

## Ordinance Drafting

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://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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## 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.”

*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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