

Finance & Administration Committee Meeting
February 16, 2021
4:00 p.m.

1. Discussion on Anderson Field Property
2. Park & Recreation Budget Proposal
3. Municipal Code Discussion
 - Title 1 – General Administration
 - Title 2 - Boards & Commissions, Etc.
 - Title 3 – Municipal Courts

City of Covington Tennessee

January 19, 2021

Mark Herbison

HLT Advantage

132 East Pleasant Avenue

Covington, TN 38019

Subject: Letter of Intent- Anderson Fields

Dear Mr. Herbison,

Charms, LLC or its designee (the "Purchaser") is pleased to express its interested in purchasing the real property commonly known as Anderson Fields, located at the Southwest Intersection of Industrial Road North and CN Railroad (picture of property is attached). The purpose of this letter is to set forth the principal terms and conditions of Purchaser's proposal. Purchaser and Seller will be bound only by a formal Contract (hereinafter defined) executed by Purchaser and Seller containing the provisions of this letter of intent and customary and mutually satisfactory terms.

PROPERTY: The vacant property commonly known as Anderson Fields as shown on the picture attached hereto. The Property consists of approximately 5.6 acres and is being sold AS IS. The sale will include any existing improvements to the Property that are not removed by Seller prior to the closing.

PURCHASE PRICE: \$70,000 payable in readily available funds, subject to customary adjustments and proration.

PRE-CLOSING DOCUMENTS TO BE DELIVERED BY SELLER: (i) any existing survey, (ii) owners title insurance commitment issued by title insurance company reasonably acceptable to Purchaser, together with copies of all underlying exception documents.

CLOSING DOCUMENTS FROM SELLER: (i) warranty deed, (ii) Owner's title insurance policy (iii) closing statement and (iv) documents required by Title Company and closing agent to record deed and to insure good, marketable title in Purchaser upon closing.

CONTRACT: Upon execution of this letter of intent, Seller will direct its attorney to prepare a formal sales contract based upon the terms and conditions herein. Within 7 days of the mutual execution of this letter of intent, Seller shall submit to Purchaser the initial draft of the formal sales contract (the "Contract").

BROKER: None

EXCLUSIVITY: Seller agrees that for a period of thirty (30) days after the mutual execution and delivery of this letter of intent (the "Negotiation Period"), Seller shall not accept, entertain or solicit any offers to purchase the Property with any other party.

CLOSING: March 1, 2021 or sooner as the parties may agree.

Other than the foregoing Exclusivity provision, this letter of intent does not constitute a binding agreement between Purchaser and Seller but is rather intended to outline the economic terms and conditions under which the formal contract could be entered into between the parties. This letter of intent may be executed in counterparts all of which shall be one document. Execution by facsimile or other electronic means shall for all purposes be deemed an original

If the above economic terms and conditions are acceptable, please execute this letter of intent in the appropriate area provided below. The terms of this letter of intent shall terminate without liability to either party if this letter of intent is not executed by Seller within five (5) business days of the date of this letter of intent.

Sincerely,



Stephen P. Green

V.P. Manufacturing

Charms, LLC

200 Industrial Road North

Covington TN 38019

Sgreen@tootsie-roll.com, 773-838-3400

Agreed to and Accepted by Seller as owner of record of the Property

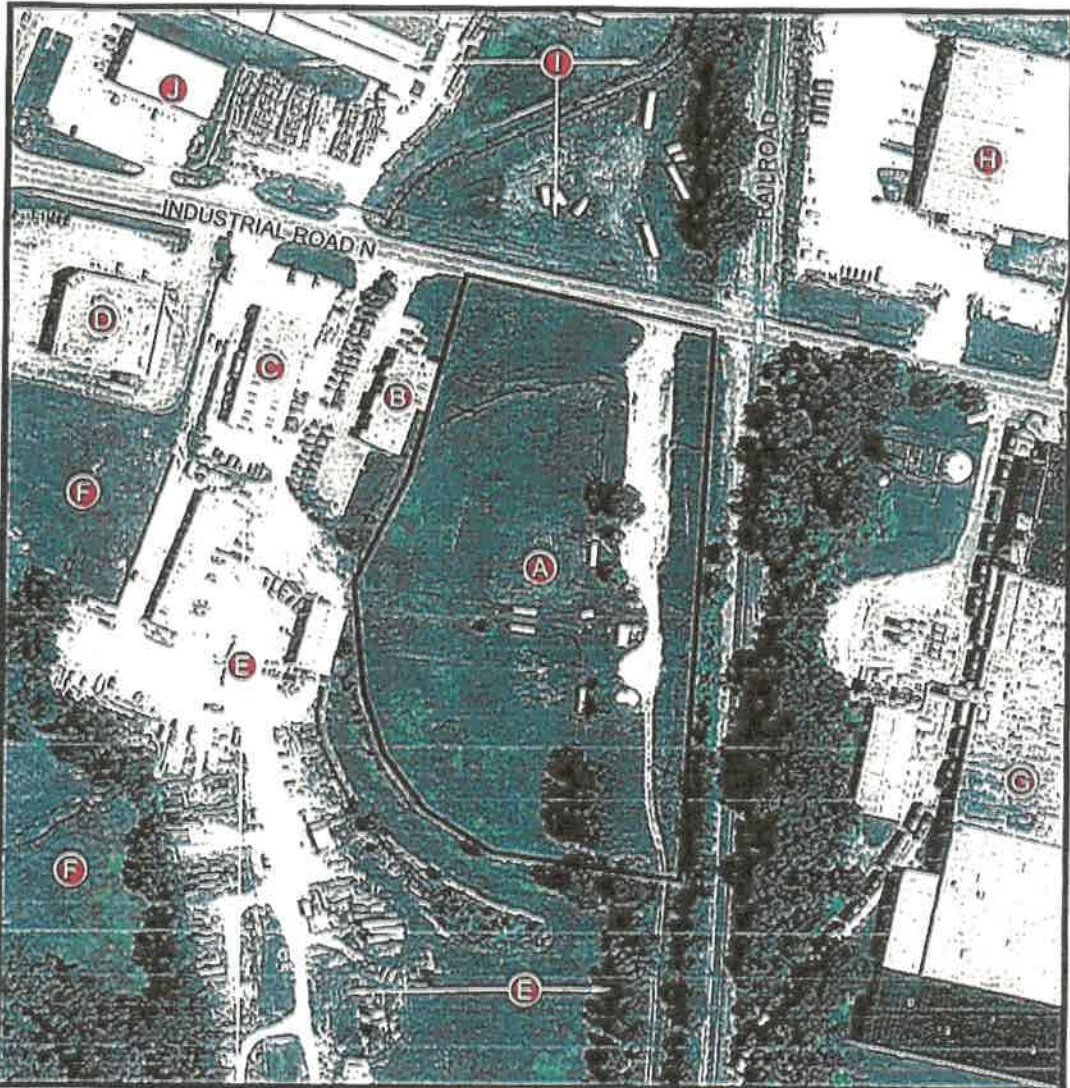
This _____ day of _____, 2021.

