

RULES REGULATING PRACTICE AND PROCEDURE OF THE SHELBY COUNTY ENVIRONMENTAL COURT

Rule I

SCOPE AND PURPOSE

These rules shall govern the practice and procedures in the Shelby County Environmental Court. In cases where this Court shares concurrent jurisdiction with Circuit and Chancery Court, the Tennessee Rules of Civil Procedure shall also apply. The Tennessee Rules of Evidence shall be applicable in all cases. The rules are intended to provide for the speedy, consistent, and just determination of every proceeding in Environmental Court. In the event of any apparent conflict in the procedural rules, the Tennessee Rules of Civil Procedure shall prevail where applicable.

Rule II

COURTROOM DECORUM

The following standards of courtroom decorum and procedure shall be maintained:

- (a) The Judge and Referees shall wear judicial robes during sessions of the court, except when, in the discretion of the Judge, a matter before the Court is of such a nature as justifies an informal hearing.
- (b) All persons in the Courtroom will stand while the Court is being opened and also while the Court is being adjourned.
- (c) All persons shall rise at all times when addressing the Court.
- (d) All orders, judgments, and decrees will be handed to the Court through the Court's attendants, and lawyers will not approach the bench from the bar except when directed by the Judge.
- (e) There will be no smoking or chewing of gum in the Courtroom.
- (f) All lawyers and Court attendants will be appropriately dressed while in Court attendance.
- (g) The Bailiff in attendance will be charged with the responsibility of requiring compliance with these standards of Courtroom conduct and deportment.

Rule III

OPENING AND ADJOURNMENT OF COURT

Upon the Judge or Referee entering the Courtroom preparatory to the formal opening of Court, the Bailiff will call the Courtroom to order, directing all in attendance before the Court to stand and will open Court in substantially the manner following:

"Hear Ye, Hear Ye, Hear Ye. This Honorable Shelby County Environmental Court is now open for the transaction of business pursuant to adjournment; all persons having business before this Court draw near, give attention, and you shall be heard. The Honorable Judge/Referee _____ presiding. You may be seated."

There upon the Judge or Referee will take the seat upon the bench and those in the Courtroom will be seated.

Upon the Court instructing the Bailiff to adjourn Court for the day, the Bailiff will direct all in attendance before the Court or in the Courtroom to stand, as will the Judge, and will adjourn Court in substantially the manner following:

"This Court now stands adjourned until tomorrow morning at ____ o'clock." (or until a day certain)

Rule IV

SESSIONS

The Shelby County Environmental Court shall convene at 9am daily except, Saturdays, Sundays, and government observed holidays. Only the Judge may authorize exceptions to this schedule. Unless the Judge directs otherwise, any case in which the Court has jurisdiction may be heard in the first instance by a Referee.

Rule V

OFFICE HOURS

The office of the Clerk of Court shall be open for the regular transaction of business from 8:30 a.m. until 4:30 p.m. except on nonjudicial days.

Rule VI

PLEADINGS

All written pleadings, orders and judgments shall be on letter-sized paper and backed with the style of the cause. Each attorney, whether for the plaintiff or defendant, shall place his/her name,

telephone number, and Tennessee Board of Professional Responsibility registration number on the jacket and on all pleadings of each case in which he/she is an attorney.

Rule VII

MOTION HEARINGS/TRIAL DATES

All motions shall be filed with the General Sessions Criminal Court Clerks' Office and a separate copy provided to the parties and the Judge in chambers.

All motions and trial dates and times shall be specifically set by the Judge.

Rule VIII

ATTORNEYS

A litigant, unless representing himself, must be represented by an attorney at law who holds a Tennessee law license. Out of state attorneys who are not licensed in this state, must associate local counsel in order to practice in this Court.

All attorneys licensed to practice law in Tennessee shall be allowed to appear in any matter coming before the Court. Every party to a proceeding who wishes to employ an attorney shall be given an opportunity to do so. The Court will appoint an attorney to represent any defendant who has a constitutional right to counsel and who is determined by the Court to be indigent.

Attorneys shall enter an appearance in a case in which they represent a party as counsel of record or have been appointed by the Court. Entering an appearance may be made by filing a pleading on behalf of a party, filing a formal notice of appearance or a written form notice filed with the Clerk and the attorney must sign the jacket when counsel first appears before the Court.

