



Municipal Technical Advisory Service  
INSTITUTE *for* PUBLIC SERVICE

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## Water & Sewer System Provisions

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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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## Water & Sewer System Provisions

**Reference Number:** MTAS-829

### ***State Oversight***

Public water supplies and sanitary sewerage systems are subject to supervision by the state Department of Environment and Conservation. Such supervision includes approving construction plans, examining water samples, and enforcing regulations regarding operating and maintaining such systems. State approval of construction or other changes to the public water supply and sewage systems is not required if the state has certified that local approval under local standards is sufficient to safeguard the public health. T.C.A. §§ 68-221-101–108.

### ***Financial Oversight***

The financial condition of municipal water and sewer systems is monitored by the Water and Wastewater Financing Board in the state comptroller's office. Board members, appointed by the governor, hear cases brought by the comptroller's office. Generally, water or sewer systems that have defaulted on a debt, have two consecutive years of negative change in net position, or have negative net position in any one year will be referred to the board. However, in determining whether to file a report with the board, the comptroller is not to consider depreciation expenses if the water or wastewater system has a total equity at least four times greater than total debt. Several other exceptions apply. The board has broad powers to effect the adoption of user rates, issue subpoenas, and so forth. T.C.A. §§ 68-221-1008–1010.

### ***Plant Operator Certification***

The Water Environmental Health Act makes it unlawful to operate a water supply system, wastewater system, water treatment plant, wastewater treatment plant, water distribution system, or wastewater collection system unless the operators in direct charge have been certified as competent by the commissioner of environment and conservation. A five-member board established by the act is charged with adopting rules and regulations to govern the program, and the commissioner issues certificates.

All operators are encouraged to be certified, but certification is required of only one operator in charge of each system or plant. One operator may supervise two or more nearby systems when his or her work time can reasonably be so divided. Annual renewal of certificates is predicated on payment of fees and meeting any continuing education or experience requirements established by the board. A procedure is provided for revoking a certificate. Each day in violation subjects a city or other responsible agency to a Class C misdemeanor and a civil penalty of up to \$10,000. T.C.A. §§ 68-221-901–915.

### ***Minimum Sewer Use Rates***

To qualify minimum base rate charges paid by all sewer users as deductible items against an individual's federal income tax, a 1977 act declared such charges a tax. However, the Internal Revenue Service ruled that this tax did not change the charges' status as user fees, and they are not deductible. T.C.A. § 7-35-414.

### ***Safe Drinking Water***

Water pipes and solder used in water systems and plumbing must be lead free. Each water supplier must identify and notify all persons whose drinking water may be contaminated with lead. T.C.A. § 68-221-720.

### ***Water Withdrawals***

The Tennessee Water Resources Information Act (T.C.A. §§ 69-7-301, *et seq.*) requires people, including local governments, that withdraw or propose to withdraw 10,000 or more gallons of water daily from surface or groundwater sources to register the withdrawal annually with the Department of Environment and Conservation. This does not apply to emergency or agricultural withdrawals.

### ***Non-compliance with Drinking Water Regulations***

Public water systems that are not in compliance with current primary drinking water regulations must notify the state Division of Water Supply within 24 hours of discovery and provide public notice. T.C.A. § 68-221-708.

### ***Untrue Statements About Water***

Firms selling domestic water-softening or filtration devices sometimes attempt to boost their sales by

advertisements questioning the safety or quality of public water supplies. It is unlawful to make certain untrue representations connected with selling, leasing, renting, etc., water treatment devices. T.C.A. §§ 47-18-1201–1203.

**Watershed Districts**

Watershed districts have broad powers. They are authorized to conserve soil and water resources, contract for constructing public works projects, acquire land, promote and protect public health, take fire prevention steps, acquire water rights, distribute or sell water for irrigation or other purposes, provide recreational facilities, etc. The exercise of eminent domain by watershed districts requires approval of the local government in which the property in question is located. T.C.A. §§ 69-6-101, *et seq.*

**Mandatory Tap-on**

Any city that has issued bonds secured by sewer revenues is empowered to require connection to an available sewer and, after a 30-day notice, discontinue water service to compel compliance. T.C.A. § 7-35-201, T.C.A. § 68-221-209 (a) (1) (B).

**Energy Acquisition Corporation Authority Relative to Water Meters**

An energy acquisition corporation may install, read, maintain, and remove water meters for any municipality. T.C.A. § 7-39-302(17).

**Cross-connections Prohibited**

Public water systems must implement an effective program to eliminate or control cross-connection hazards. A cross-connection could permit unsafe or questionable water or other substances to flow backward into the water supply lines. T.C.A. § 68-221-711(6).

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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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