



County Technical Assistance Service

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Enforcement

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Enforcement

Reference Number: CTAS-569

The laws passed in 2002 and 2003 did not include any specific provisions regarding how these new regulatory powers would be enforced. Therefore, enforcement will fall under existing statutory authority. As part of the original "County Powers Act," the legislature passed T.C.A. §§ 5-1-121 and 5-1-123. These statutes authorize enforcement of county regulations by monetary penalties and direct that the general sessions court is the proper venue for enforcement of the regulations. In T.C.A. § 5-1-121, the legislature provided that the penalties for violation could be up to \$500 per violation; however, subsequent court decisions probably place limits on this monetary penalty. See *Chattanooga v. Davis*, 54 S.W.3d 248 (Tenn. 2001). According to the Tennessee Supreme Court in that case, a punitive fine levied by a local government cannot exceed \$50 unless the defendant is allowed to have a jury trial. Higher fines could be enforced if they are remedial in nature rather than punitive, but this distinction is difficult to make. Therefore, a county should generally limit monetary penalties to \$50 or less per violation. Penalty provisions of any regulations should be carefully considered by the county attorney. The county attorney should also be involved in the development of any regulations as he or she will most likely be involved in enforcing the regulations and defending any legal challenges to the regulations. Attorney General's Opinion 03-024 states that ordinances or regulations passed under T.C.A. 5-1-118(c) are to be enforced by a civil lawsuit brought on behalf of the county. The attorney general further opined that since the statutory scheme does not designate a specific officer to prosecute ordinance violations, it appears that suits to enforce a regulation would be brought by the county attorney.

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