Attorneys of record shall represent the party throughout the proceedings-until the case has been concluded or counsel has been allowed to withdraw by Court order upon written motion.

Rule IX

REFEREES

The Judge may direct that any case or class of cases shall be heard in the first instance by the Referee in all cases wherein the Division XIV Court has jurisdiction. A Referee has the same

authority as a trial judge to issue any and all process. The Referee in the conduct of proceedings has the power of a trial judge.

Rule X

REHEARINGS

Any party may, within five (5) days after a case is heard by a Referee, excluding non-judicial days, file a request with the Court for a hearing by the Judge of Division XIV. The Judge may, on the Judge's own motion, order a rehearing of any matter heard before a Referee, and shall allow a hearing if a request for such hearing is filed as herein prescribed. Unless the Judge orders otherwise, the recommendation of the Referee shall be the decree of the Court pending hearing.

Rule XI

CONDUCT OF TRIALS

Proceedings in this Court, shall be open to the general public. And no person within, without, or in the vicinity of the Environmental Court shall accost, solicit, or interfere in any way with any person on or about the premises of the Court or otherwise engage in any conduct which may tend to interrupt, disturb, or hinder the orderly conduct of the Court's business.

Rule XII

DISCOVERY

The Court may allow discovery upon written motion by either party, being timely filed, and upon good cause shown. Any party may object to discovery by filing a response promptly after the filing of such motion. Failure to respond to a motion for discovery shall be considered consent to such motion. Discovery may then be allowed under such terms and conditions as the Court may prescribe.

RULE XIII

APPEALS

An appeal of the Court's disposition may be perfected by filing a notice of appeal on a form provided by the Court within ten (10) days, excluding nonjudicial days, of the final disposition.

The appeal period shall commence the day after the order of disposition is entered. All matters where the Court has concurrent jurisdiction with Circuit or Chancery Courts may be appealed to the Court of Appeals within 30 days of the entry of the final disposition order.

Any final orders or judgments in the following proceedings may be appealed to the Circuit Court:

- (a) Shelby County Traffic
- (b) Memphis Housing
- (c) Animal Cases
- (d) Fire
- (e) Litter/Illegal Dumping
- (f) Health Department
- (g) County Code

Any final orders or judgments in the following proceedings may be appealed to the Criminal Court:

- (a) Hunting/Fishing
- (b) Criminal Littering
- (c) Highway Patrol Cases
- (d) Criminal animal Cases.

Any final orders or judgments in the following proceedings may be appealed to the Court of Appeals:

- (a) Public Nuisance
- (b) Neighborhood Preservation Act.

An appeal shall not operate as a stay, and the order of this Court shall remain in effect until or unless the Circuit, Criminal, Court of Appeals enters an order to the contrary.

Rule XIV

ALTERNATIVE DISPUTE RESOLUTION

Prior to trial, the parties shall have the opportunity to fashion a resolution offered at no cost to the parties by the Shelby County Environmental Court during a Judicial Settlement Conference. Judicial Settlement Conferences can be requested by either party.

Rule XV

NEIGHBORHOOD PERSEVERATION ACT (RECEIVERSHIP PROCEDURES)

- a) All persons, groups, businesses, or organization shall make application to the Court to be a Receiver as defined in Tenn. Code. Ann. § 13-6-102.
- b) Receiver means any certified person appointed by the Court for the purposes of preserving or improving the subject parcel as defined in Tenn. Code. Ann. 13-6-102.
- c) The Receiver shall complete the application made available on the Shelby County Environmental Court website.
- d) The Court will review the applications for the best Receiver for a particular property. The Court will consider capacity, ties to the property, and relationship to the community to determine the best Receiver. This is a case by case determination, and completely within the discretion of the Court.
- e) Upon completion of the work, the Receiver shall request the Court to approve a Receiver's Lien amount for the expenses the Receiver actually spent abating the nuisance property.
- f) The lien amount can include any and all direct and indirect expenses and costs incurred by the Receiver, including reasonable attorney's fees and costs. (Tenn. Code. Ann. § 13-6-102).
- g) The Court will review, modify where appropriate and approve the Receiver's Lien amount by Order of the Court.

These local rules of the Shelby County Environmental Court are hereby adopted and entered on the minutes of the Court on the _____.