

Code of Ordinances

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,

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Code of Ordinances

Reference Number: MTAS-380

What is a Code of Ordinances?

A city's municipal code of ordinance is its compilation of all the city's laws and some of its regulations. These laws are generated through the passage of individual ordinances, and all ordinances, other than administrative ordinances (budget ordinances, tax ordinances, annexation ordinances, etc.), are contained within the municipal code. This does not mean the actual ordinance is contained in the municipal code, but rather those provisions of the ordinance that formulate a law or regulation are contained within a chapter of the municipal code.

The municipal code provides the governing body, the city's administration and the citizens one basic source for discerning the current laws and regulations governing the city. A quick check of the municipal code and the ordinance book (for ordinances adopted since the last update of the municipal code) will give anyone seeking information the current laws and regulations for your city. Otherwise, it is a process of checking minute books, files, etc., and running the risk of making errors and misinforming someone.

Procedures for Adopting Ordinances

Reference Number: MTAS-162

Ordinances and Codes

Ordinances are the legislative enactments of municipal governing bodies. Codes are comprehensive ordinances, such as building, plumbing, and electrical regulations. A code of ordinances is a compilation (codification) of all city ordinances.

Procedures for Adopting Ordinances

Charters usually spell out the procedures for adopting ordinances, including the number of readings required. If the charter is silent, ordinances need to be read only once. The general law mayor-aldermanic charter requires two considerations of an ordinance. T.C.A. § 6-2-102. The general law city manager- commission charter calls for two readings, and a city may establish by ordinance a procedure to read only the caption instead of the entire ordinance. T.C.A. § 6-20-215. The modified city manager-council charter requires two readings. T.C.A. § 6-32-202.

Publication of Ordinances

Reference Number: MTAS-299

Generally, ordinances do not need to be published unless the charter or a specific general law requires otherwise. General law mayor-aldermanic cities have the option of publishing each ordinance or only the caption. T.C.A. § 6-2-101.

General law city manager-commission cities must publish each penal ordinance or the caption. T.C.A. § 6-20-218. Publication must be in a city's general circulation newspaper and is necessary for an ordinance to become effective.

Under the general law modified city manager-council charter, at least an abstract of the essential provisions of each ordinance should be published within 10 days after its adoption. T.C.A. § 6-32-204.

Notwithstanding charter provisions to the contrary, the city needs to publish only the caption and a summary of a comprehensive zoning ordinance. T.C.A. § 13-7-203.

Adoption of Model Codes

Reference Number: MTAS-300

Professional organizations have prepared a number of model codes, such as those for building, plumbing, and electrical, that can be adopted by municipal governing bodies. Such a code may be identified in an ordinance adopting it by reference, which avoids publication. A copy of any code adopted by reference must be filed with the city clerk and be made available for public inspection at

least 15 days before the adopting ordinance passes. However, any penalty provisions must be in the adopting ordinance, which must be published in the manner prescribed for ordinances.

If a model code has been adopted, any subsequent amendment must be adopted unless the governing body, by a vote of at least two-thirds of its total membership, elects not to incorporate the amendment. T.C.A. §§ 6-54-501–505, 507.

T.C.A. § 6-54-502(c) contains provisions for administratively adopting amendments to model codes.

Adoption of State Misdemeanors

Reference Number: MTAS-301

T.C.A. § 16-18-302 allows municipalities to adopt any Class C state misdemeanors by reference or substantial duplication as an ordinance violation as long as the punishment for the ordinance violation is limited to \$50.

Adopting and Updating Code of Ordinances

Reference Number: MTAS-164

Cities adopt ordinances one at a time. Eventually, this collection of ordinances becomes unwieldy unless it is organized under common categories and indexed. Organizing individual laws into a coherent book of laws is called "codification."

The procedure for making an effective codification is spelled out in T.C.A. §§ 6-54-508–509. It includes publishing notice of and holding a public hearing on the proposed code; adopting the new code by ordinance in accordance with charter requirements; publishing notice of adoption of the code; and placing a copy of the code in the city clerk's office for public inspection. Newspaper publication of the code is specifically not required. However, if the codification contains any new penal provisions, they must be stated explicitly in the published notice for the public hearing.

T.C.A. § 6-54-510 provides that errors in the original ordinances are cured if corrected in the codification and the new code is adopted by the city council.

Code Adoption Procedures Required by State Law

Reference Number: MTAS-1038

You must comply with certain provisions in the state law before and after your new code is adopted.

