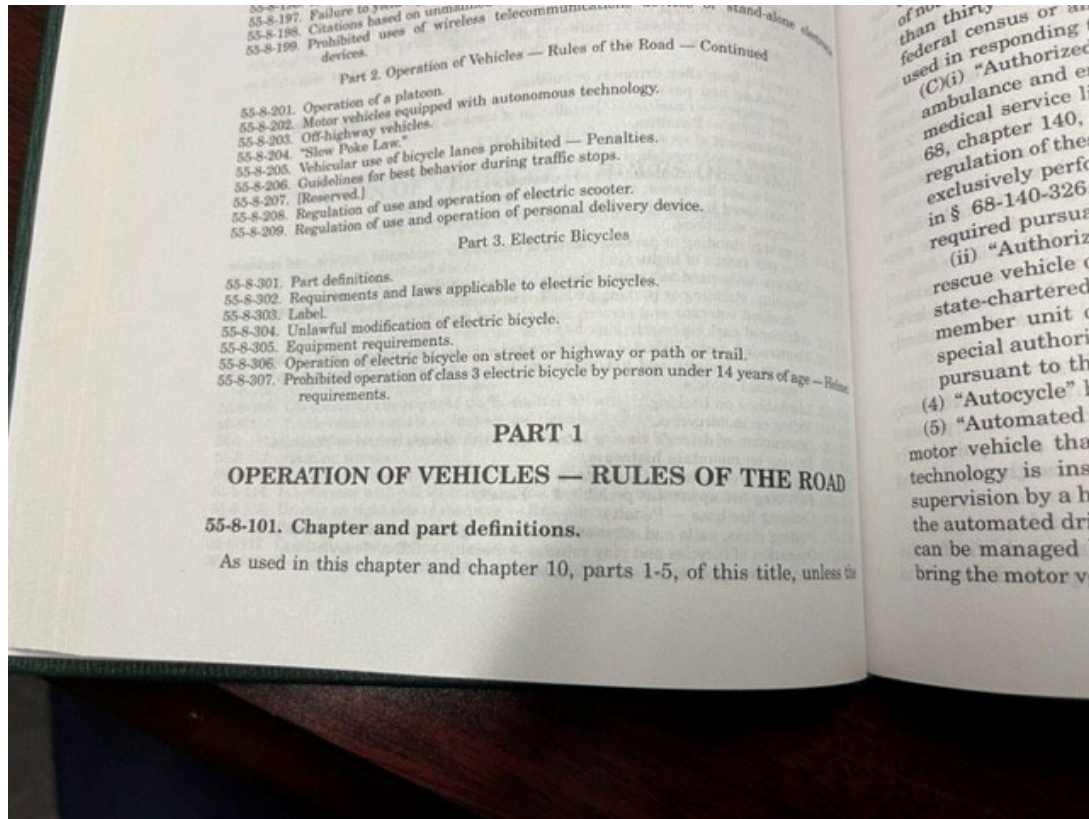
TCA = Tennessee
Code Annotated

Laws passed by
General Assembly

Signed by the
Governor



TCA – Example for Speeding



Side note to the side note – Statutory Citations Format

TCA = Tennessee Code Annotated

TCA 55 – 8 - 152 (Speeding)



Title



Chapter



Section

City of LaVergne v. LeQuire – quick facts

City police officer wrote a ticket for speeding to be heard in city court.

LaVernge adopted the “Rules of the Road” as a city ordinance, but....

But the citation only listed “Speeding - TCA 55-8-152.”

No reference to any city ordinance was on the ticket.

City of LaVergne v. LeQuire – quick facts

The defendant argued to the city judge that since the ticket only referenced a state criminal TCA charge, the municipal court did not have proper jurisdiction to hear it.

City judge ruled against him, saying the penalty is \$50 in either city court or state court, and he was convicted of speeding.

He appealed to circuit court and lost. He then appealed to the TN Court of Appeals, and they reversed the lower courts in favor of the defendant.

Ruling – Because the TCA is a criminal charge with a possibility of jail time, and since municipal courts are civil with no possibility of jail time, the two charges are not interchangeable, and you must give proper notice on the ticket of *exactly* what charge you are citing someone.



City of LaVergne v. LeQuire

City courts can hear Class C Misdemeanors that are adopted into the city code, but...

The citation issued must do two things:

1. Cite the city ordinance on the ticket to give the defendant notice that the violation is a civil violation, not a criminal violation, and
2. The citation must give sufficient notice of what Class C Misdemeanor was violated. Meaning the ticket needs to have the city ordinance and a reference to what specific violation occurred (detailing speeding, or the TCA code that was adopted into the Rules of the Road).

