

October 20, 2006

Mayor Richard Bryant  
City of New Johnsonville  
323 Long Street  
New Johnsonville, Tennessee 37134

Dear Mayor Bryant

TCA 39-17-1315 authorizes "any law enforcement officer, police officer, county magistrate, retired police officer, and certain Tennessee Emergency Management Agency employees to carry handguns at all times, when authorized to do so by written directive of the chief law enforcement officer of the jurisdiction. A copy of the written directive must be retained by the issuing jurisdiction. This authorization also depends upon such officers completing and continuing to complete annually an eight-hour firearms training course. However, retired police officers are exempt from the firearms training requirement. As you well know, the chief law enforcement officer of your city is the chief of police. TCA 39-17-1350 defines law enforcement officer as a person who is a full-time employee of the state in a position authorized by the laws of this state to carry a firearm and to make arrests for violations of some or all of the laws of this state, or a full-time police officer who has been certified by the peace officer standards and training commission. Employees or others who enforce the laws of the city and the state must meet Post standards, which require certification. MTAS believes that the chief of police as chief law enforcement officer may authorize employees who meet POST requirements to carry a firearm. The chief may rescind the written authorization at his discretion. Any ordinance designating an employee to carry a handgun is contrary to the provisions of state law.

Tennessee general law authorizes the following forms of government:

1. Manager/ Commission
2. Board of Mayor and Aldermen
3. Modified City Manager/Commission
4. Home Rule
5. Consolidated/Metro

Existing Private Act charters may continue in existence, however no new private act charters are authorized. The commissioner form of government is no longer authorized under Tennessee Statutes. Some private act charters (your charter is a private act charter) vary somewhat from the forms of government under the state's general laws. A review of your city's charter did not indicate authority to use a commissioner form of government. It specifically indicates that the mayor supervises department heads. MTAS advises cities that it is an improper function for an alderman to serve as commissioner of safety or police exercising supervision of fire and police and that such officials are not per se authorized to carry a firearm in that capacity. A board member who performs police services places himself and the city in an unnecessary liability position. While state law authorizes the mayor to supervise departments as chief executive officer, it does not authorize members of the policy making board.

My recommendation is for the board to employ a chief of police and authorize him to enforce local and state laws and operate within standard operating procedures approved by the board of mayor and aldermen. The chief should report directly to the mayor.

Please call me if you have questions or comments.

Ron Darden  
MTAS Municipal Management Consultant