

Chapter 9 – MUNICIPAL COURT

ARTICLE I. - IN GENERAL

Sec. 9-1 Creation of the court.

In accordance with section 4.01 of the Charter, the city hereby creates the municipal court of the city. The powers and jurisdiction of the court are described in article IV of the Charter.

Sec. 9-2. - Judge and judge pro-tem.

- (a) In accordance with section 4.02 of the Charter, the municipal court judge shall be nominated by the mayor subject to approval by the city council with compensation to be fixed by the council.
- (b) In accordance with section 4.02 of the Charter, the mayor shall also nominate one or more judges pro tempore subject to approval by the city council to serve as requested.
- (c) The judge and judges pro tempore shall serve a term of four years but may be removed in accordance with the provisions of section 4.02(d) of the Charter.
- (d) No person shall be qualified or eligible to serve as judge unless he shall have attained the age of 28 years and shall have been a member of the State Bar of Georgia for a minimum of seven years.
- (e) The judges pro tempore shall serve as requested by the judge and shall have the same qualifications as the judge.

Sec. 9-3. - Additional personnel.

- (a) *Municipal court clerk and court administrators.* The city manager shall appoint the municipal court clerk. The court clerk shall appoint the court administrators.
- (b) *Warrants and other writs.* Police officers of the city police department, county police department, county sheriff's department or any other law enforcement officer may execute warrants and other writs in furtherance of the court's jurisdiction and orders.
- (c) *Bailiff.* At least one police officer or an officer from the county sheriff's department will serve as a bailiff whenever the municipal court is in session.
- (d) *Solicitor.* In accordance with section 3.08 of the Charter, the city attorney may be the prosecuting officer or solicitor in the municipal court.

Sec. 9-4. - Additional support.

- (a) *Indigent defense.* The city shall provide indigent defendants with counsel as provided by state law.
- (b) *Translator.* The city shall provide translation services as required by state law.
- (c) *Intermediary interpreter.* The city shall provide interpreter services as required by state law.

Sec. 9-5. - Court sessions.

The court shall be in session as determined necessary by the municipal court judge to keep the court dockets current. The court clerk shall direct staffing of the sessions.

Sec. 9-6. - Court fees.

(a) The municipal court judge may recommend to the city council for its approval a schedule of fees to defray the cost of operation.

(b) The council may set fines for violations of city ordinances.

Sec. 9-7. - Summons; failure to appear.

(a) Any officer of the police department, code enforcement officer, and the solicitor and assistant solicitor of the municipal court in all cases where a complaint is made or information is obtained of any violation of this Code or other laws or ordinances of the city or of any violation of the state traffic code within municipal court jurisdiction, shall issue a summons, directed to the accused, requirement the accused to appear before the municipal court to answer the charge. The summons shall enumerate the specific charges against the accused and designate the time and place of arraignment or trial and shall be signed by the police officer, code enforcement officer, or the solicitor or assistant solicitor of the municipal court issuing it, and a copy thereof shall be served upon the accused personally.

(b) It shall be unlawful, upon proof of actual service of the summons upon the defendant, for any defendant lawfully summoned to answer charges in the municipal court to either fail, neglect or refuse to appear at the time and place specified in the summons or fail to provide a satisfactory explanation for this absence. The trial may be continued to such time as the municipal court may direct, and the court shall issue an order requiring the police chief, or other members of the department of police to arrest the defendant and bring the defendant before the court to answer both the initial charges and the charge for failing to appear. The chief of corrections shall keep the defendant in custody until the defendant is brought before the court, unless the defendant posts bond for appearance, as provided by law.

Secs. 9-8—9-34. – Reserved.

ARTICLE II. - TRIALS AND JUDGMENTS

Sec. 9-35. - Rules.

The municipal court judge may adopt local rules. No rules shall be inconsistent with the laws of the state or the Constitution of the United States and consistent with the Uniform Rules of Municipal Courts of the State of Georgia. Such rules shall be made available on the city website or by other means determined by the municipal clerk.

Sec. 9-36. - Contempt of court.

The municipal court may find persons in contempt of court and punish the persons in accordance with this Code.

Sec. 9-37. - Subpoenas; issuance.

Whenever the attendance of any witness may be required before the municipal court to establish any fact, the clerk of the municipal court shall issue a subpoena directed to the witness, stating the time and place of trial and the parties to the case, which shall be served by the police chief or other police officers or as provided by law.

Sec. 9-38. - Failing or refusing to obey.

If any person lawfully summoned as a witness before the municipal court fails to attend the trial for which the person has been summoned or fails to provide a satisfactory explanation for this absence, the person may be cited for contempt and be fined in a sum not to exceed the maximum amount allowed by law. If the cause is continued because of the absence of this person, the court may issue attachment against the person requiring the person to show cause on the day appointed for trial why the person should not be cited for contempt. The police chief or other police officer shall, by virtue of the attachment, arrest the person and keep the person in custody until the person is brought before the court, unless the person posts bond for appearance, as provided by law.

Sec. 9-39. - Fines.

(a) The municipal court shall have the discretion to enter fines consistent with this Code, state and federal law. For fines due from any defendant, execution may be issued by the court clerk and collected as provided by law.