SELLER: _____

By: _____

Name: _____

Title: _____



NOTES

1. Plan adapted from a November 12, 2013 aerial photograph courtesy of Google Earth and from field reconnaissance performed by a representative of Geotechnology, Inc.



SCALE IN FEET

LEGEND

(A) Property Identifier (ID)

ID OWNER/OCCUPANT

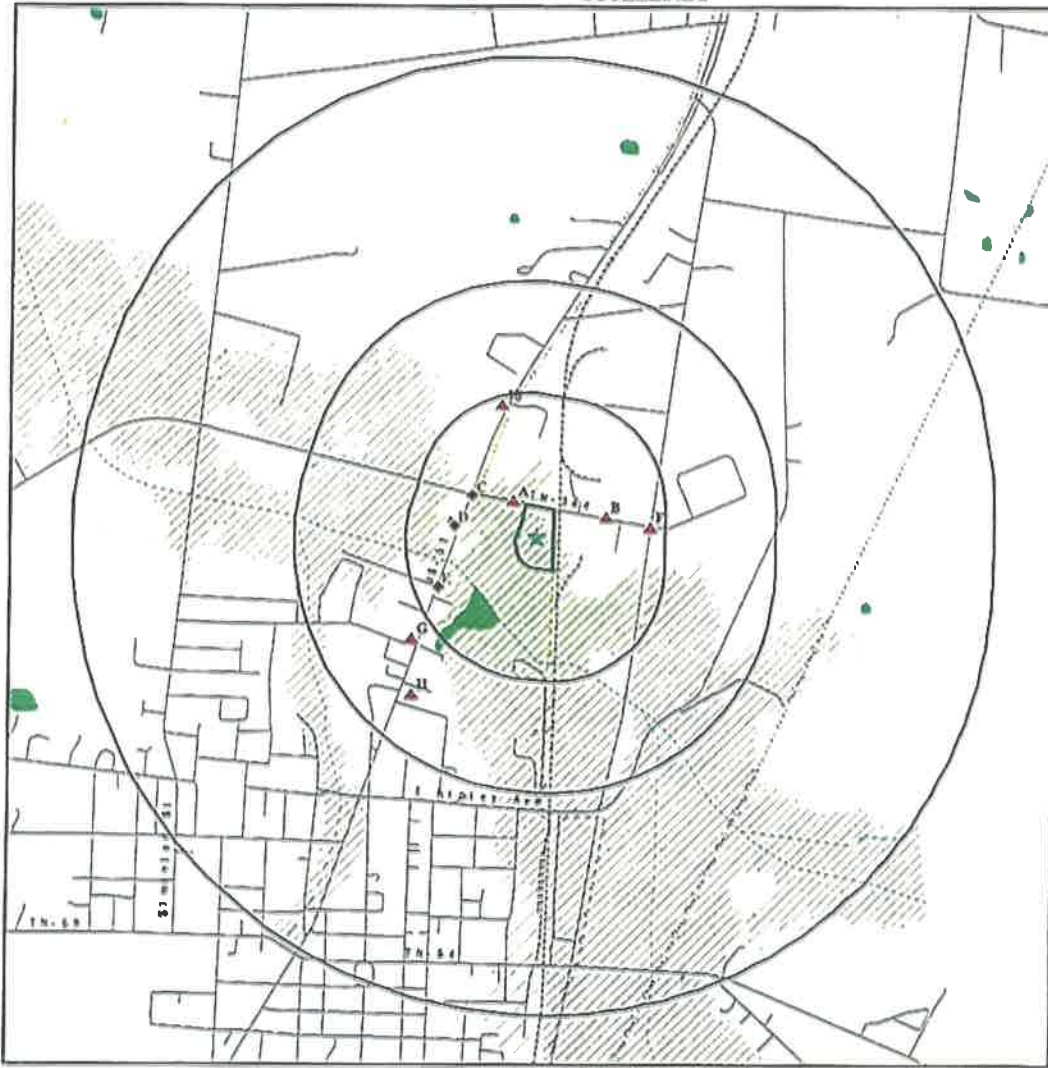
- A** Subject Property
- B** Vacant Office Building
- C** Ken's Auto Service / Ted's Glass Co.
- D** Walgreens
- E** Annie's Cash Advance
Covington Chiropractic Clinic
Tennessee Housing Dev. Agency
Shelter Insurance Agent
Serviceway Motor Freight, Inc.