Example – Customized Citation Book (with blanks)

RESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):												
V I O L A T I O N	A	TCA 55-8-_____/ORD _____ SPEEDING _____ MPH IN _____ ZONE <input type="checkbox"/>	CONSTRUCTION ZONE: Y <input type="checkbox"/> N <input type="checkbox"/>		RADAR PACING		02	OTHER		04	STAT	
			WORKERS PRESENT Y <input type="checkbox"/> N <input type="checkbox"/>				03	LASER		05	F <input type="checkbox"/> R <input type="checkbox"/>	
	B	TCA 55-12-139/ORD _____ FINANCIAL RESPONSIBILITY	F	TCA 55-8-_____/ORD _____ TRAFFIC CONTROL DEVICE/SIGNAL	J	TCA 55-_____/ORD _____ REGISTRATION VIOL. _____	N	TCA 39-17-418 SIMPLE POSSESSION OF SCHEDULE: _____				
	C	TCA 55-8-_____/ORD _____ IMPROPER PASSING	G	TCA 55-8-124/ORD _____ FOLLOWING TOO CLOSE	K	TCA 55-8-199/ORD _____ PROHIBITED USE OF WIRELESS DEVICES	O	TCA 39-17-425 UNLAWFUL POSSESSION OF DRUG PARAPHERNALIA				
	D	TCA 55-50-_____/ORD _____ DL VIOL. _____	H	TCA 55-9-602/ORD _____ CHILD RESTRAINT DEVICE	L	TCA 55-9-_____/ORD _____ LIGHT LAW	P	TCA _____ ORD _____				
	E	TCA 55-9-_____/ORD _____ SEATBELT LAW _____	I	TCA 55-9-107/ORD _____ WINDOW TINT	M	TCA 55-8-136/ORD _____ DRIVERS TO EXERCISE DUE CARE	Q	TCA _____ ORD _____				
	NOTICE: This citation is for a municipal ordinance violation and is civil in nature (unless citation is written to General Sessions or Juvenile Court as a criminal offense). T.C.A. code(s) above are for state reporting purposes only. You are not charged with a criminal offense, but a civil offense for violating a regulation enacted by city ordinance.											
	NARRATIVE:											

Updated - Short Form Ordinance

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen, that

Section 1. Municipal Code § 15-XXX, “Adoption of State Traffic Statutes” is repealed in its entirety.

Section 2. The following provision is added as the new § Title 15, Chapter 1, Section 15-XXX of the Municipal Code of (CITY/TOWN):

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.

Section 2. This ordinance shall take effect upon its final reading, the public welfare requiring it.



Long Form Ordinance

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) “Definitions,” as set forth in *Tennessee Code Annotated*, § 55-8-101.
- (2) “Applicability of Law,” as set forth in *Tennessee Code Annotated*, § 55-8-102.
- (3) “Crimes and Offenses,” as set forth in *Tennessee Code Annotated*, § 55-8-103.
- (4) “Compliance with Lawful Orders or Directions of Police Officers,” as set forth in *Tennessee Code Annotated*, § 55-8-104.
- (5) “Riding Animals or Driving Animal Drawn Vehicles,” as set forth in *Tennessee Code Annotated*, § 55-8-105.
- (6) “Officers and Employees,” as set forth in *Tennessee Code Annotated*, § 55-8-106.
- (7) “Working upon Highway Surface,” as set forth in *Tennessee Code Annotated*, § 55-8-107.
- (8) “Emergency Vehicles,” as set forth in *Tennessee Code Annotated*, § 55-8-108.
- (9) “Traffic Control Devices; Obedience,” as set forth in *Tennessee Code Annotated*, § 55-8-109.
- (10) “Traffic Control Signals; Traffic Citations,” as set forth in *Tennessee Code Annotated*, § 55-8-110.
- (11) “Pedestrian Control Signals,” as set forth in *Tennessee Code Annotated*, § 55-8-111.
- (12) “Flashing Red or Yellow Signals,” as set forth in *Tennessee Code Annotated*, § 55-8-112.

Short form vs. Long form

Short Form

- One paragraph ordinance
- Easier for officers to remember
- However, you would need to cite both the TCA violation and cite the city ordinance on the ticket to properly establish jurisdiction.

Long Form

- Very detailed
- Can be tedious to program into your software program
- Incorporates the TCA charge in each subparagraph
- No ambiguity that this is a city ordinance violation, not a state charge.

<https://www.mtas.tennessee.edu/courts>

MTAS RESOURCES

- Memo about Fines and Fees to send to the Dept. of Safety
- Parking Information and Research 2022 (PDF)
- Rules of the Road Ordinance 2023 – long form (DOCX)
- Rules of the Road Ordinance 2023 – short form (PDF)
- Child Restraints Fines and Costs Flowsheet, 2021 (PDF)
- Sample Payment Plan – Specific Payment per Month (DOCX)
- Seatbelt Fines and Costs for Adults – Flowsheet, 2021 (PDF)
- Sample Payment Plan – Extension of Time to Pay (DOCX)
- Just for Fun – City Court Clerks favorite restaurants list 2022 (PDF)

Traditional Municipal Courts

“Civil in Character”

Municipal ordinance violations are civil in nature – Mullins v. State, 380 S.W2d 201(Tenn 1964)

“Over the years this Court has held that violations of a city ordinance is proceeded with as a civil matter rather than a criminal court.

Reaffirmed in Chattanooga v. Davis, 54 S.W.3d 248 (Tenn. 2001) – “Since our decision in City of Chattanooga v. Myers, ... the law now appears settled that proceedings for a municipal ordinance violation are civil in nature, at least in terms of technical application of procedure and pursuing avenues of appeal...Indeed, depending up on the precise issue before the particular court, proceedings for a municipal ordinance violation have been described as “civil in character,...”