(b) Persons charged with traffic violations or other offenses as specified by the court may, prior to the time for their court appearance, plead guilty in writing and pay to the city as their fine the amount set as the appearance bond for the offense charged. Persons charged with driving under the influence of alcohol or drugs and other serious offenses, as determined by the municipal court judge, shall be required in all cases to appear before the court for disposition of the case.

Sec. 9-40. - Sentences imposed.

Upon a judgment or plea of guilty or pre-trial diversion, in addition to any applicable fines, the municipal court judge may impose a sentence of confinement, compulsory work, or both; commit the defendant to confinement, compulsory work or both; suspend the execution of the sentence in whole or in part; place the defendant on probation; or defer the execution of the sentence or any portion or portions thereof to one or more fixed dates in the future. The court may punish for violations within its jurisdiction a fine not exceeding \$1,000.00 or imprisonment for six months, or both, except as otherwise provided by this Code or state law.

Sec. 9-41. - Appeals.

Unless specified elsewhere in the Code or Charter, all appeals from decisions and judgments of the municipal court in criminal and ordinance violation cases shall be appealable, by writ of certiorari, to the superior court of the county under the laws of the state regulating the granting and issuance of writs of certiorari.

Secs. 9-42—9-70. - Reserved.

ARTICLE III. - BAIL

Sec. 9-71. - General provisions.

Bail and bond considerations shall be consistent with section 4.04(c) of the Charter.

Sec. 9-72. - Minor traffic offenses.

(a) Pursuant to O.C.G.A. § 17-6-11, any person cited for a traffic offense shall be released in lieu of bail upon showing his drivers license. This provision does not apply to any charges of driving under the influence or other serious offenses designated by the municipal court judge.

(b) All persons arrested or notified by citation or ticket of parking violations shall be released on their own recognizance.

Sec. 9-73. - Professional bondsmen.

No professional bondsman shall be accepted as surety on a bail bond unless the person holds a current business license in the city, is approved by the chief of police, and has fully complied with all other city requirements for bonding companies.

Sec. 9-74. - Failure or refusal to give bond.

If the accused or a witness shall fail or refuse to give the bond and security as required under this article, the person so failing or refusing may be confined or kept under guard, so as to be present to abide the trial or to testify as the case may be.

ARTICLE IV. - OFFICE OF PROSECUTING ATTORNEY OF THE MUNICIPAL COURT OF TUCKER

Sec. 9-75. Short Title.

This Article shall be known as the “Office of Prosecuting Attorney of the Municipal Court of Tucker.”

Sec. 9-76. Findings and Intent.

This ordinance is adopted to address requirements made under Georgia law for the city to pass an ordinance or resolution creating the office of prosecuting attorney of the municipal court should the city choose to hire or have a prosecuting attorney of the municipal court. Under state law, in order to have a municipal court prosecutor, the city must pass this ordinance or resolution and provide to the Prosecuting Attorneys’ Council of the State of Georgia a copy of the same. The city is also required to submit the name of the person appointed to be the prosecuting attorney of the municipal court within thirty (30) days of such appointment in order to maintain the office of prosecuting attorney of the municipal court. It is therefore the intent of the city to comply with Georgia law, particularly Article 5, of Chapter 18, of Title 15 of the Official Code of Georgia, Annotated, and to enact this Article.

Sec. 9-77. Establishment of Office.

The Office of Prosecuting Attorney of the Municipal Court is hereby established for the purpose of providing representation of the City of Tucker in matters pertaining to ordinance violations of the city and state offenses enforceable in the municipal court as allowed by Georgia law. The prosecuting attorney for the municipal court shall be a part time position.

Sec. 9-78. Qualifications.

Any person appointed as the prosecuting attorney for the Municipal Court of the City of Tucker shall be a member in good standing of the State Bar of Georgia and admitted to practice before the trial and appellate courts of this state. Nothing in this Article shall prevent the city from appointing the city attorney to be the prosecuting attorney for the municipal court, so long as all other requirements under the law are met.

Sec. 9-79. Oath.

The prosecuting attorney of the Municipal Court for the City of Tucker shall take and subscribe to the following oath:

‘I swear (or affirm) that I will well, faithfully, and impartially and without fear, favor, or affection discharge my duties as prosecuting attorney of the Municipal Court for the City of Tucker.’

Sec. 9-80. Term of Office.

Unless otherwise provided by the charter for the City of Tucker, the prosecuting attorney for the Municipal Court shall serve a term of office of two years.

Sec. 9-81. Jurisdiction, Duties, and Authority.

The Office of Prosecuting Attorney of the Municipal Court for the City of Tucker shall have the duty and authority to represent the city as defined by the city charter and by state law, particularly as described in Official Code of Georgia, Section 15-18-96.

Sec. 9-82. Assistant Prosecuting Attorney.

The prosecuting attorney of the municipal court may appoint one or more assistant prosecuting attorneys. Such assistant prosecuting attorney shall be a member in good standing of the State Bar of Georgia or satisfy the provisions of the Third Year Practice Act, found in the Official Code of Georgia, Section 15-18-22.

Sec. 9-83. Ratification.

This Article shall ratify all actions that have been taken by the persons acting in the positions of the Office of the Prosecuting Attorney for the Municipal Court to date as authorized by the Mayor and his Council.