



HISTORIC
FRANKLIN
TENNESSEE

ITEM #9
WRKS 01/10/2012

MEMORANDUM

January 3, 2012

TO: Board of Mayor and Aldermen

FROM: Steve Sims, Asst Recorder and Court Clerk
Russ Truell, Asst City Administrator and Chief Financial Officer
Eric Stuckey, City Administrator *Eric*

SUBJECT: **Revise Title 3 “Municipal Court” – Change the Provisions for Use of a Collections Agent**

Purpose

The purpose of this memorandum is to obtain approval to modify Title 3-208 to align the provision for using a contractor to pursue delinquent court debts to terms used in other financial services. Currently, Title 3 requires us to award the contract annually and our other financial service agreements are typically for three to five years with annual renewal and termination provisions.

Background

Title 3-208 allows us to use a Collections Agent to pursue delinquent court fees and fines as long as certain written notifications and actions are followed. That title has language that requires us to award the contract annually. This is beyond that which is required by the Tennessee Code Annotated which only has provisions for “...competitively bid contract...”. This action will align our Code with the language used in the T.C.A. and with other contracts where we are obtaining financial services.

Financial Impact

The balance due the City from outstanding Court Fees and Fines is currently about \$677,000. Of that total, about \$120,000 is older than ten (10) years and cannot be transferred to an agent to pursue legally. The fee for using an agent is borne by the obligor, not the City, and by T.C.A. is limited to 40% of the funds collected. The City will continue to use funds (staff time and postage) for pursuing which is to issue several notices before transferring the account to collections. Process flow charts of our existing process are attached for reference.

Recommendation

It is recommended that the Board of Mayor and Aldermen approve the proposed Code change to delete the reference to annual awards. Should the Board determine that a contract is warranted to pursue delinquent accounts, then unique Board action will be needed to award the competitively bid contract.

ORDINANCE 2012-02

TO BE ENTITLED, "AN ORDINANCE TO AMEND TITLE 3, CHAPTER 2, SECTION 3-208 OF THE FRANKLIN MUNICIPAL CODE RELATIVE TO THE COLLECTION OF COURT COSTS."

WHEREAS, the Franklin Municipal Code currently sets forth that the City Court Clerk is authorized to employ a collections agency to recover outstanding court costs; and

WHEREAS, the Code currently mandates that the City of Franklin's contract with such collections agency must be bid annually; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee believes that removing this restriction will provide for more expedient conduct of City business; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, believes it is in the best interest of the citizens of the City to remove the requirement of annual bidding, thereby providing for more expedient conduct of City business and ability to recover delinquent court costs.

NOW, THEREFORE:

SECTION I: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that Title 3, Chapter 2, Section 3-208 shall be amended as follows, by deleting such text as is shown in ~~strike through~~, and leaving all remaining text unchanged:

TITLE 3

* * *

CHAPTER 2

* * *

3-208. Collection of fines, costs and litigation taxes.

* * *

(2) Methods of collection. The city attorney, may, in such person's discretion, and shall, upon order of the court, institute proceedings to collect the debt as a civil judgment. In addition to all other remedies for collecting amounts owed to the city, the city clerk is authorized to employ the services of a collection agency to collect amounts owed to the city court. The contract between the municipality and the collection agency must be put out for bid ~~annually~~ and the contract must be in writing. The written contract shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

* * *

SECTION II. BE IT FINALLY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, Tennessee, that this Ordinance shall take effect from and after its passage on second and final reading, the public health, safety and welfare requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