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Traditional Municipal Courts – Big Cities

TCA 16-18-302(b)(1)-(8) allows cities with populations over 150,000 to expand their jurisdiction to enforce municipal laws that “mirror/duplicate/incorporate by reference” a few more severe violations:

- Driving without a license (Class B Misdemeanor) – TCA 55-50-301
- Reckless Driving (Class B Misdemeanor) – TCA 55-10-205
- Alcohol violations (Class A Misdemeanors)
 - Underage consumption
 - Underage purchase
 - Illegal possession and transportation, and
 - Illegal sales

Municipal Court Jurisdiction – TCA 16-18-302 (b)

Cities with populations over 150,000:

- Nashville – General Sessions
- Memphis – Expanded jurisdiction
- Knoxville – Expanded jurisdiction
- Chattanooga – Expanded
- Clarksville – Traditional only
- Murfreesboro – Traditional only



Trivia Time!

Originally, the Municipal Court Reform Act did not include the jurisdiction to hear the underage alcohol violations for cities with populations over 150,000.

It was added later.

What happened?



Becoming a new court clerk TCA 16-18-310(a)

TCA 16-18-310(a) – A person can become a new municipal court clerk in three ways:

1. Election
2. Appointment
3. Designated

Once a person is the new court clerk, someone needs to notify the Administrative Office of the Courts and tell them who the new clerk is.



Court Clerk Duties – TCA 16-10-310(b)

Maintain Records for:

- All disposed cases (judgments/guilty/dismissed, etc.)
- Assessments
- Collections (including keeping track of payment plans)
- Suspensions
- Waivers and transmittals of litigation taxes
- Court costs
- Forfeitures
- Fines
- Fees
- Any other receipts and disbursements

Contempt of Court – TCA 16-18-306

Traditional Jurisdiction

- Contempt of Court punishable by fine up to \$50
- Judge has discretion, so could be less than \$50
- Cannot send someone to jail for contempt

Concurrent GS Jurisdiction

- If exercising traditional municipal court cases (traffic, code violations) fine also capped at \$50, and no jail.
- If exercising GS criminal jurisdiction (Class A and B misdemeanors), state contempt laws apply.
- Maybe go to jail if using state court contempt rules.

Appeals – TCA 16-18-307

Pursuant to **T.C.A. § 16-18-307**, a party unhappy with the ruling from the municipal court judge may appeal directly to the circuit court of that judicial district.

Requirements:

- Must file notice of appeal within 10 days (not counting Sundays) with the circuit court of the county;
- Give a \$250 bond for the person's appearance and faithful prosecution of the appeal (or file a pauper's oath)
- "A party" can be either a person, a company, or even the city.



Appeal Process



Recommend the city collect the \$250 appeal bond and send it to circuit court clerk.

(See Tubwell v. City of Memphis, 413 S.W.3d 77, 79 (Tenn. Ct. App. 2013))



Develop a process with the circuit court clerk.



Appellant must also pay the circuit court filing fees (*typically at least another \$254.40 to the circuit court*).

Municipal Court Judges – TCA 16-18-308

Broad Rule - A municipal court judge may not hold any other office or employment with the city.

Cannot serve as judge and city attorney for the same city.

Cannot be judge and also be on city council or board.



Municipal Court Judges – Exceptions

Can be a judge and employee if the person was both prior to March 1, 2005;

However, if that person discontinues to serve as an employee or judge, the replacement cannot serve as both;

If a municipal charter allows the person serving as a judge shall also serve as the recorder, then the person can do both jobs.



Substitute Judges – TCA 16-18-312

If a municipal judge is unable to preside over municipal court for any reason, then a special substitute municipal judge shall be determined pursuant to an:

1. Ordinance of the governing body of such municipal court
2. In the absence of such ordinance, then a municipal judge may designate in writing, to be filed with the clerk of the municipal court, the name a special substitute judge to hold court in the municipal judge's place and stead.
3. The special substitute judge must meet the judge requirements set forth in the state law and the city's charter and must take the same oath as the municipal judge
4. Such appointment is effective for no more than 30 days, after which a new appointment is required.

Municipal court judges and general sessions court judges are empowered to sit by interchange for other municipal court judges. TCA 16-18-312(b)

Pop Quiz - Substitute Judges



Question: When the 30-day limit ends, do you need to appoint a different person each time?



Pop Quiz - Substitute Judges



Question: When the 30-day limit ends, do you need to appoint a different person each time?



Answer: No. You can use the same substitute judge. You just need to issue a new 30-day order.

Juvenile jurisdiction – TCA 37-1-146

Juvenile courts have original jurisdiction for traffic violations of minors.

Juvenile court judges may waive that jurisdiction to city courts for traffic offenses.



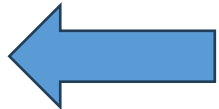

Juvenile jurisdiction – TCA 37-1-146

TCA 16-18-302(d) (Municipal Court Reform Act) and TCA 37-1-146(c) (Juvenile Courts and Proceedings) provide authority to hear cases in Municipal Courts.

- Ages 16 and up (which really means ages 16 and 17)
- What about high school students who are 18? Can you hear those?