Adoption of Standard Codes by Reference

T.C.A. §§ 6-54-501 through 6-54-506 authorize the adoption of various technical codes by reference but require that one copy of any code that is adopted by reference be filed in the office of the recorder at least 15 days prior to adoption and thereafter kept available for public use, inspection, and examination. Therefore, before the city adopts its new code of ordinances, be sure that you have acquired and have on file at least one copy of any building codes that are adopted by reference in Title 7 and in Title 12.

Notice Prior to Adoption of Municipal Code

T.C.A. § 6-54-508 provides that "...[a] public hearing shall be held prior to adoption of a code of ordinances and advance notice thereof shall be published in a newspaper of general circulation in the municipality.... If any part of such code of ordinances contains new provisions of a penal nature, then such published notice shall specifically state such fact and shall also state that a copy of such new provisions are available at the city recorder's office for examination."

A notice in substantially the following form should suffice:

Public Hearing on Proposed Code of Ordinances
Notice is hereby given that a public hearing on the adoption of a municipal code of ordinances will be held by the town council of the town of _____, Tennessee, at ____ p.m. on the ____ day of _____, 20____, in the town hall. A copy of the proposed code of ordinances is available in the recorder's office for anyone who desires to examine it in advance of the hearing.

Notice is also given that the proposed new code of ordinances contains new provisions of a penal nature.

The general penalty prescribed for violations of the code is set forth in Section 5 of the adopting ordinance. See page ORD-2 in the code.

Notice After Adoption of Municipal Code

T.C.A. § 6-54-509 provides that “[a]ny municipality which on or after March 21, 1955, adopts a code of ordinances shall publish in a newspaper of general circulation in the municipality a notice that a code of ordinances has been adopted and that a copy is available at the city recorder’s office for anyone who desires to examine it. Such notice shall also include a statement providing notice of any new provisions of a penal nature in such code of ordinances.”

After your new code is adopted we suggest publishing a notice in substantially the following form:

Municipal Code of Ordinances Adopted

Notice is hereby given that a municipal code of ordinances was adopted by the board of mayor and aldermen of the town of _____, Tennessee, on the ____ day of _____, 20__, and is available in the recorder’s office for anyone who desires to examine it.

Notice is also given that the new code of ordinances contains new provisions of a penal nature.

The general penalty clause for violations of the code is set forth in section 5 of the adopting ordinance. See page ORD-2 in the code.

Code Adopting Ordinance

Reference Number: MTAS-1040

The adopting ordinance on pages ORD-1 through ORD-4 should be numbered, dated, and signed immediately upon adoption. When the code is ready for adoption, the adopting ordinance should be treated as any other ordinance. It should be numbered and adopted accordingly.

Note that Section 2 of the adopting ordinance repeals "all ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code." Section 3 saves certain ordinances from repeal. Make sure that all ordinances that will be affected by Section 2 are in the code before final reading. Send all ordinances that you want to include in your municipal code to MTAS. You will have to re-adopt any ordinances that are omitted from the code and repealed by the adopting ordinance. Ordinances passed after adoption, however, will be included in future code updates. If you have any question as to whether or not an ordinance should be in the code, ask your MTAS consultant.

The certificate of authenticity that appears in the back of the code must be certified by the recorder after the code is adopted. Please forward a copy of the adopting ordinance and certificate of authenticity to MTAS after the code has been adopted.

Codification Services and Fees

Reference Number: MTAS-1041

MTAS provides two classes of codification services: an annual update service and a complete code service.

The annual update service includes updating the city’s code once a year by incorporating all of the ordinances adopted during the past year and any amendments made to the city’s charter. All cities that take advantage of this service will pay an annual fee of two hundred dollars (\$200),* which includes the web-hosting of the charter and full code as well as ten (10) copies of the updated pages. Additional copies will be invoiced separately based on our actual costs for duplication, dividers, and shipping. When a city that has a web-hosted code by MTAS submits ordinances to update the code, the city will be charged twenty-one dollars (\$21) per page* based on the number of pages that are modified by the ordinances. For cities who do not have an MTAS web-hosted code, the city will be charged twenty-five dollars (\$25) per page* based on the number of pages that are modified by the ordinances. The

per-page fee allows for a cost that is based on the amount of work done on each update. MTAS will invoice cities for updates when the work is completed and sent to the city.

