



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Incorporating New Cities

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal 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 municipal 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 MTAS website material.

Sincerely,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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Incorporating New Cities

Reference Number: MTAS-295

Communities incorporating under mayor-aldermanic or city manager-commission charters must have at least 1,500 residents.

No territory shall be incorporated within five miles of an existing city of 100,000 or more residents or within three miles of a city of fewer than 100,000 residents. T.C.A. § 6-1-205, T.C.A. § 6-18-103.

T.C.A. § 6-58-112 provides that no new municipality may be incorporated unless it is within a planned growth area. (See Chapter 23, Countywide Growth Plan, Annexation and Boundary Adjustments, and Dissolution). The county legislative body must approve the incorporation prior to the incorporation election. The new municipality must levy a property tax at least equal to its portion of state-shared revenue. For 15 years following its incorporation, the newly incorporated city must give the county the same amount of local option sales tax and wholesale beer tax the county was collecting on the date of incorporation. T.C.A. § 57-6-103, T.C.A. § 67-6-712.

Newly Incorporated City Taking Over Services

If a county government is delivering urban services in an area that becomes part of a city by annexation or incorporation, the city has priority in providing public services. The governing body must declare its desire to take over existing services. Arbitration, subject to court review, is ordered if the parties cannot agree. T.C.A. § 5-16-110. Municipalities also may have a prior right to take over a utility district's service territory in newly annexed areas of the municipality. T.C.A. § 6-51-111. That right may be restricted by federal law where the utility district has issued certain bonds. 7 U.S.C. 1926(b).

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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