Juvenile traffic offender - continued

When a municipal court judge is permitted to hear a juvenile traffic offense case, the court may make **one or any combination** of the following decisions:

- (1) Suspend and **hold** the child's driver license for a specified or indefinite time;  What does “hold” mean?
- (2) Limit the child's driving privileges as an order of the court;
- (3) Order the child to attend traffic school, if available, or to receive driving instructions;
- (4) Impose a fine of not more than fifty dollars (\$50.00) against the child's parent or legal guardian; or 
- (5) Perform community service work in lieu of a fine (*permitted by law, but generally not advised in city court because it may border on criminal court remedies*)

What if the parent doesn't pay?

Tenn. Code Ann. § 37-1-146

NOTE – Juvenile court law allows a juvenile judge to place the child on probation pursuant to § 37-1-131(a)(2) but municipal courts do not appear to have that type of power since that is a criminal law affiliated program.

Juvenile traffic offender - continued

PRO TIP: If your juvenile court judge wishes to waive jurisdiction for juvenile traffic violators, try to get that in writing through a standing order.

Sample

“On February 30, 2023, the Juvenile Court of Lego County issues this standing order waiving jurisdiction in favor of the City of Duplo Municipal Court for the trial and disposition of traffic violations involving juveniles ages 16 and 17 years old where a citation is made by a law enforcement officer of the City of Duplo.

This waiver of jurisdiction is made pursuant to TCA 37-1-146(c) and TCA 16-18-302(d). This order will remain in effect until revoked by this Juvenile Court.”



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Fines, Fees, Court Costs, and Taxes



Judgment

Fines

Court Costs

Litigation Taxes

Bond Forfeiture Fees

Parts of a City Court Judgment

1. Fine
2. Court Costs
3. State Litigation Tax
4. Local Litigation Tax (if city has one)
5. E-citation fee (if city has one of those too)

= Grand total of Judgment

Each element is a separate bucket of money

If a city lumps these together in the same bucket, the city may be cheating itself out of money it can keep.



Fines



Court Costs



State Lit. Tax

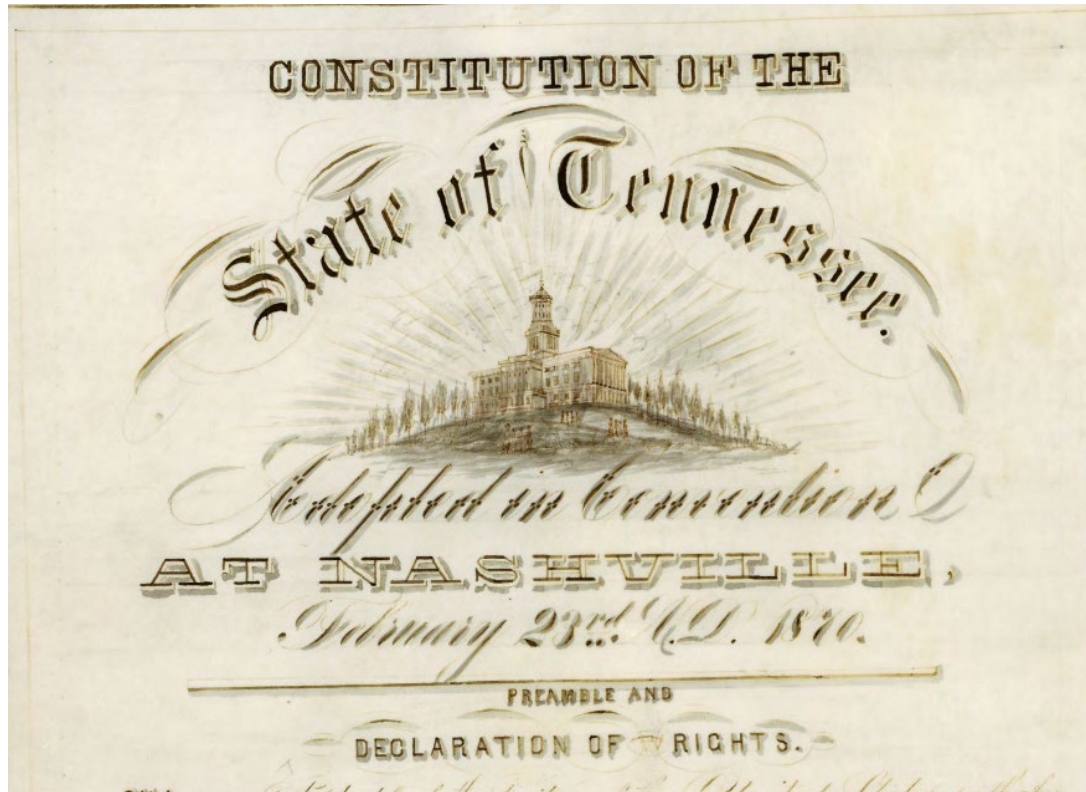


Local Lit.
Tax



E-citation fee

Part 1 – Fines - \$50 Limit



The Tennessee Constitution, Article VI, § 14 places a \$50 limit on any fine assessed against a party where there is not an opportunity for the fine to be assessed by a jury of a person's peers.

It would take a literal constitutional amendment to change this.