BY: _____
ERIC S. STUCKEY
City Recorder/Administrator

BY: _____
DR. KEN MOORE
Mayor

PASSED FIRST READING

PASSED SECOND READING

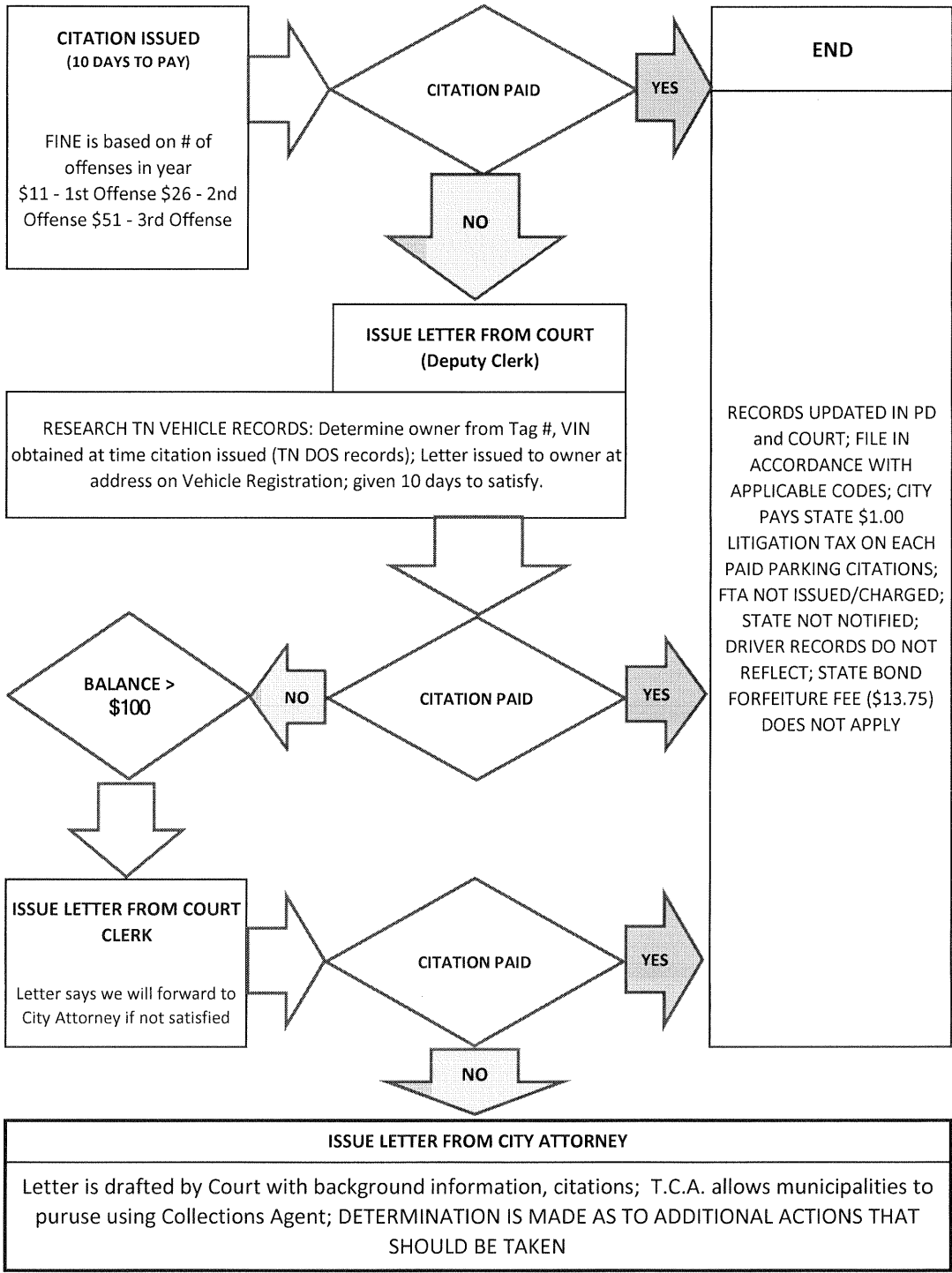
APPROVED AS TO FORM BY:

Kristen L. Corn, Staff Attorney

**CITY of FRANKLIN
DELINQUENT ACCOUNTS - PARKING**

PARKING CITATIONS INCLUDE VIOLATIONS OF MUNICIPAL ORDINANCES WRITTEN BY THE PARKING ENFORCEMENT OFFICER FOR OVERTIME (street and garage), BACKING IN (garage), ILLEGAL (area not designated - e.g. bike lane), HANDICAP or FIRE LANE; UNIFORMED OFFICERS MAY PERIODICALLY ISSUE CITATIONS FOR ILLEGAL, HANDICAP and/or FIRE LANE. FTA not issued except for Fire Lane violations.