The second service is for the creation of a complete code, which includes new codes from scratch, all conversions and re-codification of old MTAS codes and any conversion of a code prepared by a private code company. Charges for complete codes services are based on population because of the relative work load and the ability of the city to pay. MTAS will send an invoice to cities for fifty percent (50%) of the cost of a complete code when we are ready to begin work on the code, usually three to four months before completion. MTAS will invoice cities for the remaining 50 percent upon delivery. Once your complete code is adopted by the city, the city should begin the annual update service listed above by sending MTAS all ordinances passed since the code was adopted. The first update should be scheduled one year after final reading on your code-adopting ordinance. The code will be web-hosted by MTAS with no additional charge for one year from the date of adoption.

Modifications to the city charter are not subject to the per page charge. The following charges went into effect in July 2012:

Population	Complete Code	Annual Update With Web Hosting	Annual Update Without Web Hosting
0–2,000	\$3,500	\$200 + \$21 per page	\$25 per page
2,001–5,000	\$4,800	\$200 + \$21 per page	\$25 per page
5,001–10,000	\$7,300	\$200 + \$21 per page	\$25 per page
10,001–15,000	\$9,300	\$200 + \$21 per page	\$25 per page
25,001–50,000	\$13,000	\$200 + \$21 per page	\$25 per page
50,001 and over	\$18,000	\$200 + \$21 per page	\$25 per page

*Fees are subject to change. For more information, please contact the MTAS codification department at 865.974.0411.

Ordinance Drafting

Reference Number: MTAS-1042

MTAS has developed procedures for you to follow when drafting ordinances to update your code. Following these procedures will help make the update process go smoothly and ensure that the ordinances passed by the board amend the code as intended. Ordinances that update the code either repeal, replace, or amend existing code sections, or add new sections to the code. Ordinances you adopt must be specific as to the sections and language within the code that is changed. To ensure that updates are done correctly, please follow these procedures and examples when adopting ordinances to update your code. The examples contain sample paragraphs that might appear in ordinances amending a municipal code.

General Considerations

Do not attempt to amend or repeal code sections by using phrases such as “all provisions in conflict with.” This puts the person updating the code in the position of having to guess what the board intended to amend or repeal. You must determine which code provisions are in conflict with the new provisions and specifically repeal or amend them. Specific amendment and repeal of code sections will make updating your code smoother and quicker.

Amending Existing Code Sections

If the amending ordinance adds a new subsection, it is not necessary to write out the entire subsection if the correct section number, section title, and subsection number are included in the ordinance section.

EXAMPLE 1: § 11-502, Anti-noise regulations, is amended by adding subsection (1)(m):

(1)(m) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

If the amending ordinance changes every occurrence of a word to another word within a section or subsection, it is not necessary to write out the section if the correct section number, section title, and subsection number are included in the ordinance section.

EXAMPLE 2: In § 10-203(3), Running at large prohibited, the word “animal” is changed to “dog” throughout the subsection.

In lengthy sections where long phrases or several sentences are changed, write out the whole text of the section as amended in the ordinance.

EXAMPLE 3: § 18-203, Statement required, of the _____ Municipal Code, is amended to read as follows:

18-203. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water works, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Public Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the water works.

Repealing Existing Code Sections

If an ordinance repeals a section of the code, it should refer to the specific section that is affected.

EXAMPLE 4: Municipal Code § 11-201, Public drunkenness, is repealed.

Replacing Existing Code Sections

If an ordinance replaces an entire section of the code, it should refer to the specific section to be replaced.

EXAMPLE 5: § 1-104, Ordinance procedure, is replaced by the following § 1-104, Ordinance readings by caption:

1-104. Ordinance readings by caption. Only the caption of an ordinance, instead of the entire ordinance, shall be read on all three (3) readings.

Adding New Sections to the Code

If new provisions are to be added to the code, determine where the material should go in the code. If there is no code section in which to put the new provisions, create a new one. If you have any questions as to the proper placement of a new provision, ask your MTAS consultant.

EXAMPLE 6: § 1-401, Administration of municipal business, is added to the Municipal Code to read as follows:

1-401. Administration of municipal business. The city administrator shall administer the business of the municipality, and perform such duties as may from time to time be designated or required by the board of mayor and aldermen.

The existing sections of that code chapter are re-numbered as follows:

Existing § 1-401, entitled Reports of condition of property, is re-numbered as § 1-402;

Existing § 1-402, entitled Recommended personnel policies, is re-numbered as § 1-403; and,

Existing § 1-403, entitled Other duties, is re-numbered as § 1-404.