Part 1 - Fines

However, while the fine itself may only be \$50, the additional court cost can exceed \$50 and be constitutional as long as the additional court costs are not punitive in nature.

See Tennessee Attorney General Opinion Number 06-075



Let's talk about Codes cases and Fines




MTAS Sample Code – Title 13, Chapter 1.

If your city uses the
MTAS sample code
(and most do),
Chances are you've
already adopted this
language

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹


CHAPTER

1. MISCELLANEOUS.
 2. SLUM CLEARANCE.
 3. JUNKYARDS.
 4. JUNKED MOTOR VEHICLES.
- 

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
 - 13-102. Stagnant water.
 - 13-103. Weeds and grass.
 - 13-104. Overgrown and dirty lots.
 - 13-105. Dead animals.
 - 13-106. Health and sanitation nuisances.
 - 13-107. Violations and penalty.
- 


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City Court only – cite the violation

MTAS Sample Title 13, Chapter 1, Section 13-103

Grass too tall – 12 inches

- 13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the recorder to cut such vegetation when it has reached a height of over one foot (1').

Each Day New Violation – MTAS Sample

Section 13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. **Each day a violation is allowed to continue shall constitute a separate offense.**



Each Day New Violation – MTAS Sample

Section 13-107. Violations and penalty. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. **Each day a violation is allowed to continue shall constitute a separate offense.**

Therefore, each day the property is not cleaned up is a separate violation subject to the maximum \$50 per day fine.

\$50 fine per day case law

Two separate cases have upheld a municipal court's assessment of \$50 per day for each day's violation.

Appellate and Supreme Court both viewed these as “remedial fines”

- Town of Nolensville v. King, 151 S.W.3d 427 (2004) (Supreme Court)
- City of Johnson City v. Paduch, 224 S.W.3d 686 (2006) (Court of Appeals)

Part 2 – Court Costs

T.C.A. § 16-18-304 discusses court costs, but very generally.

Each city sets its own court costs and they vary from city to city.

Court Costs are intended cover the expenses for

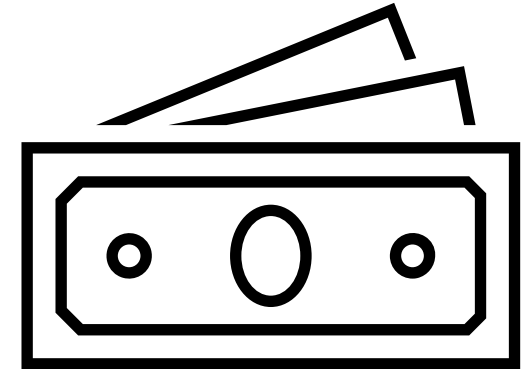
- Clerk staff
- Judges
- Courtrooms
- Court officers
- Paper
- Computer software
- All things needed to run a court

Ideally, most of the funds needed to cover the court come from court costs, and less from tax dollars.



Part 2 – Court Costs

- There is no set amount for any city's court costs
- Can exceed \$50, but cannot be punitive
- Key phrase is “reasonable court costs”
- Court costs are to be determined by the expenditures needed to properly operate your court
- Court costs are set by ordinance



Part 2 – Court Costs – Alternative Court Costs



Can a city have an alternative court costs for certain offenses that get resolved prior to court like registration violations, headlights, equipment?

Yes, but it needs to be made clear in a city ordinance and make sure your judge properly delegates that authority to the court clerk's office. Also make sure your judge is on board with it.

Part 2 – Court Costs – Alternative Court Costs

Sample:

3-202. Imposition of Fines, Penalties, and Costs. (1) All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

(a) *(regular court cost ordinance goes here)*

(b) When any person has been charged with violation of a law regarding vehicle equipment (including but not limited to inoperable headlights, tail lights, brake lights or turn signals), driver licensing, or vehicle licensing and registration, the charge may be dismissed if the person charged with the violation submits evidence of compliance with such law on or before the court date; provided, however, that the city judge may establish a separate court cost not to exceed \$_____ to be collected from the person charged with the violation. This separate court costs will be assessed in lieu of the court costs detailed in Section 3-202(1)(a) above.

***Note* - Cannot do this for Financial Responsibility. Statute says if dismissed, no fines, costs, or litigation taxes at all, regardless if 1st, 2nd, or subsequent offense.**

Quiz! – Citation with multiple offenses

Scenario – One traffic stop with multiple offenses

1. Speeding
2. No registration
3. No insurance

How many violations on the ticket?

Three violations

How many fines?

Three separate fines



Good job!