ID OWNER/OCCUPANT

- F** Undeveloped
- G** Charms Co. Manufacturing
- H** Hydratrek / Fastenal /
Rose Machine and Tool
- I** Unknown Light Industrial
- J** Dollar General

Drawn By: WAH	Ck'd By: DLF	App'vd By: MBR
Date: 12-16-20	Date: 12-16-20	Date: 12-16-20
<p>Phase I ESA Anderson Fields Covington, Tennessee</p>		
<p>AERIAL PHOTOGRAPH OF PROPERTY AND SURROUNDING LAND USE</p>		
Project Number J038000.01	FIGURE 2	

OVERVIEW MAP - 6302229.2S



- Target Property
- Site at elevations higher than or equal to the target property
- Site at elevations lower than the target property
- Manufactured Gas Plants
- National Priority List Sites
- Dept. Defense Sites
- Indian Reservations BIA
- Power transmission lines
- Special Flood Hazard Area (1%)
- 0.2% Annual Chance Flood Hazard
- National Wetland Inventory
- State Wetlands

This report includes Interactive Map Layers to display and/or hide map information. The legend includes only those icons for the default map view.

SITE NAME: Anderson Fields
ADDRESS: Industrial Road North
 Covington TN 38019
LAT/LONG: 35.578358 / 89.639572

CLIENT: Geotechnology
CONTACT: David Forseth
INQUIRY #: 6302229.2s
DATE: December 15, 2020 2:53 pm

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REAL ESTATE LETTER OF INTENT

December 3, 2020

RE: Intent to Purchase Property

This real estate letter of intent (the "Letter of Intent") represents the basic terms for an agreement between a Buyer and Seller. After this Letter of Intent has been made, a formal agreement may be constructed to the benefit of the Parties involved.

I. The Buyer: APC Rentals

II. The Seller: City of Covington

III. Property Address: Old Anderson Ball Field property Industrial Road, Covington, TN 39019

IV. Property Type: The Property is defined as a Commercial

V. Real Estate Transaction: This Letter of Intent is for the Purchase of the Property

VI. Financial Terms: The Buyer intends to:

Purchase the Property for \$50,000

VII. Payment Method: Payment of the Purchase Price or Base Rent shall be made in the following manner:
Cash at Closing

VIII. Bank Financing: The Buyer has made it known that their ability to pay the Purchase Price not conditional on their ability to obtain financing.

IX. Purchase Conditions: If the Real Estate Transaction is for the purchase of the Property, the following conditions shall apply:

- a) **Closing.** Will occur on or before August 1, 2021.
- b) **Possession.** At Closing.
- c) **Property Inspection.** After a binding Purchase Agreement has been made, the Buyer shall hold the right to have the condition of the Property inspected by a person of their choosing. The inspection shall occur no later than 10 days after a Purchase Agreement has been made.
- d) **Disclosure Report.** After the Property has been inspected, the Buyer shall have an additional 5 days to report any new disclosures to the Seller in writing. If the Buyer and Seller cannot reach a mutual agreement within 5 days after delivery of the written disclosures, the Purchase Agreement shall be terminated with any earnest money being returned to the Buyer.
- e) **Standstill Agreement.** Following the execution of this Letter of Intent, and until the Closing, the Seller shall not negotiate for the sale of the Property with any other party unless either the Buyer and Seller agree in writing to terminate this Letter of Intent, or the Buyer and Seller fail to sign a Purchase Agreement by December 15, 2021.

X. Binding Effect: This Letter of Intent shall be considered: (Initial and Check)

- **Binding** – Therefore, the Parties acknowledge that remedies at law will be inadequate for any breach of this Letter of Intent and consequently agree that this Letter of Intent shall be enforceable by specific performance. The remedy of specific performance shall be cumulative of all of the rights at law or in equity of the Parties under this Letter of Intent.

- **Non-Binding** – Therefore, the Parties acknowledge that this Letter of Intent is not enforceable by any Party. The terms outlined herein are solely for the purposes of reaching an agreement in the future, of which the Buyer and Seller Lessee and Lessor are not bound.

