

November 4, 2014

Town of Woodbury Tennessee  
Mayor Harold J. Patrick  
101 West Water Street  
Woodbury, Tennessee 37190

VIA ELECTRONIC MAIL

Dear Mayor Patrick:

Responsive to your question regarding an upcoming leave of absence of the town judge on a planned one-year sabbatical, please be advised that Section 27 of your charter and Title 3, Chapter 1 of the code of ordinances address this matter.

Section 27 of the charter provides as follows:

**SECTION 27.** Be it further enacted, that a Town Judge who shall constitute the Town Court shall be appointed by the Board of Mayor and Aldermen. He shall take the same oath required of the Mayor and Aldermen and shall be licensed to practice law in the State of Tennessee. He shall receive such compensation as may be provided by ordinance. The Town Judge shall serve at the will of the Board of Mayor and Aldermen.

The Board of Mayor and Aldermen shall designate a qualified person to serve as interim judge in the absence or disability of the Town Judge.

The Town Judge shall have jurisdiction in and over all cases for the violation of the ordinances of the Town. He shall have the power to levy fines, penalties and forfeitures not exceeding \$500, or maximum set by state law, for each offense and to impose such costs as the Board of Mayor and Aldermen may by ordinance provide, to issue all necessary process, to administer oaths, and to punish for contempt by fine.

Please note that the board is designated by charter to appoint an interim judge.

Title 3, Chapter 1 of your code (enclosed) conflicts with this charter provision by providing that the mayor designate a person in the absence of the town judge:

**3-108. Absence or disability of judge.** The mayor may designate any attorney licensed to practice law in Tennessee to serve as judge during the absence or disability of the town judge. (1977 Code, § 1-508)

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As the higher legal authority, Sec. 3-108 should be ignored and the interim appointment be made by the board of mayor and aldermen. At some future convenient date, this provision should be amended to comport with the charter, or be stricken, to avoid confusion going forward in the future.

Please be mindful that the person so selected must be licensed to practice law in the state (Charter, Section 27), must be 21 years of age and a resident of Woodbury (Code of Ordinances, Sec. 3-103), and must take an oath of office before entering upon the duties of the office and post a fidelity bond (Code of Ordinances, Sec. 3-106).

Finally, please also be aware that the compensation paid the interim judge must be the same paid the town judge, as that compensation cannot be altered during the term of the incumbent town judge.

MTAS Legal Consultant Elisha Hodge was consulted in formulating this response.

Please let us know if you have further questions regarding this matter.

Very truly yours,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a horizontal line that tapers to the right.

Jeffrey J. Broughton  
Municipal Management Consultant

Cc: Elisha Hodge

**TITLE 3****MUNICIPAL COURT<sup>1</sup>****CHAPTER****1. TOWN JUDGE.****CHAPTER 1****TOWN JUDGE****SECTION**

- 3-101. Town judge.
- 3-102. Powers of judge.
- 3-103. Qualifications of judge.
- 3-104. Appointment of judge.
- 3-105. Vacancy in office of judge.
- 3-106. Oath of office and bond of judge.
- 3-107. Salary of judge.
- 3-108. Absence or disability of judge.

**3-101. Town judge.** The city court shall be presided over by a town judge whose position is created pursuant to the provisions of the Tennessee Code Annotated, §§ 16-18-101 and 16-18-102, and this chapter. (1977 Code, § 1-501)

**3-102. Powers of judge.** The town judge shall be vested with the judicial powers and functions of the recorder and shall be subject to the provisions of law and the town's charter governing the municipal court presided over by the recorder. (1977 Code, § 1-502)

**3-103. Qualifications of judge.** The town judge must be at least 21 years of age and be a resident of the Town of Woodbury. (1977 Code, § 1-503)

**3-104. Appointment of judge.** The town judge shall be appointed by the board of mayor and aldermen to serve for the same term as the appointing board but may be removed by the board at any time with or without cause. (1977 Code, § 1-504)

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<sup>1</sup>Charter reference: § 27.

**3-105. Vacancy in office of judge.** Vacancies in the office of town judge shall be filled for the unexpired term by the board of mayor and aldermen. (1977 Code, § 1-505)

**3-106. Oath of office and bond of judge.** Before entering upon the duties of his office, the town judge shall take an oath to support the Constitutions of the United States and the State of Tennessee and faithfully to enforce, to the best of his skill and ability, all laws and ordinances over which he has jurisdiction. Also, before entering upon the duties of his office, the town judge shall execute and deliver to the town a fidelity bond, with some surety company authorized to do business in the state as surety, in the amount of five thousand dollars (\$5,000). The cost of making this bond shall be paid by the town. (1977 Code, § 1-506)

**3-107. Salary of judge.** The salary of the town judge shall be fixed by the board of mayor and aldermen before his appointment and shall not be altered during his term of service. (1977 Code, § 1-507)

**3-108. Absence or disability of judge.** The mayor may designate any attorney licensed to practice law in Tennessee to serve as judge during the absence or disability of the town judge. (1977 Code, § 1-508)