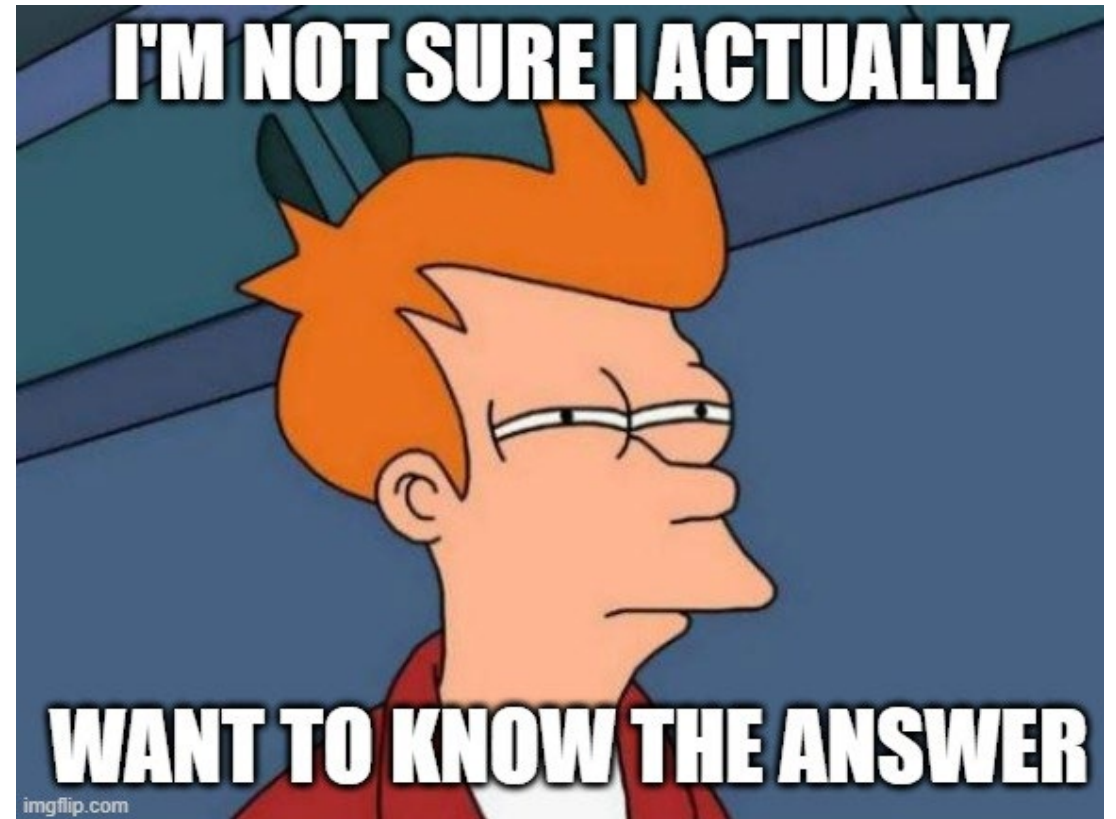


Now, how many court costs?

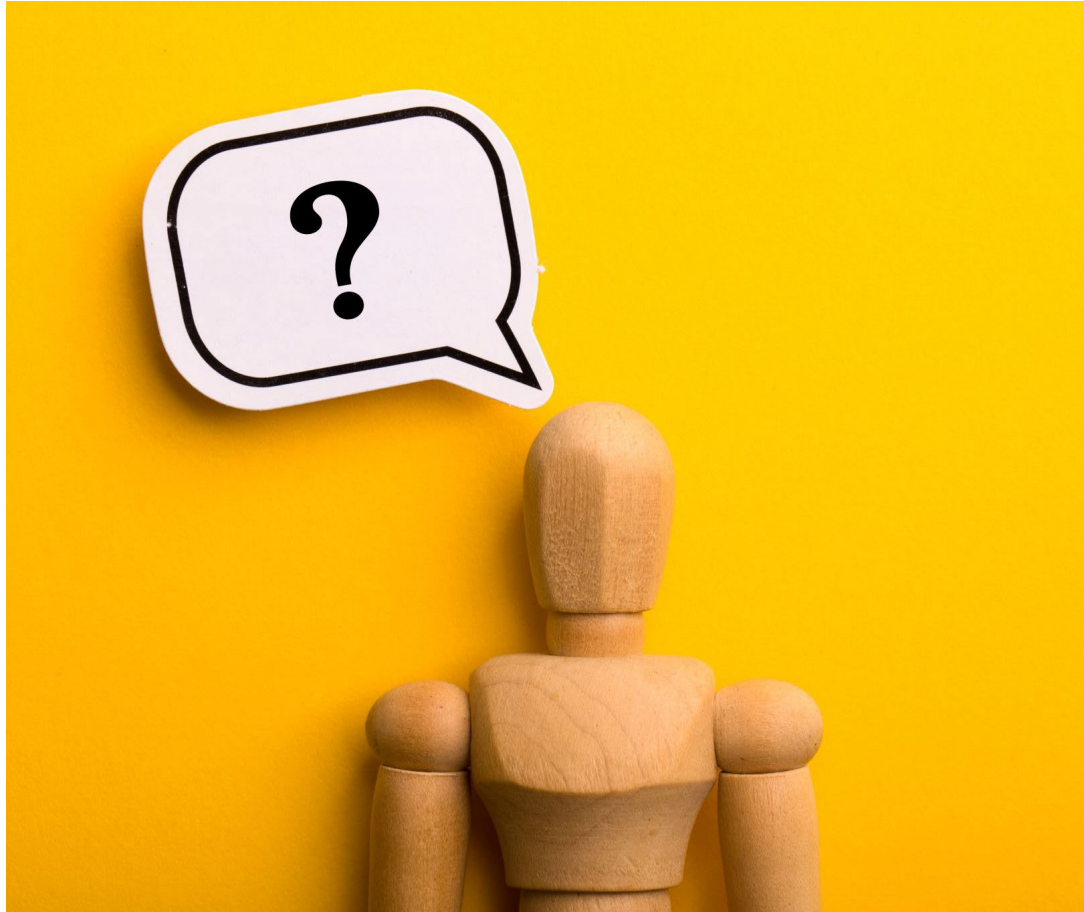
One traffic stop, three offenses.