BUYER

Buyer Signature APC Rentals ^{by Allan M Rose} Date 12-03-2020

Print Name Allan M Rose

SELLER

Seller Signature _____ Date _____

Print Name _____

Playground Budget

EXPENSES

**PROJECT FUNDS ALLOTTED**

\$0.00

FUNDS USED TO DATE

\$129,052.20

FUNDS REMAINING

\$0.00

Item	Category	Amount
Basketball Court Court Kit: F-14	Materials	\$22,247.00
Basketball Court Court Kit: F-14	Materials	\$22,247.00
Tennis - Full Court Kit: T-16	Materials	\$20,201.10
Tennis - Full Court Kit: T-16	Materials	\$20,201.10
Baltzer Field Multi Purpose Scoreboard	Materials	\$17,856.00
Baltzer Field Lights	Materials & Labor	\$7,500.00
Tennis Court Electric Panel	Materials & Labor	\$1,500.00
Frazier Park Fencing & Backstop	Materials & Labor	\$4,700.00
Frazier Park Dugouts	Materials & Labor	\$2,600.00
Jaycee Building HVAC	Materials & Labor	\$10,000.00
Total		\$129,052.20

Prioritized List

- 1 Refurbishing the Basketball Courts at Frazier Park
- 1a Refurbishing the Tennis Courts at old Parks and Rec Building
- 1 b Jaycee Building HVAC
- 2 Baltzer Field Sign and Scoreboard
- 2a Tennis Courts Electrical Panel
- 3 Frazier Park Fencing & Backstop
- 3a Baltzer Field Lights

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

- 1. BOARD OF MAYOR AND ALDERMEN.
- 2. MAYOR.
- 3. RECORDER. - *Treasurer*
- 4. DIRECTOR OF PUBLIC WORKS.
- 5. CODE OF ETHICS.

Add Code Compliance Director duties

CHAPTER 1

Add Hiring and firing Procedures for Department Heads

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Order of business.
- 1-102. General rules of order.
- 1-103. Committees and purchasing.
- 1-104. Salaries of aldermen and mayor.

1-101. Order of business. At each meeting of the board of mayor and aldermen, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Invocation.

¹Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

- Building, plumbing, electrical and gas inspectors: title 12.
- Fire department: title 7.
- Utilities: titles 18 and 19.
- Wastewater treatment: title 18.
- Zoning: title 14.

will confirm reference #s

²Charter references

- Composition board, quorum: § 3.
- Election: § 4.
- Miscellaneous powers: § 19.
- Residency: § 7.
- Vacancies: § 9.

will confirm reference #s

- (3) Pledge of allegiance to flag.
- (4) Minutes of preceding minutes approved.
- (5) Report from committees.
- (6) Additions to the agenda.
- (7) Welcome to visitors; any grievances from citizens.
- (8) Report from mayor.
- (9) Report from recorder-treasurer.
- (10) Report from city attorney.
- (11) Old business.
- (12) New business. (1971 Code, § 1-101, modified)

confirm if this is still needed (AN)

1-102. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the Board of Mayor and Aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1971 Code, § 1-102, modified)

1-103. Committees and purchasing.¹ (1) Committees: The following regular committees are created for the City of Covington.

(a) Finance and Administration committee areas of responsibility are:

- (i) Finance;
- (ii) Budget;
- (iii) Insurance;
- (iv) Purchasing;
- (v) Taxation;
- (vi) Employment;
- (vii) Legal services.

(b) Public works committee areas of responsibility are:

- (i) Water;
- (ii) Sewer;
- (iii) Gas;
- (iv) Streets;
- (v) Sanitation;
- (vi) Drainage;
- (vii) Street lights;
- (viii) Maintenance.

add Code Compliance

(c) General welfare – public safety.

- (i) Fire;

¹Municipal code reference
Purchasing: title 5, chapter 5.

will confirm reference #'s

3

- (ii) Police;
- (iii) Emergency management.
- (d) General welfare-public relations committee areas of responsibility are:
 - (i) Airport;
 - (ii) Parks and recreation.
- (e) Member to City of Covington Board of Public Utilities;
- (f) Member to Covington Municipal-Regional Planning Commission.

wording

(2) The Finance and Administration committee shall have ~~six~~ ⁽⁶⁾ members, and the general welfare-public safety, general welfare-public relations, and public works committees shall have three (3) members and one (1) member as member of City of Covington Board of Public Utilities, and one (1) member of the Covington Municipal-Regional Planning Commission who shall be appointed by the Mayor with the approval of the Board of Aldermen, such appointments to be made at the first meeting in December of each even year. The Mayor shall have one (1) person from each district on each committee. The Mayor shall be an ex-officio member of each committee and shall have the same voting rights of other committee members.

(3) All committees shall serve for a term of two (2) years. If the Mayor fails to make appointments within thirty (30) days of the prescribed time, the Board of Aldermen shall have the right to make such appointments. The Mayor shall name the chairman of the committees.

(4) If a vacancy shall occur on any committee, for any reason whatsoever, the vacancy shall be filled by the Mayor with the approval of the Board of Aldermen at the first meeting of the Board of Mayor and Aldermen after such vacancy occurs. If the Mayor fails, neglects or refuses to fill the vacancy, the Board of Aldermen shall have the right to fill such vacancy provided that the vacancy has existed for a period of thirty (30) days or more.

add definitions?

