

**TITLE 3**

**MUNICIPAL COURT<sup>1</sup>**

**CHAPTER**

1. CITY COURT.
2. CITY JUDGE.
3. COURT ADMINISTRATION.
4. WARRANTS, SUMMONSES AND SUBPOENAS.
5. BONDS AND APPEALS.

**CHAPTER 1**

**CITY COURT**

**SECTION**

3-101. Established.

**3-101. Established.** A city court for the City of Hendersonville, Hendersonville, Sumner County, Tennessee, is hereby authorized and established and vested with the authority as provided by the Constitution of the United States of America, the Constitution of the State of Tennessee, and the Charter for the City of Hendersonville, Tennessee, and its ordinances. (Ord. #1970-37, Sept. 1970)

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<sup>1</sup>Charter reference  
City Judge--City Court: § 6-4-301.

**CHAPTER 2****CITY JUDGE****SECTION**

3-201. City judge.

3-202. Term of office; qualifications; removal from office.

3-203. Election and/or appointment of pro-tempore city judge, special city judge.

**3-201. City judge.** The officer designated to handle judicial functions within the city shall preside over the city court, and shall be known as the city judge. (Ord. #1987-18, May 1987)

**3-202. Term of office; qualifications; removal from office.**

(1) Term. The city judge shall be elected by the board of mayor and aldermen for a term of four years. This election shall take place at the second regular meeting of the board of mayor and aldermen in March of each year immediately following a mayoral election, with the term of office beginning on the first day of April of that year, and ending on the last day of March four years later.

(2) A candidate for the office of city judge:

- (a) Must have been licensed to practice law in the State of Tennessee for at least three years;
- (b) Must be at least thirty years of age, and must have been a resident of the city at least three years immediately preceding the election; and
- (c) Must not have ever been convicted of a felony, or any offense involving the abuse of intoxicants or controlled substances. If a sitting judge is convicted of such an offense and the conviction is appealed, the judge shall be suspended pending the appeal; provided, however, that this provision does not apply to appeals from courts of inferior jurisdiction which automatically result in a new trial.

(3) Removal from office. Any member of the board of mayor and aldermen can request the removal of the city judge during the term of office or failure to meet the qualifications for the office set forth herein, and the judge shall be removed upon the affirmative vote of a majority of the members of the board of mayor and aldermen. (Ord. #1991-13, March 1991, Ord. 2001-15, March, 2001)

**3-203. Election and/or appointment of pro-tempore city judge, special city judge.** (1) In the event of the temporary absence or disability of the city judge, the mayor may appoint a city judge pro-tempore.

- (2) In the event the mayor is temporarily absent or disabled and/or otherwise unable to appoint a city judge pro-tempore, then in such event, in case of the temporary absence, incompetency, or inability of the city judge to serve, a majority of the attorneys of the court who are present and who are residents of the state shall elect one of their number then in attendance to hold the court for the occasion, who shall have all of the qualifications of the judge of such court and who shall accordingly preside and adjudicate. The election shall be held by the clerk of the city court and in case of a tie, the clerk shall cast the deciding vote. In the event the city clerk is temporarily absent, then in such event, one of the clerk's deputies may hold said election. (Ord. #1972-26, May 1972, modified, Ord. 2001-15, March 2001)

## CHAPTER 3

### COURT ADMINISTRATION

#### SECTION

- 3-301. Maintenance of docket.
- 3-302. Imposition of fines and costs.
- 3-303. Disposition and report of fines and costs.
- 3-304. Disturbance of proceedings.
- 3-305. Trial and disposition of cases.

**3-301. Maintenance of docket.** The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name, warrant and/or summons numbers, alleged offense, disposition, fines and costs imposed and whether collected, whether committed to workhouse, and all other information that may be relevant. (Ord. #1970-37, Sept. 1970)

**3-302. Imposition of fines and costs.** (1) All fines and costs, if any, in all cases heard and determined by the city judge shall be recorded by the city judge or city court clerk upon the charging instrument, *i.e.*, warrant summons, citation or separate order. The city court clerk shall record said fines and costs upon the city court docket and prepare the minutes of the court, for approval by the city judge.

