



Municipal Technical Advisory Service
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Obesity

Dear Reader:

The following document was created from the Municipal Technical Advisory Services website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website shares information relative to Tennessee municipal government. We hope this information will be useful to you and that it will assist you with questions that arise in your tenure in 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.

The Municipal Technical Advisory Service (MTAS) was created in 1949 to provide technical assistance to elected and appointed municipal officials in Tennessee. We are a resource for Tennessee municipal officials in areas of municipal government, human resources, finance, fire, legal, police, public works, water, and wastewater. We provide personal and professional knowledge growth opportunities on current issues within municipal government.

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While the original ADA statute makes no mention of obesity under ADA, the 2008 amendments to ADA make it somewhat possible that obesity may be seen as a protected disability under ADA at some point in the future. The 7th Circuit joined the 2nd, 6th and 8th circuits in ruling that, absent evidence that it was caused by an underlying physiological disorder or condition, extreme obesity is not a physical impairment under the ADA. The 1st Circuit found otherwise.

Whether obesity qualifies as a disability under the ADA is largely dependent on a variety of factors, including jurisdiction. Most jurisdictions that have considered the issue have held that obesity alone, without an underlying physiological disorder, does not constitute a protected physical impairment. Even still, cities should proceed cautiously when making employment decisions that could involve these issues, and should consult with their city attorney, or risk underwriter to ensure they are acting in accordance with the law.

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