EXAMPLE 7: Subsection (11), Payroll deductions, is added to § 4-303 of the Municipal Code to read as follows:

(11) Payroll deductions. Only payroll deductions specifically mandated or authorized by federal or state act may be deducted at each pay period from each employee's pay.

Amendments to Building Codes Adopted by Reference

T.C.A. § 6-54-502(b) states that when a city has “adopted building codes by reference ... except when a municipal governing body by a vote of at least two-thirds of its total membership elects not to incorporate by reference any specific change or amendment, the municipal governing body *shall incorporate by reference all such subsequent changes and amendments thereof, properly identified as*

to date and source" [italics mine]. The building codes referred to include the fire code adopted in Title 7 of the municipal code and the codes adopted by reference in Title 12: building code, plumbing code, etc.

You should adopt amendments to these codes each year as the amendments are published. Blanket provisions such as "all future amendments to the building code are hereby adopted" are not sufficient as the statute requires each amendment to be "properly identified as to date and source."

EXAMPLE 8: § 12-201, Plumbing code adopted, of the _____ Municipal Code, is amended by deleting the words "1999 edition" and substituting "2000 edition."

Ordinance Numbering

Reference Number: MTAS-1043

General Considerations

Ordinances should be numbered so that the codifier can tell that all ordinances for a given year have been sent for codification. MTAS recommends a numbering system that includes the year of the ordinance as well an ordinance number. Unless your charter provides otherwise, ordinance numbers should be consecutive from year to year; the first ordinance for a given year should have the next logical number from the last ordinance of the preceding year. For example, if the last ordinance of 2003 was "03-42," the first ordinance for 2004 should be "04-43." The first two digits are the year in which the ordinance was passed, and the second two digits are the ordinance number. This system not only provides a quick reference of the year in which the ordinance passed, it also makes it easy for the codifier to tell whether or not any ordinances are missing.

Required Public Hearings

Reference Number: MTAS-163

Although a public hearing is not required when a governing body considers most ordinances, it is a requirement in the following instances:

- Airport – creation of metropolitan airport authority (T.C.A. § 42-4-104(b)(2))
- Airport – creation of regional airport authority (T.C.A. § 42-3-104(d))
- Annexation ordinance (T.C.A. § 6-51-102(b)(4))
- Annexation – progress report on plan of services (T.C.A. § 6-51-108(b))
- Annexation – amend plan of services (T.C.A. § 6-51-108(c))
- Bicentennial authority (T.C.A. § 7-6-104(b))
- Budget – budget estimates in modified council manager cities (T.C.A. § 6-35-306(a))
- Budget – budget amendments in modified council manager cities (T.C.A. § 6-5-308)
- Budget adoption (T.C.A. § 6-56-206(b))
- Cable franchise (T.C.A. § 7-59-202)
- Cable service by municipal utility board (T.C.A. § 7-52-602)
- Central business improvement district (CBID) creation (T.C.A. §§ 7-84-204 and 513)
- CBID amendment (T.C.A. §§ 7-84-207(b) and 516)
- CBID assessments and damages (T.C.A. §§ 7-84-409 and 410)
- CBID special assessment (T.C.A. § 7-84-522)
- Certified tax rate (T.C.A. § 67-5-1701)
- Code of ordinances adoption (T.C.A. § 6-54-508(b))
- De-annexation (T.C.A. § 6-51-201(b)(1))
- Economic impact plan by IDC (T.C.A. § 7-53-312(g))