(5) Each committee or committee member shall deal with various agencies, officers and employees of the city, except boards and commissions authorized by the City Charter, through the Mayor, and shall not have direct supervisory authority over any subordinates of the Mayor, either publicly or privately.

(6) The committees shall function to assist the Board in making decisions on any designated matter requiring a board decision and approval. In carrying out this function the committee gathers facts, conducts research, evaluates and investigates. Through these actions the committee provides a written report of its findings and recommendations to the full board for corporate decision and action.

Nothing herein contained shall prevent committees from conducting such inquiries into the operations of the City Government and the conduct of the City's affairs as it may deem necessary. (Ord. #1279, April 1991, modified) *(PN)*

1-104. Salaries of aldermen and mayor. The salary of each member of the board of ^Faldermen shall be six hundred dollars (\$600.00) per month, and the salary of the ^Mmayor of the board of ^Pmayor and ^Maldermen shall be seventy-five thousand dollars (\$75,000.00) per year, and shall be a full-time position.¹ (1971 Code, § 1-104, as amended by Ord. #1456, Sept. 1999, Ord. #1528, July 2004, Ord. #1603, July 2010, and Ord. #1637, Nov. 2012)

- good here for historical reference.
- we are performing a study with similar jurisdictions as well as Atoka and Murfreesboro.

¹Charter reference
Salaries of mayor and aldermen: § 13.

will confirm reference #s

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1971 Code, § 1-201)

1-202. Executes city's contracts. The ^Mmayor shall execute all contracts as authorized by the Board of ^AMayor and ^Aaldermen. (1971 Code, § 1-202)

→ will change to include definitions of officers
Contract people such as A2H,
Community Development, etc
may be considered officers
per Rachel on 10-7-20
possibly add Directors or Department
Heads

¹Charter references
Election: § 4.
Powers and duties: § 22.
Residency: § 7.

will confirm
reference # 5

CHAPTER 3

RECORDER AND TREASURER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. To perform general administrative duties, etc.

1-301. To be bonded. The ^Rrecorder ^{and T}and treasurer shall be bonded in such sum as may be fixed by the ^Bboard of ^Mmayor and ^Aaldermen, and with such surety as may be acceptable to the ^Bboard. (1971 Code, § 1-301)

1-302. To keep minutes, etc. The ^Rrecorder shall keep the minutes of all meetings of the ^Bboard of ^Mmayor and ^Aaldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1971 Code, § 1-302, modified)

1-303. To perform general administrative duties, etc. The ^Rrecorder and treasurer shall perform all administrative duties for the board of ^Mmayor and ^Aaldermen and for the ^Ccity which are not assigned by the ^Ccharter, this code, or the board to another ^Ccorporate officer or employee. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the ^Ccity shall provide. (1971 Code, § 1-303)

officer
Department head
Director

X will add Treasurer responsibilities

¹Charter references
Duties: § 25.

will confirm
reference #

CHAPTER 4

DIRECTOR OF PUBLIC WORKS

SECTION

1-401. Generally

1-401. Generally. (1) The ^Bboard of ^MMayor and ^AAldermen of the City of Covington, Tennessee, shall employ a director of public works who shall be responsible for technical engineering services; streets, sidewalks, and drainage; storm and sanitary sewer inspection, cleaning, and repair; sewerage collection, treatment, and disposal; water supply, treatment, and distribution; natural gas distribution, customer servicing, and safety; refuse collection and disposal, ~~parks and municipal buildings maintenance and repair~~, and automotive, ~~construction~~, and related equipment care, use, servicing, and repair. *Utility Billing*

(2) He shall review overall municipal needs for public works construction and maintenance projects; formulate schedules, assignments, and work plans; and formulate program improvement plans, capital improvement program proposals, and appropriate recommendations for consideration by board committees and the ^BBoard of ^MMayor and ^AAldermen.

(3) He shall organize, direct, coordinate, and review functional activities, work standards, and accomplishments with respect to all engineering, public works, and utility activities, except electric distribution, including engineering field surveys and inspections, and the coordination of maintenance and construction activities undertaken by private contractors and other utility operations within the public rights-of-way.

(4) He shall confer with and advise subordinates on problems of planning, maintenance, construction, and operation of public works facilities and utility systems; establish administrative and operational policies and procedures; instill public relations attitudes and employee pride in work accomplished; investigate and resolve complaints; explain policies activities, and objectives to employees and interested citizens; and carry on other activities in the development and improvement of public services under his direction.

(5) He shall perform related duties as required and assigned, including coordination with consulting engineers and state regulatory agencies. (1971 Code, § 1-1201)

CHAPTER 5

CODE OF ETHICS¹

SECTION

- 1-501. Applicability.
- 1-502. Definition of "personal interest."
- 1-503. Disclosure of personal interest by official with vote.
- 1-504. Disclosure of personal interest in non-voting matters.
- 1-505. Acceptance of gratuities, etc.
- 1-506. Use of information.
- 1-507. Use of municipal time, facilities, etc.
- 1-508. Use of position or authority.
- 1-509. Outside employment.

¹State statutes dictate many of the ethics provisions that apply to municipal officials and employees. For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

Conflict of interests: Tennessee Code Annotated §§ 6-54-107, 108; 12-4-101, 102.

will confirm reference #s

Conflict of interests disclosure statements: Tennessee Code Annotated § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials: Tennessee Code Annotated §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office): Tennessee Code Annotated § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information: Tennessee Code Annotated § 39-16-401 and the following sections.

