

COMPLAINTS



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Editor’s Note: Sample complaints for several state law offenses can now be found on the TMCEC website at: www.tmcec.com/resources/complaints. TMCEC encourages cities to submit model complaints for various state law Class C misdemeanors to help build the Complaint Bank. Email them to tmcec@tmcec.com.

This chapter includes a model complaint for both state law offenses and city ordinance violations, showing the statutory requirements for a complaint under Article 45.019, C.C.P. Also included is a model application for a citizen wishing to file a complaint against another citizen in the municipal court. Upon review of this application, the city prosecutor would determine whether to file a complaint (formal charging instrument) against a defendant under Article 45.019, C.C.P. The citizen-complainant could then sign the complaint as affiant. Note, however, that in municipal court, anyone can file a complaint and swear to it as affiant. Thus, this “application” process is not legally necessary, just a suggested form for cities that choose to implement a policy providing for prosecutor review.

MODEL COMPLAINT FOR STATE LAW VIOLATIONS (Art. 45.019, C.C.P.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

In the name and by the authority of the State of Texas:

I, the undersigned affiant, do solemnly swear that I have good reason to believe and do believe that _____, hereinafter called the Defendant, on or about the _____ day of _____, 20____, and before the making and filing of this complaint, in the territorial limits of the City of _____, and the State of Texas, the Defendant did then and there **(allege culpable mental state: intentionally, knowingly, recklessly, or with criminal negligence; include all elements of the offense, including the name of the victim or location if that is an element; and negate any exceptions permitted by statute).**

Against the peace and dignity of the State.

Affiant

Sworn and subscribed before me by _____,
a credible person, this _____ day of _____, 20____.

(municipal court seal)

(Clerk)(Deputy Clerk), Municipal Court

City of _____

_____ County, Texas

Editor's Note: Although complaints in municipal court are often sworn to before a court clerk or deputy clerk, the jurat (person before whom the affiant swears to the complaint) can also be the judge, city attorney, deputy city attorney, or city secretary. Art. 45.019(e), C.C.P.

MODEL COMPLAINT FOR CITY ORDINANCE VIOLATIONS (Art. 45.019, C.C.P.)

CAUSE NUMBER: _____

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF _____

§

_____ COUNTY, TEXAS

In the name and by the authority of the State of Texas:

I, the undersigned affiant, do solemnly swear that I have good reason to believe and do believe that _____, hereinafter called the Defendant, on or about the _____ day of _____, 20____, and before the making and filing of this complaint, in the territorial limits of the City of _____, and the State of Texas, the Defendant did then and there **(allege culpable mental state: intentionally, knowingly, recklessly, or with criminal negligence; include all elements of the offense, including the name of the victim or location if that is an element; and negate any exceptions permitted by the ordinance).**

Against the peace and dignity of the State and contrary to the said ordinance.

Affiant

Sworn and subscribed before me by _____,
a credible person, this _____ day of _____, 20____.

(municipal court seal)

(Clerk)(Deputy Clerk), Municipal Court

City of _____

_____ County, Texas

Editor's Note: Although complaints in municipal court are often sworn to before a court clerk or deputy clerk, the jurat (person before whom the affiant swears to the complaint) can also be the judge, city attorney, deputy city attorney, or city secretary. Art. 45.019(e), C.C.P.

TO: CITIZEN COMPLAINANT WISHING TO FILE A COMPLAINT AGAINST ANOTHER CITIZEN

THESE SPECIFIC POINTS ARE UNDERSTOOD BY THE UNDERSIGNED:

- 1) The citizen must, in good faith, make full, fair, and honest disclosure of all facts and circumstances known to him/her at the time this application for complaint is filed. The facts, as presented, must be in the form of an affidavit and provided under oath. Said affidavit will form the basis of any further investigation and the charging instrument.
- 2) The citizen-complainant must be sworn and sign both the application for complaint and the complaint (when prepared by the city prosecutor).
- 3) The citizen-complainant must be willing to appear in Court to testify against the defendant if the charges are contested (i.e., the accused pleads not guilty).
- 4) The prosecutor reserves the right to subpoena the presence of the citizen-complainant and enforce the subpoena by ordering a police officer to bring the citizen-complainant to Court.
- 5) The defendant may file a counter-complaint if the citizen-complainant has also been involved in some illegal activity. Please be advised that any statement made at this time or in the future to a police officer, prosecutor, or other city investigative personnel may be used against you should the counter-complaint go forward to trial. Please be advised that, when speaking to the prosecutor, the prosecutor represents the State of Texas and no attorney-client relationship is established by any communications with regard to the application for the complaint or any matters related thereto.
- 6) Once this complaint is accepted by the prosecutor and filed with the court, only the judge, upon recommendation of the prosecutor, has the authority to dismiss a complaint.

Citizen-Complainant Signature

Date

Editor's Note: A citizen's complaint is unrelated to criminal procedure in that it cannot act as a charging document. Rather, it is an allegation of misconduct by a person (typically a resident) against another person (typically either a public official or city employee). A prosecutor reviews and approves a citizen's complaint before moving forward with more formal charges. Rather than being a part of the judicial process, the citizen's complaint is generally considered a part of maintaining public relations and the confidence of local citizens. See Ryan Kellus Turner, *Complaints, Complaints, Complaints: Don't Let the Language of the Law Confuse You*, THE RECORDER (July 2004).

APPLICATION FOR COMPLAINT

DATE: _____

COMPLAINANT'S NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE (HOME): _____ WORK: _____

NAME OF DEFENDANT: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE (HOME): _____ WORK: _____

PLACE OF EMPLOYMENT: _____

DESCRIPTION OF DEFENDANT

RACE: _____ SEX: _____ DATE OF BIRTH: _____

WEIGHT: _____ BODY STYLE: _____ AGE: _____

VEHICLE INFORMATION (IF APPLICABLE)

MODEL: _____ MAKE: _____ YEAR: _____

COLOR: _____ BUILD: _____ SPECIAL FEATURES: _____

LICENSE PLATE: _____ STATE OF REGISTRATION: _____

DATE OF OFFENSE: _____ TIME OF OFFENSE: _____

LOCATION OF OFFENSE: _____

TYPE OF PREMISES: _____

WHAT IS YOUR COMPLAINT? (Describe with as much detail as possible – use as many pages as necessary to fully, fairly, and honestly relate all material facts and circumstances.)

MODEL APPLICATION FOR CITIZEN COMPLAINT (Page 3 of 3)

LIST OF WITNESSES (Use additional pages if necessary.)

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE (HOME): _____ WORK: _____

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE (HOME): _____ WORK: _____

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE (HOME): _____ WORK: _____

I swear that the statements made herein are within my personal knowledge and are true and correct.

Citizen Complainant's Signature

Date

Court Clerk's Signature

Filing Date

DO NOT WRITE BELOW THIS LINE

REVIEWED BY: _____ **(City Prosecutor)**

RECOMMENDATION: _____