

CHAPTER 30 – MUNICIPAL COURT

ARTICLE I. - IN GENERAL

Sec. 30-1. - Created.

The Town hereby creates the Municipal Court of the Town. The Court has the powers and jurisdiction set forth in Section 4.13 of the Town Charter.

State law reference— Jurisdiction of Municipal Courts, O.C.G.A. § 36-32-1 et seq.; jurisdiction of Municipal Court regarding traffic cases, O.C.G.A. § 40-13-21.

Sec. 30-2. - Judges.

- (1) A person may act as Judge of the Town's Municipal Court if selected in a manner as provided by law and who is at least twenty-five (25) years of age and a resident of Chattooga County, Georgia.
- (2) In accordance with section 4.11 of the Charter, the Council shall appoint the Municipal Court judges with compensation to be fixed by ordinance.
- (3) The Municipal Court judges may only be removed in accordance with the provisions of section 4.11(e) of the Charter.

State law reference— Municipal court judges; qualifications to serve, O.C.G.A. §36-32-1.1; Continuing education requirements for municipal judges, O.C.G.A. §§ 36-32-11, 36-32-27.

Sec. 30-3. - Additional personnel.

Court Clerk. The Mayor shall have the authority to hire or fire a Municipal Court Clerk.

Police. Officers of the Town police department or the county police department or the 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.

Bailiff. At least one police department officer will serve as a bailiff whenever the Municipal Court is in session.

Solicitor. In accordance with section 3.12 of the Charter, the Town attorney may be the prosecuting officer or solicitor in the Municipal Court. The Council may also, from time to time, appoint and contract with other attorneys who are members of the State Bar of Georgia to serve as a prosecuting attorney in Municipal Court. The compensation of said attorney shall be determined by the Council.

State law reference- Continuing education requirements for Municipal Court Clerks, O.C.G.A. § 36-32-13.

Sec. 30-4. - Court sessions.

The Court shall be in session at least one day per month and other times as determined necessary by the Court Clerk to keep the Court dockets current.

State law reference— Permissible location of Municipal Court sessions, O.C.G.A. § 36-32-12.

Sec. 30-5. - Court fees.

The Municipal Court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement for the cost of meals, transportation and caretaking of prisoners bound over to superior courts for violations of state law

Sec. 30-6. - Authority to enact rules and regulations.

The municipal judges, by majority vote, shall have authority to make reasonable rules and regulations necessary and proper for addressing the operations of the Municipal Court. The Court Clerk, as administrator of the Court, shall prepare reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the Municipal Court. All rules shall be subject to the approval of the Council. Such rules shall be made available on the Town website or by other means determined by the Council.

Sec. 30-7. - Contempt of Court.

The Court may find persons in contempt of Court and punish said persons in accordance with section 4.13 of the Charter.

Sec. 30-8. - Fines.

- (1) For fines that may be due by any defendant, execution may be issued by the Court Clerk and collected as provided by law. The Municipal Court shall have the discretion to enter fines consistent with this Code, and state and federal law.
- (2) Persons charged with traffic violations or other offenses as specified by the judge may, prior to the time for their Court appearance, plead guilty in writing and pay to the Town as their fine the amount set as the appearance bond for the offense charged. Those 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.

State law reference— Authority of Municipal Court to impose penalties, O.C.G.A. §§ 36-32-1(c), 36-32-5; traffic violations, O.C.G.A. § 40-13-1 et seq.

Sec. 30-9. - Sentences.

In addition to any applicable fines, and upon a judgment or plea of guilty or pretrial diversion, the Municipal Court judge may impose 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 not exceeding a fine of \$1,000.00 or imprisonment for six months, or both; except as otherwise provided by this Code or state law.

State law reference— Authority of Municipal Court to impose jail terms, O.C.G.A. § 17-7-22; authority of Municipal Court to impose penalties, O.C.G.A. §§ 36-32-1(c) and 36-32-5.

Sec. 30-10. – Appeals

Unless specified elsewhere in the Code or Charter, all appeals from decisions of the Municipal Court shall be appealable, by right of certiorari, to the superior Court of the county under the laws of the state regulating the granting and issuance of writs of certiorari.

State law reference— Certiorari, O.C.G.A. § 5-7-3.

Secs. 30-11—30-36. - Reserved.

ARTICLE II- BAIL

Sec. 30-37. - General provisions.

Bail and bond considerations must be consistent with section 4.13(e) of the Charter.

Sec. 30-38. - Minor traffic offenses.

- (1) 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 or her driver's license. This provision does not apply to any charge of driving under the influence or other serious offenses designated by the municipal judge.
- (2) All persons arrested or notified by citation or ticket of parking violations shall be released on their own recognizance.

State law reference— Display of driver's license in lieu of bail, O.C.G.A. § 17-6-11 et seq.

Sec. 30-39. - Professional bondsmen.

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

Sec. 30-40. - 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.

Secs. 30-41—30-68. - Reserved.

ARTICLE III. - COURT PROCEDURE

Sec. 30-69. - Summons—Issuance.

Any member of the department of police, the solicitor of the Municipal Court and the assistant solicitor, 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 Town, shall issue a summons, directed to the accused, requiring the accused to appear before the Municipal Court to answer this charge. The summons shall designate the time and place of trial and shall be signed by the member of the department of police, the solicitor or assistant solicitor issuing it and a copy thereof shall be served upon the accused either personally or by leaving the copy at the place of residence of the accused.

Sec. 30-70. - Same—Failure to appear.

It shall be unlawful 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 Chief of Police, 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 at trial. 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.

Sec. 30-71. - 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 as other process by the Chief of Police or other police officers.

Sec. 30-72. - Same—Failing or refusing to obey.

If any person lawfully summoned as a witness before the Municipal Court shall either fail, neglect or refuse to attend the trial for which the person has been summoned or fail to provide a satisfactory explanation for this absence, the person may be cited for contempt and be fined in a sum not to exceed \$200.00. 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 Chief of Police 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. 30-73. - Contempt.

Any person who, during a sitting of the Municipal Court, shall be guilty of a contempt of Court or who refuses to abide by an order of the Court or sentence may be punished as provided in state law for contempt against the superior Courts of this state.

State law reference— Municipal Court judges to have powers of magistrates, O.C.G.A. § 36-32-3; contempt powers of magistrates, O.C.G.A. § 15-10-2(7). Charter reference- Section 4.13(b)