



## Creation, Merger, Dissolution of Cities

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Dear Reader:

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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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## Creation, Merger, Dissolution of Cities

**Reference Number:** MTAS-161

### ***State Constitutional Provisions Regarding Creation and Control of Municipalities***

Municipalities are created and controlled by the state legislature. Unless there is a constitutional or federal law limitation, the state legislature may do anything it wants to a municipality, including ending its existence. A municipality's only powers are those given by the state legislature and constitution. Before 1953, there were no state constitutional restrictions on the state legislature's authority over municipalities. That year, the Sixth, Seventh, and Eighth Amendments to the Tennessee Constitution were adopted, giving citizens more control over their own cities. (These amendments can be found in Article XI, Section 9, of the state constitution. See Chapter 3, Forms of Government and Governing Bodies, for a more detailed discussion about private acts, general laws, and home rule.)

The Sixth Amendment says that before a private act (legislation applying only to cities named in the act) becomes effective, it must be approved locally by a two-thirds majority of the local legislative body or by referendum. The Sixth Amendment also prohibits the legislature from passing private acts that remove incumbents from any municipal office, shorten their terms, or alter their salaries.

The Seventh Amendment gives municipalities the option of adopting home rule by referendum and prohibits the legislature from passing private acts applying to home rule cities. This amendment also says that all new municipalities shall be incorporated only under general law charters provided in state law.

The Eighth Amendment provides for the consolidation of city and county functions.

### ***Annexation, Merger, or Creation of Cities***

The Tennessee Constitution states, "The General Assembly shall, by general law, provide the exclusive methods by which municipalities may be created, merged, consolidated, and dissolved and by which municipal boundaries may be altered" (Article XI, Section 9).

The state courts have routinely declared unconstitutional annexation laws that exempt certain counties or that apply only to cities with specified populations. This constitutional provision has also been interpreted as preventing the creation of additional private act chartered municipalities. Thus, any unincorporated area wishing to incorporate must do so under one of several general law charters found in Title 6 of T.C.A. (Volume 2B).

## 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).

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