Ouster law: Tennessee Code Annotated § 8-47-101 and the following sections.

A brief synopsis of each of these laws appears in Appendix B of this municipal code.

- 1-510. Ethics complaints.
- 1-511. Violations.

1-501. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (Ord. #1557, Aug. 2006)

1-502. Definition of "personal interest." (1) For purposes of §§ 1-503 and 1-504, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (Ord. #1557, Aug. 2006)

1-503. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself¹ from voting on the measure. (Ord. #1557, Aug. 2006)

1-504. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

¹Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

1-10
+ real source

or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (Ord. #1557, Aug. 2006)

1-505. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (Ord. #1557, Aug. 2006)

1-506. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (Ord. #1557, Aug. 2006)

1-507. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (Ord. #1557, Aug. 2006) Board of Mayor and Aldermen

1-508. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (Ord. #1557, Aug. 2006)

1-509. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the

performance of any affirmative duty of the Mmunicipal position or conflicts with any provision of the Mmunicipality's Charter or any ordinance or policy. (Ord. #1557, Aug. 2006)

1-510. Ethics complaints. (1) The City attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection, the City attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The City attorney may request the BMA governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the City attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (Ord. #1557, Aug. 2006)

1-511. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the Mmunicipality's Charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (Ord. #1557, Aug. 2006)

12

B-1

APPENDIX B

ETHICS PROVISIONS PROVIDED BY STATUE

1-13-2021
confirm this is
current w/ TCA

Appendix B

Ethics Provisions Provided by Stature

1. **Campaign finance.**

All candidates for the chief administrative office (mayor), any candidates who spend more than \$500, and candidates for other offices that pay at least \$100 a month are required to file campaign financial disclosure reports. Civil penalties of \$25 per day are authorized for late filings. Penalties up to the greater of \$10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101-118).

Contributions to political campaigns for municipal candidates are limited to:

- a. \$1,000 from any person (including corporations and other organizations);
- b. \$5,000 from a multicandidate political campaign committee;
- c. \$20,000 from the candidate;
- d. \$20,000 from a political party; and
- e. \$75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of \$10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301-310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. **Conflicts of Interest.**

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly

acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of goods or services in a municipality. A "direct interest" is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107-108, T.C.A. § 12-4-101-102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 et seq. Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over \$10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from "knowingly" receiving any form of compensation for "consulting services" other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

"Consulting services" under T.C.A. § 2-10-122 means "services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official." "Consulting services" also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct, official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude" (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt (T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal "duty" to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that "there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county." However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney's duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101-102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

Examples of Boards and Commissions listed here are:

- 1- City Beautiful Commission
- 2- Electric Power Board
- 3- Regional Planning Commission
- 4- Civil Defense Organization
- 5- Gas governing Board
- 6- water and waste water governing Board
- 7- School systems.
- 8- Park and Recreation Board
- 9- Library Board
- 10- Design Review Commission
- 11- General wording on appointing and compensation for committee members

Proposed
2-12-21

3-1

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Rachels
Draft pages 1
1-26-21

TITLE 3

MUNICIPAL COURT

CHAPTER:

1. City Judge
2. Court Administration
3. Warrants, Summonses and Subpoenas
4. Bonds and Appeals

CHAPTER 1: CITY JUDGE¹

Section
3-101

- (a) The city judge for the City of Covington shall be appointed by the Mayor and approved by a majority of the Board of Mayor and Aldermen.
- (b)) The city judge shall serve at the will and pleasure of, the Board of Mayor and Aldermen, and may be removed at any time by a majority vote of the Board of Mayor and Aldermen.
- (c) The city judge shall be licensed in the state of Tennessee to practice law, and shall be a resident of the City of Covington, Tennessee/Tipton County, Tennessee. In the event he or she removes his residency from Covington, Tennessee/Tipton County, Tennessee he or she shall automatically vacate his or her office.
- (d) The compensation of the city judge shall be per month, and may be changed from time to time by ordinance.
- (e) During the absence or disability of the city judge, the Board of Mayor and Aldermen may appoint a city judge pro tem to serve until the city judge returns to his or her duties. The judge pro tem shall have all the qualifications required of the city judge under this ordinance, and shall have all the authorities and powers of the city judge.
- (f) Consistent with *Town of South Carthage v. Barrett*, 840 S.W.2d 895 (Tenn. 1992), the city judge is an appointed judge and shall have jurisdiction only over violations of municipal ordinances.

↓ next page

CHAPTER 2: COURT ADMINISTRATION

3-2

- 2-301: Maintenance of the docket
- 2-302: Fines and Penalties
- 2-303: Court costs, local litigation tax and other fees
- 2-304: Disposition and report of fines, penalties, costs and fees
- 2-305: Contempt of court
- 2-306: Trial and disposition of cases

¹ T.C.A. § 16-18-101

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(2)

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- 2) \$4.00 of such fee will be transmitted on a monthly basis by the court clerk to the law enforcement agency that prepared the traffic citation that resulted in a plea of guilty, or no contest, or a guilty judgment.
- ii. The law enforcement portion shall be accounted for in a special revenue fund of said law enforcement agency and may be used only for the following purposes:
 - 1) Electronic citation system and program related expenditures; and
 - 2) Related expenditures by the local law enforcement agency for technology, equipment, repairs, replacement and training to maintain electronic citation programs.
- iii. The clerk's portion shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement, and may not revert to the general fund at the end of a budget year if unexpended.
- iv. Sunset Provision. This e-citation fee requirement shall terminate five (5) years from the date of adoption of this Ordinance and the city's Code shall be so annotated.