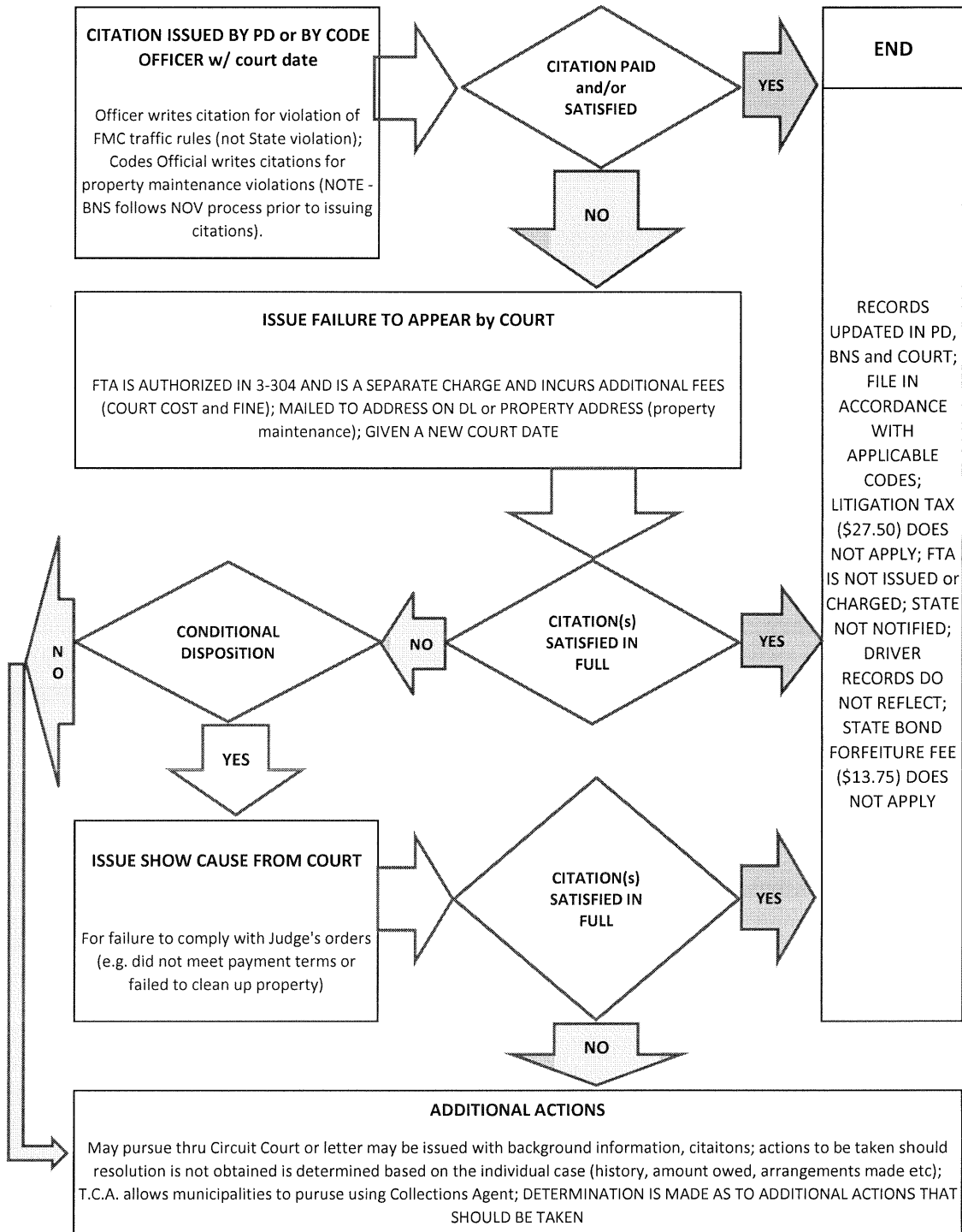
COURT COST DOES NOT APPLY EXCEPT FOR FIRE LANE; FINE IS SET BY NUMBER OF OFFENSES IN YEAR (\$11, \$26, \$51); FOR FIRE LANE & HANDICAP PARKING, FINE CAN BE UP TO \$50; LITIGATION TAX OF \$1.00 APPLIES TO EACH CITATION; BOND FORFEITURE FEE DOES NOT APPLY.



**CITY of FRANKLIN
DELINQUENT ACCOUNTS - ORDINANCE**

ORDINANCE (Municipal Code) VIOLATIONS ARE WRITTEN BY UNIFORM OFFICERS FOR SUCH OFFENSES AS: EXCESSIVE NOISE, PASSING ON SHOULDER, CUTTING THRU, UTURN, BLOCKING TRAFFIC, OPEN ALCOHOL, BARKING DOG. CODE OFFICIALS WRITE CITATIONS FOR PROPERTY MAINTENANCE ISSUES. FIRE SAFETY OFFICIALS WRITE CITATIONS FOR VIOLATIONS OF FIRE CODES, INCLUDING FIRE RESPONSE RECOVERY COSTS.