- Enterprise zone establishment (T.C.A. § 13-28-206(b))
- Hospital authority budget (T.C.A. § 7-57-401)
- Hospital authority creation (T.C.A. § 7-57-201(b))
- Incorporation (mayor-aldermanic) (T.C.A. § 6-1-201(a)(3))
- Incorporation (city manager-commission) (T.C.A. § 6-18-103(a)(3))
- Incorporation (modified manager-council) (T.C.A. § 6-30-104(c))
- Inner-city redevelopment district (T.C.A. § 7-84-613)
- Inner-city redevelopment district boundaries (T.C.A. § 7-84-616)
- Inner-city redevelopment district special assessments (T.C.A. § 7-84-622)
- Landfill creation (T.C.A. § 68-211-703)
- Neighborhood preservation program (T.C.A. § 13-5-105)
- Ouster under metro government with population > 400,000 (T.C.A. § 7-2-108(d))
- Ouster of metro airport commission (T.C.A. § 42-4-105(d)(4))
- Ouster of port authority commission (T.C.A. § 7-87-105(f))
- Ouster of metro utility board member (T.C.A. § 7-1-111(c))
- Ouster of utility board member (T.C.A. § 7-52-112)
- Ouster of water/wastewater authority commissioner (T.C.A. § 68-221-605(d)(3))
- Ouster of city manager (T.C.A. § 6-21-101(b)(2))
- Ouster of mayor or commissioner (T.C.A. § 6-20-220(a))
- Port authority creation (T.C.A. § 7-87-104)
- Public housing project (T.C.A. § 13-20-104(e)(2))
- Public housing authority (T.C.A. § 13-20-401 and 416)
- Redevelopment plan tax increment financing (T.C.A. § 13-20-203–205)
- School consolidation report (T.C.A. § 49-2-1201(h)(1))
- School consolidation plan (T.C.A. § 49-2-1206(a)(2))
- School consolidation – multi-county (T.C.A. § 49-2-1254)
- School consolidation plan – multi-county (T.C.A. § 49-2-1257(b)(1))
- Special assessment resolution (T.C.A. § 7-33-303 and 304)
- Street and highway plans (T.C.A. § 54-18-205)
- Street and highway map amendment (T.C.A. § 54-18-206)
- Subdivision regulations by regional planning commission (T.C.A. § 13-3-403(c))
- Subdivision regulations by municipal planning commission (T.C.A. § 13-4-303(c))
- Urban growth boundaries (T.C.A. § 6-58-106(a)(3))
- Water and wastewater authority creation (T.C.A. § 68-221-604)
- Zoning - historic guidelines by historic zoning commission (T.C.A. § 13-7-406)
- Zoning - airport (T.C.A. § 42-6-106)
- Zoning ordinance - regional (T.C.A. § 13-7-303)
- Zoning ordinance (T.C.A. § 13-7-203)

Legislature Declares Ordinances to be Used

Reference Number: MTAS-1015

Legislature Declares When Ordinances, Resolutions to be Used

In 2009, the General Assembly passed a law that sets out enactments by municipal governing bodies that must be done by ordinance. Tennessee Code Annotated § 6-54-512 (2010). Under this law, beginning September 1, 2009, these actions must be accomplished by ordinance:

- A tax levy;
- A special assessment;
- Anything of a permanent nature, i.e., a measure applying to present and future conduct;
- A regulatory or penal measure, i.e., a measure controlling conduct or levying a fine or penalty; and
- Any action required by the general law or the municipality's charter to be done by ordinance.

Other actions may be accomplished by resolution or motion, which is a form of resolution.

Municipal officials and employees should be aware that this is not an earthshaking change. This legislation is an attempt to statutorily re-state and clarify existing law. Most actions of municipal governing bodies already conform to these requirements. The legislature became concerned that some municipalities were seeking charter amendments that allowed many measures traditionally accomplished by ordinance to be done by resolution instead. This law is the legislature's attempt to make sure certain measures will be by ordinance regardless of any charter provision relaxing this requirement. Thus, any tax levy, special assessment, or permanent or penal measure will have to be considered and voted on more than once to be enacted (unless, of course, the municipality's charter is one of the few that allows ordinances to be adopted on only one reading or consideration).

Under this new law, only a general law can override the requirement of accomplishing the listed actions by ordinance. A good example of this is the new "guns in parks" law that allows municipalities to enact by resolution a prohibition on guns in parks and other recreational areas owned or controlled by the municipality. This is a regulatory and penal measure, as well as permanent in nature, but the general law requires that this be done by resolution. Another example is issuing debt or borrowing money. Some municipal charters require that borrowing money be authorized by ordinance. The general law, however, allows all actions necessary to borrow money to be done by resolution, and this general law provision overrides the charter requirement.

On the other hand, a municipal charter provision would not override this new general law requirement for using ordinances. Many municipal charters, for example, include special assessments in a general powers provision that allows the special assessment to be made by resolution or ordinance. Under this new law, the resolution option is foreclosed, and the municipality must use an ordinance to make a special assessment.

This law took effect on September 1, 2009, and applies only to actions taken on and after that date. Municipal officials of cities and towns enacting a tax, a special assessment, a permanent measure, a regulatory or penal measure, or any measure required by the municipality's charter or the general law to be done by ordinance should make sure that if any reading or consideration of the matter takes place on or after September 1, 2009, the enactment is by ordinance rather than by resolution.

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.

Source URL (retrieved on 06/20/2019 - 1:06pm): <http://www.mtas.tennessee.edu/reference/code-ordinances>

