

## Environment, Health and Sanitation

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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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## Environment, Health and Sanitation

**Reference Number:** MTAS-247

Click on the items listed below for more information on these regulations.

### Local Air Pollution Regulations

**Reference Number:** MTAS-602

The state is responsible for a comprehensive state program to minimize air pollution. Municipalities and counties may enact regulations that are not less stringent than the state's regulations, which prevail as long as a certificate of exception granted by the Air Pollution Control Board is in effect. Periodic review by this board is required to determine whether the exemption should be continued. Certificates are issued for periods not to exceed two years. T.C.A. § 68-201-115. Local air pollution regulations are not applicable to "any air contaminant source...which burns wood waste solely for the disposition of such wood waste," but the constant presence of a person is required and the burn limited to 48 hours and to no more than twice in any 30-day period for wood waste burns within 200 feet of an occupied building if the burn is done by someone other than the occupant. For burns within 100 feet of an occupied building, an adult occupant must give written permission for the burn to occur (Stricter local ordinances control). T.C.A. § 68-201-115(c). The \$25,000 per day state penalty also is applicable to violations of municipal regulations. Municipal penalties are cumulative and in addition to state penalties. T.C.A. § 68-201-116. A municipality that has obtained a certificate of exemption to enforce its own air pollution control regulations must offer a process to grant a waiver to any prohibition on open burning. T.C.A. § 68-201-115.

### Boat and Marina Sewage & Land Application of Wastewater

**Reference Number:** MTAS-606

#### ***Boat and Marina Sewage***

It is unlawful to operate a boat with a marine toilet that discharges untreated sewage into the waters of the state. Commercial boating facilities that house vessels equipped with toilets must provide facilities for sanitary pumping and disposal from the boats' holding tanks, or they must have an agreement with a marina that is so equipped. T.C.A. § 69-9-102, T.C.A. § 69-9-102(d).

#### ***Land Application of Wastewater***

The commissioner of environment and conservation may allow otherwise illegal discharges of wastewater, including land application, under a conditional permit from the department. T.C.A. § 69-3-108(e).

### Environmental Protection Fund

**Reference Number:** MTAS-826

An environmental protection fund provides additional funding for the state Department of Environment and Conservation. Revenues from fees, civil penalties, and damages are used to improve the state's performance in permitting, monitoring, investigation, enforcement, and department administration.

Fees are charged to municipalities that submit applications or plans to build or modify municipal water, wastewater, and solid waste disposal operations. In addition, some annual maintenance fees are charged to municipalities for state oversight of these facilities. T.C.A. §§ 68-203-101–105.

### Underground Storage Tanks

**Reference Number:**

MTAS-605

Cities with underground storage tanks for petroleum must comply with state and federal monitoring and replacement requirements. The state Underground Storage Tanks and Solid Waste Disposal Control Board oversees enforcement of the state program and collects tank fees to pay for the program. The program establishes limits of financial responsibility for cleanup and third-party claims. There also are certain restrictions and deadlines that must be met for reimbursement to be made from the Petroleum Underground Storage Tank Fund. Failure to meet these restrictions and deadlines could make a city ineligible for reimbursement for a release of pollutants. T.C.A. § 68-215-101 et seq.

## Pesticides and Fertilizer

**Reference Number:** MTAS-603

### ***Pesticides***

Municipalities are prohibited from regulating the sale and use of pesticides. Also prohibited is regulation of registration, notification of use, advertising, marketing, distribution, applicator training or certification, storage, transportation, disposal, disclosing confidential information, or product composition. The statute does not limit a city's authority to zone for storage or designate sites for disposal, regulate discharge to sanitary sewers, or implement a pest management plan required by the Safe Drinking Water Act. The state may enter into an agreement with cities with a population of greater than 250,000 to enforce the provisions of the Tennessee Insecticide, Fungicide, and Rodenticide Act. T.C.A. § 43-8-114–115, T.C.A. § 62-21-118, T.C.A. § 62-21-129.

### ***Fertilizer***

Municipalities may not regulate the registration, packaging, labeling, sale, storage, distribution, use, and application of fertilizer, except in any county having a population in excess of 200,000 according to the 2000 federal census or any subsequent federal census. T.C.A. §43-11-125.

## Caves and Brownfields

**Reference Number:** MTAS-604

### ***Caves***

It is an offense for any person, without the prior permission of the owner, to knowingly deface or destroy caves and caverns or to force open a gate guarding a cave entrance. T.C.A. § 11-5-108.

### ***Brownfields***

T.C.A. § 68-212-224 and T.C.A. § 68–212-226 create a voluntary brownfield redevelopment program. Under this program, the commissioner of environment and conservation may make grants and loans to local governments from federal and state funds for cleanup of disposal sites or brownfields.

## Animals

**Reference Number:** MTAS-248

### ***Animal (Rabies) Control; Animal Euthanasia***

Beginning July 1, 2005, state law provides for an anti-rabies program under the State Department of Health. Municipalities may enact local ordinances requiring registration of dogs and cats. Fees must be used in the rabies or animal control program.