How many court costs do you assess?

- A. One court costs?
- B. Three court costs?
- C. Dunno, I think John's trying to trick us.



Survey Say!



Honestly, I don't know.

TCA 16-18-304 and annotated materials do not say one way or another.

Only guidance we have is AG 06-75 where court costs cannot be punitive.

Multiple Court Costs per Occurrence

One Court Costs

Fine (3 violations)	\$150
Court Costs	\$150
State tax	\$13.75
<hr/>	
Total	\$313.75

Is that punitive? – No

Multiple Court Costs

Fine (3 violations)	\$150
Court Costs	\$450
State tax	\$13.75
<hr/>	
Total	\$613.75

Is that punitive? - Maybe



Part 3 – State Litigation Tax

Cases heard in court= \$13.75

TCA § 16-18-305(a) – all cases in municipal court

- State of Tennessee privilege tax on litigation - \$13.75
- Different than court costs
- Send to Department of Revenue monthly

Parking Tickets = \$1

TCA § 16-18-305(b) - \$1 litigation tax on all public parking tickets

- Typically, not heard in a city court
- Can be parking meters, fire lanes, handicap spaces, city owned parking structures
- Send to Department of Revenue

Collect the \$13.75 or the \$1, but not both.



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Part 3 – State Litigation Tax

Collect litigation taxes when:

1. Found guilty by a judge after a hearing
2. Pleads guilty
3. Pays the fine before court

Do not collect when:

1. Found not guilty by a judge after a hearing
2. Case dismissed by a judge (but a judge could still collect court costs)
3. Cash bond paid (but you do collect the cash bond forfeiture fee)

Two Notes:

1. Only collect litigation tax if convicted. See TCA 67-4-602(e).
2. If convicted you collect either the state litigation tax or the cash bond forfeiture fee, but not both.



Part 4 – Local Litigation Tax

T.C.A. § 16-18-305(c) – A city can add another local litigation tax on top of the existing State Litigation Tax and keep that money.

Additional local tax on litigation up to \$13.75.

Must be passed by ordinance by your city.

Only collect when a conviction occurs, just like the state litigation tax.



Part 5 – Electronic Citation Devices



TCA 55-10-207.



Electronic Citation devices scan the barcode on a DL and inputs the data into the court program automatically.



Driver gets a paper copy of the ticket.



Digital storage of the offense.



Increase speed, efficiency, and reduces mistakes.



Part 5 – E-citation fee

If a city wishes to implement an electronic citation program, the State permits a separate fee to add on to each traffic citation resulting in a conviction to offset the costs of a new program.

TCA § 55-10-207(e)(1) allows a separate \$5 per traffic ticket to be added to each violation.

- Traffic tickets only – **ONLY COLLECT IF CONVICTED**
- Must be passed by city ordinance
- Police keeps \$4 and court clerk office keeps \$1
- Ordinance automatically “sunsets” (i.e. terminates) after 5 years
- **Cites cannot pass another ordinance for another 5 years. See AG Opinion 21-02**
- Once five years is over, a city can retain the fee by adding that to the court costs, because it would be a “reasonable” expense. Then it can apply to all cases, not just traffic

Modules

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Fees, Court
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4

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Frequent
Items and
New Stuff



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Two Important Definitions

Failure to Appear (FTA)

- Never appearing on a required court date.
- Results in a Default Judgment and subsequent conviction.
- DOS can suspend your license.
- TCA 55-50-502(a)(1)(I)

Default on Payment Plan

- Did show up to court.
- Convicted of an offense and must pay a fine/costs/taxes.
- Entered into a payment plan
- Does not pay.
- DOS can suspend your license.
- TCA 55-50-502(j)

In both instances, the Defendant is convicted and now owes money. If he can't pay in full, he is eligible for a payment plan and must comply with the payment plan, otherwise he could lose his license.



Payment Plans – TCA 55-50-502(j)

Payment Plans in General

1. *Required* – Payment plans will be required for every licensee convicted of a driving offense and fails to pay the fines and costs on the disposition date, i.e. court date.
 - Person will discuss payment plan options with the judge if in a hearing. Make payments in accordance with the plan.
 - Subject to Payment Plan until fully paid or if outstanding costs are waived by the court.
2. *Maintain Driving Privileges* – While on a payment plan, a person will maintain driving privileges only if he or she is otherwise eligible for a driver's license.

Starting the Payment Plan – § 502(j)(2)&(4)

Payment plans must be reasonable and based on the person's ability to pay.

- Hearing occurs
- Payment plan entered
- Order signed by the parties

The statute requires the Court Clerk to inform the person that:

1. Failure to timely make payments as ordered by the court results in suspension of the person's license and a restricted license will be issued.
2. Any default on the payment plan, while on a restricted license, would result in revoking the restricted license and driving privileges.

