

## Chapter 12

### MUNICIPAL COURT\*

#### **Sec. 12-1. Court established.**

There is hereby established a municipal court for the City of Chesnee, which shall be a part of the unified judicial system of the State of South Carolina, for the trial and determination of all cases within its jurisdiction.

(Comp. of Ords. 1989, § 9-1)

#### **Sec. 12-2. Municipal judge—Appointment; term; compensation.**

The municipal court shall be presided over by a municipal judge appointed by council for a term of one year or until his successor is appointed and qualified. The compensation of a municipal judge shall be as from time to time established by council.

(Comp. of Ords. 1989, § 9-2)

**State law reference**—Appointment of municipal judge, S.C. Code 1976, § 14-25-15.

#### **Sec. 12-3. Same—Effect of vacancy.**

In a case of a vacancy in the office of municipal judge, the successor shall be appointed in the manner of original appointment for the unexpired term. In case of a temporary absence, sickness or disability of a municipal judge, the court may be held by a judge of another municipality or by a practicing attorney or by some other person who has received training or experience in municipal court procedure, who shall be designated by the mayor and take the prescribed oath of office before entering upon his duties.

(Comp. of Ords. 1989, § 9-3)

**State law reference**—Vacancies in office of municipal judge, S.C. Code 1976, § 14-25-25.

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\***Cross reference**—Appointment and duties of city judge, § 2-76.

**State law reference**—Municipal courts, S.C. Code 1976, § 14-25-5 et seq.

**Sec. 12-4. Jurisdiction.**

The court shall have jurisdiction to try all cases arising under the ordinances of the city. The court shall also have all such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. The court shall have the power to punish for contempt of court by imposition of sentences up to the limit imposed on the municipal courts. The court shall have no jurisdiction in civil matters.

(Comp. of Ords. 1989, § 9-4)

**State law reference**—Similar provisions, S.C. Code 1976, § 14-25-45.

**Sec. 12-5. Maximum penalties which may be imposed.**

Whenever the municipal judge finds a party guilty of violating a municipal ordinance or a state law within the jurisdiction of such court he may impose a fine or imprisonment or both not to exceed two hundred dollars (\$200.00) or thirty (30) days.

(Comp. of Ords. 1989, § 9-5)

**Cross reference**—General penalty, § 1-10.

**State law reference**—Similar provisions, S.C. Code 1976, § 14-25-65.

**Sec. 12-6. Authority to suspend sentences.**

The municipal judge may suspend sentences imposed by him upon such terms and conditions as he deems proper including, without limitation, restitution or public service employment.

(Comp. of Ords. 1989, § 9-6)

**State law reference**—Similar provisions, S.C. Code 1976, § 14-25-75.

**Sec. 12-7. Disposition of fines and penalties.**

All fines and penalties collected by the municipal court shall be forthwith turned over to the clerk-treasurer for deposit to the general fund of the city.

(Comp. of Ords. 1989, § 9-7)

**Cross reference**—Clerk-treasurer, § 2-56 et seq.

**State law reference**—Similar provisions, S.C. Code 1976, § 14-25-85.

**Sec. 12-8. Clerk of court.**

The clerk-treasurer shall serve as clerk of court for the municipal court. The clerk of court shall keep such records and make

such reports as may be required by the municipal judge or the state court administrator.

(Comp. of Ords. 1989, § 9-8)

*Cross reference*—Clerk-treasurer, § 2-56 et seq.

### **Sec. 12-9. Powers and duties of chief of police.**

The chief of police or someone designated by him shall attend upon the sessions of municipal court. The chief of police and the police officers of the city shall be subject to the orders of the court and shall execute the orders, writs and mandates thereof and perform such other duties in connection therewith as may be prescribed by the ordinances of the city. The chief of police and police officers of the city shall be vested with the same powers and duties as provided for magistrates and constables.

(Comp. of Ords. 1989, § 9-9)

*Cross reference*—Police, Ch. 15.

### **Sec. 12-10. Right to jury trial.**

Any person to be tried in the municipal court may, prior to trial, demand a jury trial and such jury when demanded, shall be composed of six (6) persons drawn from qualified electors of the city. The right to a jury trial shall be deemed to have been waived unless demand is made prior to trial.

(Comp. of Ords. 1989, § 9-10)

*State law reference*—Similar provisions, S.C. Code 1976, § 14-25-125.

### **Sec. 12-11. Jury commissioners.**

The council shall appoint not less than three (3) nor more than five (5) persons, to serve as jury commissioners for the municipal court; provided, however, that the council may act as jury commissioners in lieu of appointing such commissioners.

(Comp. of Ords. 1989, § 9-11)

*Cross reference*—Boards, committees, commissions, etc., § 2-146 et seq.