2-304: Disposition and report of fines, penalties, costs and fees. All funds coming into the hands of the city court in the form of fines, penalties, costs, fees and other forfeitures shall be recorded by the court and paid over daily to the City of Covington. At the end of each month the city court clerk shall submit to the Board of Mayor and Aldermen a report accounting for the imposition of fines, fees, and court costs, the amount collected and the amount outstanding for the previous month.

Recorder -
Treasurer's
Office

1-13-21
confirm
withina

- a) Collection. It is the duty of the city judge to collect fines and costs imposed by the city court. Fines and costs assessed in municipal courts are collected in the same manner as civil judgments. All judgments for money and costs issued by any court of this state may be enforced by execution.⁵ If a defendant makes a partial payment, the funds should be applied in this order: 1) payment of litigation taxes; 2) once litigation taxes have been paid, then payment of costs; 3) then additional moneys shall be credited toward payment of the fine.⁶
- b) The Board of Mayor and Aldermen may enact an ordinance to employ a collection agency to collect fines and costs that are more an 60 days past due.⁷ The Board of Mayor and Aldermen may also direct the city attorney to pursue any and all other legal actions to enforcement the judgment of the city court.

2-304: Contempt of Court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

⁵ T.C.A. §§6-54-303 and 26-1-103.
⁶ T.C.A. § 40-24-105 (a)
⁷ T.C.A. § 40-24-105(e)(1)-(4)

Electronic Citation Fee Authorized: Adopt Ordinance to Collect \$5.00 Fee for Five Years

Cities may adopt ordinances by majority vote of the legislative body to collect a \$5.00 fee for both written and electronic citations prepared by a law enforcement officer, according to TCA § 55-10-207. However, once a city adopts such a fee, the ability to collect it must sunset five years from the ordinance's adoption. MTAS has created an applicable sample ordinance for your use.

Replicas of citation data included in an electronic citation must be sent by electronic transmission within three days of the issuance of the citation to a court with jurisdiction over the alleged offense. A \$5.00 fee is assessable as court costs and must be paid by the defendant for any offense cited in a traffic citation that results in a plea of guilty or no contest, or a judgment of guilty. The electronic citation must contain the same information as required under present law, and the person issued a citation will continue to be provided with a paper copy of the citation. ¹¹ This fee shall be *in addition to* all other fees, taxes and charges, so cities should amend their current court cost code section to add this provision.

The \$5.00 fee received must be apportioned as follows:

- (1) \$1.00 of such fee will be retained by the court clerk; and
- (2) \$4.00 of such fee will be transmitted on a monthly basis by the court clerk to the law enforcement agency that prepared the traffic citation that resulted in a plea of guilty, or nolo contendere, or a guilty judgment.

The law enforcement portion shall be accounted for in a special revenue fund of said law enforcement agency and may be used only for the following purposes:

- (1) Electronic citation system and program related expenditures; and
- (2) Related expenditures by the local law enforcement agency for technology, equipment, repairs, replacement and training to maintain electronic citation programs.

However, the clerk's portion shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement, and may not revert to the general fund at the end of a budget year if unexpended.

[1] See also, citation requirements under T.C.A. §7-63-101 and § 55-10-207(i); *Guidi v. City of Memphis*, 263 S.W.2d 532 (A citation is sufficient if "the accused be given reasonable notice of the nature of the ordinance alleged to have been violated".); *City of La Vergne v. LeQuire*, 2016 WL 6124117; *City of Church Hill v. Elliott*, 2017 WL 2591371 (Tenn. Crim. App. June 15, 2017). AG Opinion on electronic citations, Tenn.Op. Atty.Gen.No. 16-26 (7/22/16), 2016 WL 4055458.

7/5/11

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1-26-11

written contract between the collection agency and the municipality shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

The collection of unpaid parking tickets is governed separately by T.C.A. § 6-54-513. A municipality shall have no authority to forward to a collection agency unpaid parking tickets for collection without notifying the owner of record of the motor vehicle for which the parking ticket was issued. The notification shall be sent by mail to the owner of record the motor vehicle that such action will occur unless the owner pays the unpaid tickets within 30 days from the date the letter is mailed. The municipality shall also include in the notification a statement that, if the ticket is forwarded to a collection agency for collection, the agency may notify the credit bureau or credit agency of such fact, which could affect the owner's credit rating.

Alternatively, if a defendant fails to pay fines or costs ordered by the court, the city may commence an action in general sessions court to garnish the defendant's wages or personal property, which is referred to as an "action for execution." T.C.A. § 26-2-201 *et seq.* In such execution or garnishment actions, police officers of the municipality may serve notice on defendants anywhere in the county in which the city is located. T.C.A. § 6-54-303(b).