Types of Payment Plans

TCA 40-24-105 (criminal courts) and TCA 55-50-502 (civil courts) do not specify what a payment plan must look like.

Two general types:

1. ***Set dollar amount per month.***
2. ***Extension of time***, i.e., pay the entire amount in 90 days.

Also, the State does not have a standard form for a payment plan, so you can create whatever form you like.

Specific Amount Per Month – Sample Order

I

IN THE MUNICIPAL COURT OF (City), TENNESSEE

CITY OF (Name of City), <i>Plaintiff</i> v. _____ <i>Defendant</i>	Municipal Court Case No: _____ Date Entered: _____
--	--

Ticket Total



APPLICATION FOR PAYMENT PLAN REGARDING FINES, COURT COSTS AND LITIGATION TAXES

The Defendant has been assessed the amount of \$_____ in fines, court costs and litigation taxes in the above-named case. In accordance with TCA 55-50-502(j); (See Back) they are applying to the (Name of City) City Court for an order granting a payment plan for the assessed fines, court costs and litigation taxes in the case. The Court may revoke this order if the defendant fails to comply with the payment plan without a good cause.

This payment plan's first due date is on _____, 5th, 20____ with payments of \$_____ and ending date is on _____, 5th, 20____.

Start date



Monthly payment



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Extension of Time – Sample Order

APPLICATION FOR PAYMENT PLAN REGARDING FINES, COURT COSTS AND LITIGATION TAXES

The Defendant has been assessed the amount of \$_____ in fines, court costs and litigation taxes in the above-named case. In accordance with TCA 55-50-502(j); (See Back) the Defendant is petitioning the _____ City Court for an order granting a payment plan for the assessed fines, court costs and litigation taxes in the case.

←
Total
amount

→ This payment plan allows the Defendant pay installment payments over an extension of time. The Defendant shall have _____(days) from the order of this Court to pay this citation in full. The Defendant is ordered to pay the entire citation by _____(month) _____(day), 20____.

Days to pay

For the Court to ensure complete payment of this citation, the Defendant is ordered to appear in court to satisfy the citation pursuant to TCA 55-50-502(a)(1)(I). This court appearance date will be _____(month) _____(day), 20____.

←
Court
reappearance
date

If the Defendant pays the citation in full prior to this scheduled court date, the case will be removed from the docket and the Defendant does not have to appear and the case will be considered resolved and closed. If the Defendant does not pay the citation in full prior to this court date, the Defendant is required to appear before Court to show good cause for the failure to comply with the payment plan. Failure to appear before Court on this hearing date may result in the suspension of the Defendant's driver's license pursuant to TCA 55-50-502(a)(1)(I).



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Safety: Child Restraints – TCA 55-9-602

- If first offense, may attend approved class to educate hazards of not properly transporting children in cars. A fee may be charged.
- \$50 fine issued to driver/guardian
- Collect court costs and lit. taxes (ages birth – 8)
- No litigation tax, no court costs (ages 9-12)
- Department of Safety gets the fine money
- Citation and penalties differ depending on age of kid



Safety: Seatbelts – TCA 55-9-603



- The fine for the first offense is \$30 for adult seat belt violators and 16-17-year-old offenders; \$50 for second or more offenders
- Municipal court clerk keeps the remaining \$5 of the \$30 fine.
- \$25 is submitted to Department of Safety
- Under the statute, the fine for a second or subsequent offense is increased to \$55 (but \$50 for city courts only because of the \$50 cap)

Hands Free Law– TCA 55-8-199

Class C Misdemeanor

TCA 55-8-199 is included in the list of offenses that can be incorporated into the city code

MTAS believes this fine can stay with the cities.

Max fine of \$50 in city courts.
(Higher fines available in state courts)

Court Costs limited to \$10

- Still forward the \$1 MTE fee from the court costs

For first time offenders, driver may attend and complete driver education courts (i.e. traffic school).

- Permissible by the judge's decision



Financial Responsibility – TCA 55-12-139

Insurance Law

- Class C Misdemeanor
- Can be adopted as city offense into city code
- Can be heard in city courts
- MTAS believes city has the authority to keep the fine money if adopted into city code and cite city ordinance
- Statute says max fine \$300, but if it's a city violation, max fine of \$50
- Cannot charge this offense by itself. Must charge with other moving vehicle violation and then add this on.
 - “At the time a driver of a motor vehicle is charged with any violation under.....” TCA 55-12-139(b)(1)(A)

Financial Responsibility – TCA 55-12-139

Had valid insurance when cited

- Had valid insurance, but could not produce a proof of insurance card or mobile device display
- Returns to court with proof of insurance showing coverage on the cited date
- First citation: Court must dismiss the citation
- Second or subsequent citation: Court may dismiss
 - TCA 55-12-139(e)(1)
- **If dismissed at all, no fine, no court costs, no taxes, no fees**

Did not have valid insurance when cited

- If you did not have valid insurance at the time when cited
- No dismissal is allowed – TCA 55-12-139(e)(2)
- Will be found guilty and reported to Department of Safety
- Fine determined by city's code (if adopted as city violation), max fine \$50



Questions?

Other than why is this
guy famous?





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