(a) In accordance with the authority granted by Tennessee Code Annotated, § 6-54-308 municipal fines shall not exceed five hundred dollars (\$500.00) for each violation of an ordinance of the City of Hendersonville.

(b) Municipal fines for all moving traffic violations shall not exceed fifty dollars (\$50.00) for each violation.

(2) The court costs in all cases heard or determined by the City Judge shall be the sum of \$65.00 in each case. Further, the City Judge has the authority to reduce the court costs up to 50% and substitute the remaining 50% court costs with public service.

(3) The court costs herein established are exclusive of the state litigation tax imposed by Tennessee Code Annotated, § 67-4-601 and of charges for service of process where service is achieved other than by personal service by an employee of the City of Hendersonville. Said litigation tax and such service of process charges are to be assessed by the city judge in addition to the herein established court costs.

(4) The amount of court costs herein established shall be increased by 10% per annum up to a maximum of \$125.00. Such increase is to be rounded to the nearest dollar. (Ord. #1987-68, March 1988, as amended by Ord. #1993-50, Jan. 1994, Ord. # 2005-7, February 2005)

**3-303. Disposition and report of fines and costs.** All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the governing body a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (Ord. #1970-37, Sept. 1970)

**3-304. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (Ord. #1970-37, Sept. 1970)

**3-305. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (Ord. #1970-37, Sept. 1970)

**CHAPTER 4****WARRANTS, SUMMONSES AND SUBPOENAS****SECTION**

3-401. Issuance of summonses.

3-402. Issuance of subpoenas.

3-403. Service of process by certified mail.

**3-401. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons, ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (Ord. #1970-37, Sept. 1970)

**3-402. Issuance of subpoenas.** The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (Ord. #1970-37, Sept. 1970)

**3-403. Service of process by certified mail.** (1) Any person duly authorized to file a citation in city court may serve process by certified mail. After the citation is filed with the clerk of the city court, the clerk shall, upon request, furnish the person filing said citation with a certified copy of the citation. Such person shall send, postage prepaid, the certified copy of the citation by certified return receipt mail to the defendant. The person serving process by certified mail shall make oath to the clerk, by affidavit, that service of process has been accomplished, and shall file with the clerk the return receipt. Should the defendant fail to appear in court, service of process by mail shall not be used as the basis for entry of a judgment unless the record contains a return receipt showing personal acceptance by the defendant or persons designated by state law as being authorized to accept service of process on behalf of defendant.

(2) For the purpose of this chapter, citations includes warrants, summonses and subpoenas. (Ord. #1989-14, April 1989)

## CHAPTER 5

### BONDS AND APPEALS

#### SECTION

3-501. Appearance bonds authorized.

3-502. Appeals.

3-503. Bond amounts, conditions, and forms.

3-504. Deposit of license in lieu of bail.

**3-501. Appearance bonds authorized.** When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (Ord. #1970-37, Sept. 1970)

**3-502. Appeals.** Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days thereafter, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>2</sup> (Ord. #1970-37, Sept. 1970, modified)

**3-503. Bond amounts, conditions, and forms.** An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (Ord. #1970-37, Sept. 1970)

**3-504. Deposit of license in lieu of bail.** (1) Deposit of operators license. Any person issued a citation or arrested and charged with the violation of any municipal ordinance of the City of Hendersonville which regulates traffic, except driving under the influence of an intoxicant or narcotic drug or leaving the scene of an accident, may have the option of depositing his driver's license which were issued to him by the Department of Safety of the State of Tennessee, with the officer or court demanding bail in lieu of any

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<sup>2</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

other security required for his appearance in the City Court of Hendersonville in answer to such charge.

(2) Receipt. Upon the deposit of such license, either the officer or the court demanding bail shall issue said person a receipt for said license upon the form approved or provided by the Department of Safety of the State of Tennessee.

(3) Authority. This section is in furtherance of the provisions of Tennessee Code Annotated, §§ 55-50-801--55-50-805, now in effect or as hereafter amended and the provisions hereof shall be governed and controlled in accordance with Tennessee Code Annotated, §§ 55-50-801--55-50-805. (Ord. #1974-71, Sept. 1974)