

October 28, 1999

Captain Carl McMillen
Police Department
City of LaVergne
5093 Murfreesboro Road
LaVergne, Tennessee 37086

VIA FACSIMILE

Dear Carl:

After I talked with you this morning, I checked your Code of Ordinances, and in fact it does not include the standard language that we usually suggest to cover Citations In Lieu of Arrest and Ordinance Summonses. I found the appropriate language, and the two sections that would need to be added to your code by the Board of Mayor and Aldermen, using the normal ordinance adoption procedure, are attached.

The citation language extends the type of citation process that you're familiar with for traffic violations to violations of the fire code and building code, and allows the Board to designate the officials responsible for that enforcement, assuming it's not the Police Department, as special police officers. This is done under authority granted in TCA 7-63-101 et seq.

The ordinance summons section applies to animal control, sanitation and litter control. The difference between a citation and an ordinance summons is that if the violator refuses to sign the ordinance summons, the enforcement official (if they're not a police officer) has to go get a police officer to make the arrest. This authority comes from TCA 7-63-201 et seq.

Looking at your code, I've numbered these as sections 6-108 and 6-109, but whoever prepares ordinances for your Board's consideration may have a different idea about that.

I passed your request for a performance evaluation form/process on to Rex, and he'll get back to you on that. Please call if you need any further help on any of this.

Sincerely yours,

Jim Finane
Special Projects Consultant

6-108. Citations in lieu of arrest in non-traffic cases.¹ Pursuant to Tennessee Code Annotated, ' 7-63-101, et seq., the board of mayor and aldermen appoints the _____ in the fire department and the _____ in the building department special police officers having the authority to issue citations in lieu of arrest. The _____ in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The _____ in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

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.

6-109. 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 _____ in the _____ department and the _____ in the _____ 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 summons 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 ' 6-106 above.

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.

¹Municipal code reference

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.