

- CODE OF CITY OF BROOKHAVEN

Chapter 9 – MUNICIPAL COURT

Chapter 9: Municipal Court

Article 1: General Provisions

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 of Brookhaven. The powers and jurisdiction of said Court are described in Article IV of the Charter.

9-2: Judges 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 a Judge Pro Tempore subject to approval by the City Council to serve as requested.

(c) The Judge and Judge(s) Pro Tempore shall serve a term of 2 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 or she shall have attained the age of 28 years and shall have been a member of the State Bar of Georgia for a minimum of three years.

(e) The Judge(s) Pro Tempore shall serve as requested by the Judge and shall have the same qualifications as the judge.

9-3: Additional Personnel

(a) Clerk of the Court. The City Manager shall appoint Municipal Court Clerk, who shall serve at the pleasure of the City Manager. The Municipal Court Clerk shall also serve as the administrator of the court.

(b) Police Officers of the City of Brookhaven Police Department or the DeKalb County Police Department or DeKalb 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 Brookhaven Police Department Officer or an Officer from the DeKalb 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.

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9-4: Additional Support

- (a) Indigent Defense. The City of Brookhaven shall provide indigent defendants with counsel as provided by state law.
- (b) Translator. The City of Brookhaven shall provide translation services as required by state law.
- (c) Intermediary Interpreter. The City of Brookhaven shall provide interpreter services as required by state law

9-5: Court Sessions

The Court shall be in session at least 1 day per month and other times as determined necessary by the Municipal Court Judge to keep the Court dockets current. The Court Clerk shall direct staffing of the sessions.

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.s 9-7 – 9-10 : RESERVED

Article 2: Trials and Judgments

9-11: Rules

The Municipal Court Judge shall adopt specific rules of procedure. No rules shall be inconsistent with the laws of Georgia or the Constitution of the United States. Such rules shall be made available on the City website or by other means determined by the Council.

9-12: Contempt of Court

The Municipal Court may find persons in contempt of court and punish said persons in accordance with the City of Brookhaven Code of Ordinances.

9-13: Summons--Issuance.

Any officer of the Brookhaven Police Department, or its designee, 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 city, shall issue a summons, directed to the accused, requiring the accused to appear before the Municipal Court to

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answer the charge. The summons shall enumerate the specific charges against the person, designate the time and place of trial and shall be signed by the officer of the Brookhaven Police Department or its designee, 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.

9-14: Failure to appear.

It shall be unlawful for any defendant lawfully summoned to answer charges in the Municipal Court to fail 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 Brookhaven Police Department, or its designee, to arrest the defendant and bring the defendant before the court to answer both the initial charges and the charge of failure to appear. The defendant shall remain in custody until brought before the court, unless the defendant posts bond for appearance, as provided by law.

9-15: 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.

9-16: 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 \$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 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.

9-17: Fines

(a) The Municipal Court shall have the discretion to enter fines consistent with this Code of Ordinances, State of Georgia 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

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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.

9-18: Sentences

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 6 months, or both, except as otherwise provided by this Code or state law.

9-19: 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 right of certiorari, to the Superior Court of DeKalb County under the laws of Georgia regulating the granting and issuance of writs of certiorari.

Sec. 9-20 : RESERVED

Article 3: Bail

9-21: General Provisions

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

9-22: 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 or her 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.

9-23: 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.

9-24: Failure or Refusal to Give Bond

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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.

Sec.s 9-25 – 9-200 : RESERVED