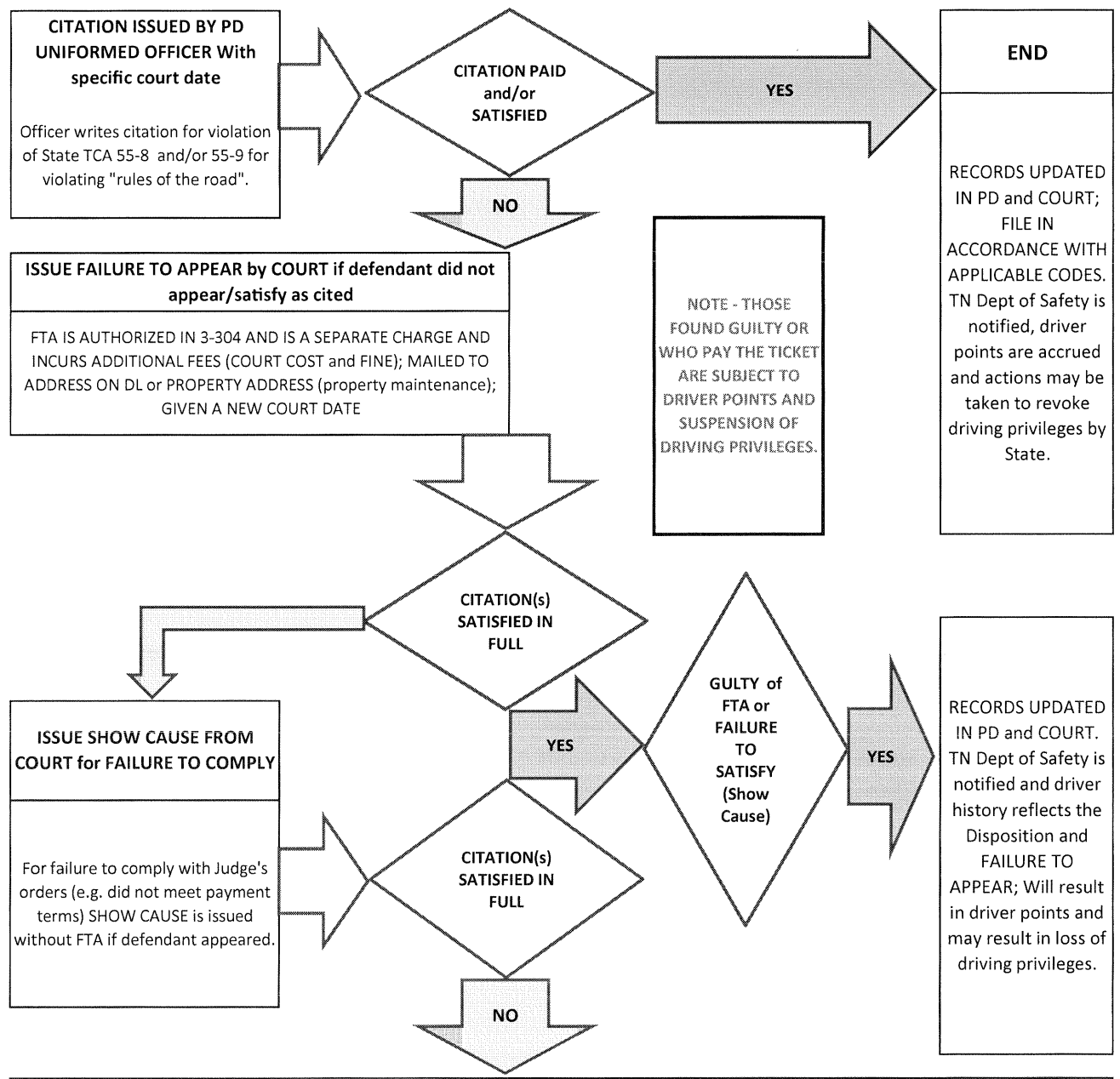
COURT COST (\$76, including a State fee of \$1.00) APPLIES; FINE CAN BE UP TO \$50; LITIGATION TAXES or BOND FORFEITURE FEE DOES NOT APPLY.



**CITY of FRANKLIN
DELINQUENT ACCOUNTS - MOVING**

MOVING VIOLATIONS ARE WRITTEN BY UNIFORM OFFICERS FOR VIOLATING THE TN "Rules of the Road" (T.C.A. 55-8 thru 55-9) AND INCLUDES ITEMS SUCH AS: Speeding, traffic control devices, Failure to Yield, Improper Turn, Following too Close, Failure to Signal, HOV, Exercise Due Care, Texting while Driving. Violations paid (Guilty or admission of guilt by paying) accrue driver points and may result in may result in loss of driving privilege.

COURT COST (\$76, including a State fee of \$1.00) APPLIES; FINE CAN BE UP TO \$50 (Court Cost for HOV violation is limited to \$10); CITATIONS PAID PRIOR TO COURT INCUR A MANDATED STATE BOND FORFEITURE FEE OF \$13.75; THOSE FOUND GUILTY OR PAYING AFTER COURT INCUR A STATE MANDATED LITIGATION TAX OF \$13.75 AND A LOCAL LITIGATION TAX OF \$13.75.



ADDITIONAL ACTIONS

Notice to the State is typically where our followup ends unless the driver shows up in Court again (include with defendant's citation); T.C.A. allows municipalities to pursue using Collections Agent; **DETERMINATION IS MADE AS TO ADDITIONAL ACTIONS THAT SHOULD BE TAKEN**