An action to garnish wages must be filed in a court in the county in which the defendant is employed. Garnishment is a very effective method for collecting fines, as the payments are made by the employer through the court clerk, and the costs associated with the garnishment action are added to the judgment being collected.

If the defendant is a property owner, the city may file suit in chancery court seeking to attach a lien against the defendant's property. Liens may not be attached against property without a state court order unless specific statutory authority exists. No such authority exists for municipal court fines and costs, so the city must go to the expense of a lawsuit to attach such liens. Liens are generally collected only if the property sells.

Failure to Appear for a Traffic Violation

The Tennessee Department of Safety is authorized to suspend the driving privileges of violators who fail to appear in court or satisfy a citation. *See*, T.C.A. §55-50-502. Occasionally, a defendant will appear in court but neglect to pay fines or costs. This is called "failure to satisfy a citation," and it should be treated the same as failing to appear in court. Tennessee has an interstate compact with most other states that deals with violators who fail to satisfy citations they receive in a state other than the one in which they live. If

HIP

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1-26-21

contempt, a judgment is entered against the defendant by default. The defendant may still appeal the default judgment to circuit court within 10 days by posting a bond in the amount of \$250. T.C.A. § 16-18-307. After 10 days, the defendant has no right to challenge the original charge. By failing to appear, he or she has essentially lost the case.

Cities may adopt ordinances making failure to appear a separate ordinance violation. If a city has such an ordinance, a new citation, which may be served personally or by certified mail, may be issued when the defendant fails to appear. The defendant is entitled to a hearing on the failure to appear charge before the \$50 fine is assessed. In those situations, the defendant has a separate citation pending in the court to which court costs and litigation taxes may attach.

**SAMPLE ORDINANCE FOR THE CITY
OF _____ TO ADOPT BY REFERENCE
STATE TRAFFIC OFFENSES AND RULES OF THE ROAD**

ORDINANCE 06-__

**AN ORDINANCE OF THE CITY OF _____, TENNESSEE, REPLACING MUNICIPAL CODE § _____
AND ADOPTING BY REFERENCE STATE TRAFFIC OFFENSES AND RULES OF THE ROAD.**

WHEREAS, the Board of Mayor and Aldermen desires to adopt by reference state traffic offenses, registration requirements and rules of the road; and

WHEREAS, the Tennessee General Assembly amended the laws pertaining to adoption of state laws by municipalities by reference, by changing the statute under which such adoption is made and by further specifying that only Class C misdemeanors may be adopted by municipalities and enforced as municipal ordinance violations;

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

Section 1. Municipal Code § _____, "Rules of the Road," is repealed in its entirety.

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(6)

1-26-21

9/30/20- Notes from meeting

- 12 mph or under, pay court costs and ticket dismissed (with covid, 14 mph)
- Judge- max fine, but discretion to reduce speed
- Continuance fee

Current
2-12-21

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3-1

TITLE 3

MUNICIPAL COURT¹

CHAPTER

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

CHAPTER 1

CITY JUDGE²

SECTION

3-101. City judge.

3-101. City judge. The city judge shall be appointed by the ~~M~~ Mayor with the consent of the ~~B~~ Board, and shall be a licensed attorney and receive the compensation provided by ~~ordinance~~.

the Budget Ordinance

¹Charter reference
Established: § 30.

²Charter references
Appointment, qualifications, compensation, etc.: § 30.

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Contempt of court.
- 3-205. Trial and disposition of cases.

3-201. 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; and all other information that may be relevant. (1971 Code, § 1-502, modified)

3-202. Imposition of penalties and costs. All penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

In all cases heard and determined by him, the city judge shall impose court costs in the amount of seventy-five dollars (\$75.00). One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen 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. (1971 Code, § 1-511)

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

3-205. 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

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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. (1971 Code, § 1-506)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

- 3-301. Issuance of arrest warrants.
- 3-302. Issuance of summonses.
- 3-303. Issuance of subpoenas.
- 3-304. Citations in lieu of arrest in non-traffic cases.
- 3-305. Summonses in lieu of arrest.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1971 Code, § 1-503)

3-302. 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. (1971 Code, § 1-504)

3-303. 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. (1971 Code, § 1-505)

3-304. Citations in lieu of arrest in non-traffic cases. Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the board of mayor and aldermen appoints the fire chief in the fire department and the building official in the building department or their authorized representative as special police officers having the authority to issue citations in lieu of arrest. The fire chief or his authorized representative in the fire department shall have the authority to

¹State law reference
 For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

issue citations in lieu of arrest for violations of the fire code. The building official or his authorized representative in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and residential codes.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with Tennessee Code Annotated, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (Ord. #1618, July 2011, modified)

3-305. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the board of mayor and aldermen to designate certain city enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the building official or his authorized representative in the planning and building department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

- (1) Have a summons issued by the clerk of the city court; or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest he shall dispose of the person arrested as provided in accordance with Tennessee Code Annotated, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (Ord. #1618, July 2011)

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appeals.

3-402. Bond amounts, conditions, and forms.

3-401. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, Sundays exclusive, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1971 Code, § 1-509)

3-402. Bond amounts, conditions, and forms. 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. (1971 Code, § 1-510, modified)

¹State law reference
Tennessee Code Annotated, § 27-5-101.