Municipalities with their own rabies control programs are exempt from this law as long as the local program meets the minimum requirements of this law. T.C.A. §§ 68-8-101, *et seq.*

T.C.A. §§ 44-17-301–303 govern the manner of destroying non-livestock animals, including dogs and cats, in municipal animal shelters. However, T.C.A. § 63-12-141 requires the Board of Veterinary Medical Examiners to certify qualified persons as animal euthanasia technicians. That statute also allows only licensed veterinarians, licensed animal technicians who work under the supervision of a veterinarian, and certified animal euthanasia technicians to perform animal euthanasia. An animal that

is euthanized by intracardial injection must first be tranquilized. Animals otherwise euthanized may, but do not have to be, tranquilized. Before an agency euthanizes an animal the agency knows or should know has an owner, the agency must hold the animal for three business days, except in emergencies.

T.C.A. § 44-17-303 requires that a veterinary technician also must have successfully completed a euthanasia certification course before administering euthanasia. It is a Class A misdemeanor for individuals or entities to imply that they have been granted a certificate by the Board of Veterinary Medical Examiners unless such a certificate has been granted. The Tennessee Spay/Neuter Law (T.C.A. Title 44, Chapter 17, Part 5) provides for the neutering of dogs and cats before or after adoption from an animal shelter.

All forfeited deposits paid to animal control agencies must be used for conducting spay and neuter programs in the community where the agency is located. See T.C.A. § 44-17-503 for population exceptions.

### ***Dogs at Large***

T.C.A. § 44-8-408 makes it a crime for a dog to run at large. Punishment depends on the nature of the dog and the damage done by the dog. It is a Class C misdemeanor for a dog to run at large and cause no property damage or bodily injury. Instances in which there is property damage or bodily injury are greater crimes. There are several defenses listed in that law.

### ***Chemical Capture of Dogs and Cats***

T.C.A. § 44-17-601 allows approved agencies and certified chemical capture technicians to use sedation to capture dogs and cats when other methods of capture have failed. Chemical capture may be done using only Telazol or other drugs approved by the Board of Veterinary Medical Examiners. The drugs may be administered only by a licensed veterinarian or licensed veterinarian technician under the direct supervision of the veterinarian, or by a certified animal capture technician.

Under T.C.A. § 63-12-144 the Board of Veterinary Medical Examiners must issue a certificate to public animal control agencies authorizing chemical capture when the board determines the agency is qualified. The agency must apply, must submit a fee, and have a written protocol for chemical capture. Chemical capture technicians must be board certified. It is a Class B misdemeanor to engage in chemical capture without certification or to impersonate a chemical capture technician.

## Septic Tanks

**Reference Number:** MTAS-249

Subsurface sewage disposal systems are regulated by the state, with local (county) health officials responsible for enforcement. No proposed subdivision shall be approved locally or by another agency authorized to approve subdivisions until the plans for such subdivisions have been approved by the Department of Environment and Conservation. T.C.A. §§ 68-221-401, *et seq.*

## Hazardous Chemicals

**Reference Number:** MTAS-250

The Hazardous Chemical Right-to-Know Law of 1985 contains detailed and extensive requirements for providing employees with full information concerning the hazards of any chemicals used in their workplace. Municipalities are included in the act's definition of non-manufacturing employers. Compliance with the act does not affect an employer's liability regarding the health and safety of an employee, nor does compliance absolve the employer of taking action to prevent occupational disease under any other law. T.C.A. §§ 50-3-201, *et seq.*

## Health Departments, Hospitals, and Mental Health Programs

**Reference Number:** MTAS-251

Local health services are primarily state and county functions. Any city in a county with an established health department may cooperate in the maintenance of that department and levy taxes to pay its

proportionate share. T.C.A. § 68-2-605. Cities also may participate in a multi-county district. T.C.A. § 68-2-701. T.C.A. § 68-9-201 requires city and other health officers involved in tuberculosis control to notify appropriate health authorities in other jurisdictions when an infected individual relocates from Tennessee.

Regulating local hospitals and other health care centers is a state function. T.C.A. §§ 68-11-501, *et seq.* A hospital built with private funds may be maintained with public funds for up to five years, provided the contract specifically states that the facility is for public use. Cities also may contribute land or money for public welfare hospitals. T.C.A. §§ 68-11-501–507.

Within the limits of state appropriations, the commissioner of mental health and mental retardation, with approval from the commissioner of finance and administration and the state comptroller's office, is empowered to make grants to cities, counties, non-profit corporations, or combinations thereof for constructing, maintaining, or operating mental health or mental retardation facilities, programs, or services. T.C.A. § 33-1-302.

## Smoking Ban

**Reference Number:** MTAS-601

Smoking is prohibited in most enclosed public places in Tennessee, including places of public employment. "No smoking" signs or the international "no smoking" symbol must be placed at every entrance to a public place or place of employment where smoking is prohibited. T.C.A. §§ 39-17-1801, *et seq.*

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*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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