



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

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## County Functions Related to Cities

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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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## Table of Contents

County Functions Related to Cities.....	3
Intergovernmental Agreements.....	3
Urban-Type Public Facilities and Functions.....	3
Building Codes.....	4
County Zoning.....	4

## County Functions Related to Cities

**Reference Number:** MTAS-617

Click on the topics listed below in this section for more information.

### Intergovernmental Agreements

**Reference Number:** MTAS-618

There is broad authority in the statutes for cities and counties to jointly exercise powers and for contractual agreements between the two.

Any powers, privileges, or authority of a public agency in Tennessee may be exercised and enjoyed jointly with any other public agency of Tennessee, of any other state, or of the United States, providing (in the case of cities and counties) that this authority "shall apply only to such powers, privileges, or authority vested in their governing bodies." T.C.A. § 12-9-104.

Agencies of political subdivisions that have governing boards separate from the governing body (such as municipal utility boards) may enter into interlocal agreements for joint or cooperative action with other similar agencies and other public agencies. Governing bodies of political subdivisions must approve agreements made by their agencies before they take effect. T.C.A. § 12-9-104(a).

Governing bodies likewise may enter into contracts "with any one or more public agencies to perform any governmental service, activity, or undertaking that each public agency entering into the contract is authorized by law to perform." T.C.A. § 12-9-108.

### Urban-Type Public Facilities and Functions

**Reference Number:** MTAS-619

Counties are authorized to construct and operate "urban-type public facilities." This term means:

...sanitary and storm sewer lines and facilities, plants for the collection, treatment, and disposal of sewage and waste matter, facilities and plants for the incineration or other disposal of garbage, trash, ashes, and other waste matter, and/or water supply and distribution lines, facilities, and plants, chemical pipelines and docks, and fire protection and emergency medical services. T.C.A. § 5-16-101.

Counties may operate these facilities directly through a county department, or they may create a board of public utilities. T.C.A. §§ 5-16-102–103. Cooperative undertakings with other governmental units, including "municipalities, towns, utility districts, and improvement districts within the county" are specifically authorized when "mutually advantageous." T.C.A. § 5-16-107.

All project plans must be submitted to a regional planning commission or, in the absence of such a commission, the planning commission of the largest city in the county. The planning commission receives the plans "for study and a written report" within 90 days or an extended period fixed by the county governing body. T.C.A. § 5-16-112.

Following the planning commission review, if a facility is to be located within five miles of any part of a city's boundary, a resolution petitioning the city to provide the facility, together with a full report of the county's plans (engineering and financial feasibility reports, etc.), must be presented to the city. The county may proceed if the city fails "to take appropriate action to provide a specified public facility or facilities in a specified area or areas" within 90 days. T.C.A. § 5-16-111.

Provision is made for transferring to a city rights, duties, property, assets, or liabilities in conjunction with such facilities in the event of annexation, including arbitration for disagreements. The statutory language is the same as that in T.C.A. § 6-51-111, T.C.A. § 5-16-110.

## Building Codes

**Reference Number:** MTAS-823

Any municipality may adopt by reference any code or portion of any compilation of "rules and regulations that have been prepared by various technical trade associations and shall include specifically, but not be limited to, building codes; plumbing codes; electrical wiring codes;" and others, without setting forth such codes in full. T.C.A. §§ 6-54-501, 502. At least one (1) copy of the code must be kept on file in the office of the clerk or recorder and be available for public use, inspection, and examination. The code must be filed with the clerk or recorder at least fifteen (15) days prior to its adoption. T.C.A. § 6-54-502.

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, as may be adopted by the agency or association that promulgated the code (such as the International Code Council for the I-Codes). This requirement may be satisfied by having the designated municipal code administrative official adopt administrative regulations that incorporate by reference such subsequent changes and amendments thereof, properly identified as to date and source, as may be adopted by the agency or association that promulgated the code. All such amendment must be filed with the clerk or recorder 15 days before becoming effective. T.C.A. § 6-54-502.

Any administrative regulations that incorporate building code amendments by reference shall become effective upon the expiration of ninety (90) calendar days or after the second official meeting of the municipal governing body following the publication of the regulations, whichever is later, unless within that period of time a resolution disapproving such administrative regulation has been adopted by the municipal governing body. T.C.A. §§ 6-54-502, 503.

A county that has adopted building codes under T.C.A. §§ 5-20-101 *et seq.*, is authorized to enforce said codes in cities "which do not elect, now or hereafter, to adopt their own codes regulating the same subject areas." T.C.A. § 5-20-106.

## County Zoning

**Reference Number:** MTAS-824

Pursuant to T.C.A. § 13-7-101, a county may exercise zoning powers outside municipalities following adoption of a zoning ordinance and map.

The county legislative body is required to set up a county board of zoning appeals with three, five, seven, or nine members, except for counties with a population of less than 600,000 (1980 federal census or any subsequent census) adopting a charter form of government, which must establish a board of zoning appeals comprised of five, seven, or nine members. T.C.A. § 13-7-106. The board is to (1) "hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the county building commissioner or any other administrative official in the carrying out or enforcement of any ordinance enacted pursuant to this part; (2) hear and decide, in accordance with the provisions of any such ordinance, requests for special exceptions or for interpretation of the map or for decisions upon other special questions upon which such board is authorized by any such ordinance to pass; and (3) where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under such sections would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinances." T.C.A. § 13-7-109.

The position of county building commissioner, with power to issue or withhold building permits, may be established by a county legislative body to enforce its zoning regulations. T. C. A. § 13-7-110.

*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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