



Resignations and Declarations

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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Resignations and Declarations

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Resignations and Declarations of a Vacancy

MTAS frequently responds to inquiries concerning the “correct” way for a board member to resign his or her office. Surprisingly, few if any city charters specify a process for its municipal officers to resign their positions.

For any municipal official, the best and most responsible way to resign their position is to put it in writing. Elected officials wanting to leave office in a professional, dignified and helpful fashion would do well to submit a written statement addressed to the mayor and board. As a minimum, the resignation should state the title of the office being resigned, the date on which the resignation is effective and bear the notarized signature of the resigning office member.

It is permissible, but certainly not necessary, for the written statement to enumerate the reasons for the resignation. Usually, a short, politely worded statement is sufficient to dispel any rumors about the causes of the resignation.

Some public officials resign their offices by making a simple verbal statement. Such resignations are sufficient to effectively terminate one’s participation on the board, but they are clearly not the most professional and courteous way to do the job. Verbal resignations can be misunderstood by the board, the employees and the general public – including the people who voted for and supported the official. They can create legal headaches for the municipality and should be avoided whenever possible.

In the case of verbal resignations, the municipality should document the names and addresses of any witnesses to the resignation – ideally including other members of the board and/or the city staff and noting the time and place of the resignation. If the verbal resignation was made at a meeting of the board, the city recorder’s minutes should clearly state the name and title of the resigning official along with the effective date, if possible.

When does a vacancy legally occur?

Whether a resignation is written or verbal, it does not take effect unless and until the board votes to accept it and declares the seat to be vacant.

As with the resignation itself, it is best that the acceptance and vacancy declaration be made in writing, by passage of a short resolution. The resolution should indicate the name and title of the resigning official, as well as a statement declaring the seat to be vacant. A sample resignation acceptance resolution is included in the addendum to this pamphlet.

The board may accept a resignation by adoption of a motion made at a properly convened meeting. Here again, the motion should specify the name and title of the resigning official. The motion should also declare the resigning official’s seat to be vacant. The motion and resulting vote should be clearly stated in the city recorder’s minutes.

Once the resignation has been accepted by the board and the office declared vacant, a copy of the resignation resolution or the minutes reflecting the board’s acceptance should be delivered to the county election commission.

Problems relating to retracted resignations

It is not unusual for a board member to change his mind and want to retract his resignation. This is most likely to happen when the member resigns in the heat of a contentious debate or after a board decision has not gone his way. It is not unusual for board members to reconsider their resignations the morning after they announced they were quitting.

An elected official may retract his or her resignation at any time before the board has voted to accept it. However, after the board has voted to accept the resignation, it may not be retracted. See *State ex. Rel. v. Bush, Sheriff, 141 Tenn. 229 (1918)*.

The time between an official’s resignation announcement and the board’s acceptance of it can be crucial. Any delay in accepting the resignation and declaring a vacancy increases the opportunity for the member to change his mind – creating a potentially chaotic situation in city hall. Retracted resignations can lead to confusion and worse in city government. If for no other reason, municipal boards should act quickly to accept the resignation of a member.

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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