*State law reference*—Appointment of jury commissioners, S.C. Code 1976, § 14-25-135.

### **Sec. 12-12. Commissioners to prepare jury box.**

The jury commissioners shall, within the first thirty (30) days of each year, prepare a box to be known as the jury box. Such box

shall contain two (2) compartments, designated as "A" and "B", respectively.

(Comp. of Ords. 1989, § 9-12)

**Sec. 12-13. Composition of jury list.**

The jury list of the municipality shall be composed of all names on the official list of qualified electors of the municipality furnished to the municipality by the state election commission each year, or copied from the official voter registration list of the municipality.

Compartment "A" of the jury box shall contain a separate ballot or number for each name on the jury list.

(Comp. of Ords. 1989, § 9-13)

**Sec. 12-14. Drawing and composing juries; single trials; trial terms; peremptory challenges.**

(a) The drawing and composing of juries for single trials or terms of court shall be conducted, *mutatis mutandi*, according to the statutes relating to the drawing and composing of juries in magistrates' courts, except as otherwise specifically provided by this chapter. A person appointed by the municipal judge who is not connected with the trial of the case for either party shall draw out of compartment "A" of the jury box thirty (30) names and the list of names so drawn shall be delivered to each party or to the attorney for each party.

(b) In addition to the procedure for drawing a jury list as provided for in paragraph (a) above, when terms are scheduled for jury trials, the judge may select a jury list in the manner provided by this subsection.

Not less than ten (10) nor more than twenty (20) days prior to the scheduled term of jury trials, a person selected by the presiding judge shall draw at least forty (40) jurors to serve one week only. Immediately after such jurors are drawn the judge shall issued his writ of *venire facias* for such jurors requiring their attendance on the first day of the week for which they have been drawn and such writ shall be forthwith delivered to the chief of police, or may be served by regular mail by the clerk of court.

(c) The names drawn pursuant to either paragraph (a) or (b) shall be placed in a box or hat and individual names randomly drawn out one at a time until six (6) jurors and four (4) alternates are selected. Each party shall have a maximum of six (6) peremptory challenges as to primary jurors and four (4) preremptory challenges as to alternate jurors and such other challenges for cause as the court may permit. If for any reason it is impossible to select sufficient jurors and alternates from the names drawn, names shall be randomly drawn from compartment "A" until sufficient jurors and alternates are selected.

(d) Where a jury is drawn and composed for a single trial as provided in paragraph (a) above, the parties shall exercise peremptory challenges in advance of the trial date, and only persons selected to serve and alternates shall be summoned for the trial. (Comp. of Ords. 1989, § 9-14)

**Sec. 12-15. Disposition of names drawn.**

Upon the adjournment of the court, the clerk having the custody of the names drawn under any method in this chapter shall take the names or numbers of the jurors who appeared and shall return these ballots or numbers to compartment "B" of the jury box, and the ballots or numbers corresponding to the names of the jurors who were unable or who were excused by the municipal judge shall be returned to compartment "A" of the jury box. When all names or numbers in compartment "A" have been exhausted, the names or numbers from compartment "B" shall be returned to compartment "A" and thereafter juries shall continue to be drawn therefrom in the manner provided herein. (Comp. of Ords. 1989, § 9-15)

**Sec. 12-16. Failure of juror to appear.**

Any juror who, being duly summoned, shall neglect or refuse to appear in obedience to any summons issued by a municipal court, and shall not within forty-eight (48) hours render to the municipal judge a sufficient reason for his delinquency, may be punished for contempt. (Comp. of Ords. 1989, § 9-16)

**Sec. 12-17. Right to record pleadings.**

Any party shall have the right to have the testimony given at a jury trial in any municipal court taken stenographically or mechanically by a reporter; provided, that nothing herein shall operate to prevent any such party from mechanically recording the proceedings himself. The requesting party shall pay the charges of such reporter for taking and transcribing if such testimony is recorded by a municipal court reporter.

(Comp. of Ords. 1989, § 9-17)

**Sec. 12-18. Appeals to court of general sessions; procedures and time limits.**

Any party shall have the right to appeal from the sentence or judgement of the municipal court to the court of general sessions of the county in which the trial is held. Notice of intention to appeal, setting forth the grounds to appeal, shall be given in writing and served on the municipal judge or the clerk of the municipal court within the ten (10) days after sentence is passed or judgment rendered, or the appeal shall be deemed waived. The party appealing shall enter into a bond, payable to the municipality, to appear and defend such appeal at the next term of the court of general sessions or shall pay the fine assessed.

(Comp. of Ords. 1989, § 9-18)

**State law reference**—Similar provisions, S.C. Code 1976, § 14-25-95.