

HOW TO INCORPORATE A NEW CITY IN TENNESSEE

Requirements:

Tennessee Code Annotated 6-1-201 is the basic law governing the incorporation of cities in Tennessee. This law requires that a new city cannot be incorporated unless it has (1) a minimum of 1,500 residents; (2) is a minimum of three miles from another city; and (3) it must be in an approved Planned Growth Area. Territories proposed for incorporation not meeting these basic requirements cannot incorporate.

Even if all three of the above criteria are met, the proposed incorporation must have the approval of the county commission in the county where the incorporation is proposed. The county commission must approve the corporate limits and urban growth boundary of the proposed incorporation before the election to incorporate may be held.

Procedure:

Petition, Hearing, and Election

Petition

The first step in incorporating a city is to prepare a written petition requesting that the county election commission hold an election for the purpose of determining whether the charter shall become effective. The petition must contain the signatures of thirty-three and one-third percent (33 1/3%) of the registered voters of the territory proposed for incorporation. The petition shall include a current list of the registered voters who live within the proposed territory. The petition must state in a sufficient manner the boundaries of the proposed municipal corporation, which may be done by a general reference to the boundaries then existing if there is one. [TCA 6-1-202].

Hearing

Prior to filing the petition with the election commission, a public hearing on the question of whether or not to incorporate under the charter and plan of services shall be conducted. The hearing must be advertised at least two weeks prior to the hearing in a newspaper of general circulation in the territory proposed for incorporation.

Election

Upon receipt of the petition, the county election commission shall examine the petition to determine the validity of the signatures. The county election commission shall have 20 days to certify whether the petition has the sufficient number of signatures of registered voters. If the petition is sufficient to call for an election on the issue of incorporation, the county election commission shall hold an election, providing options to vote "FOR" or "AGAINST" the incorporation of the new charter, not less than forty-five (45) days nor more than sixty (60) days after the petition is certified. If the date for an election falls within 30 days of an upcoming

regular primary or general election being held in the jurisdiction voting on the question, the commission may reset the date of the election to coincide with the regular primary or general election, even though this may be outside of the time period. All dates dependent on the date of the election shall be adjusted accordingly and any acts required to be done by these dates shall be performed timely if done in accordance with the adjusted dates. [TCA 2-3-204].

The county election commission shall, in addition to other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the proposed municipality, and post the notice in at least three (3) places in the territory. [TCA 6-1-202].

A cash bond equivalent to the costs of the election to incorporate under the charter shall be filed by the petitioners with the county election commission together with the petition for incorporation. [TCA 6-1-202 (c)]

Form and Content of Petition

Form

The petition for incorporation shall be substantially in compliance with the following form:

PETITION FOR INCORPORATION ELECTION FOR TOWN (CITY)*
OF _____, TENNESSEE

TO: The County Election Commission,
_____ County, Tennessee

We the undersigned, being registered voters and residents of the territory herein proposed for incorporation, and being in number in excess of thirty-three and one-third percent (33 1/3%) of the registered voters of the herein described territory, hereby request the county election commission to hold an election on the question of whether or not the herein described territory shall be incorporated under the terms of Tennessee Code Annotated, title 6, chapters 1-4, and be known by the name and style of the [Specify whether the new incorporation is to be called a city or a town] _____, Tennessee, all as prescribed in Tennessee Code Annotated, title 6, chapters 1-4.

The territory in question, being part of the _____ Civil District(s)
of _____ County, Tennessee, is further described as:

[Insert a description of boundaries with references to tax maps]

The wards of the Town (City) shall be as follows:

[Insert a description of wards, and if there is only one (1) ward state that the boundaries are as described above].

Content

The petition shall include a plan of services setting forth the identification and projected timing of municipal services proposed to be provided and the revenue from purely local sources to be payable annually. The plan of services shall include, but not be limited to, police protection, fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, a proposed five-year operational budget, including projected revenues and expenditures, and a property tax rate to be annually levied upon all taxable property in the area to be incorporated. Boundary descriptions shall contain references to tax maps kept in the office of the county assessor. [TCA 6-1-203].

The above paragraph will most surely raise two questions: (1) what is meant by projected timing, and (2) how much property tax must be collected? Projected timing refers to a reasonable amount of time to implement the services. Four years might, for example, be reasonable for providing sanitary sewer service if the new city plans to design and construct a treatment plant and collection system. It may take a year to obtain financing and do the engineering. It may then take three years to construct the new system. Some services would be provided immediately. Police services, fire protection, and street maintenance are services that can begin immediately. Garbage collection may require the establishment of routes, purchase of equipment and might require a greater amount of time. What is reasonable must be based on what is practical in terms of time. It is not reasonable to state that sewer service will be provided as the need arises, or within an arbitrary time such as 10 years. TCA 6-58-112 (c) provides that cities incorporated after May 19, 1998, shall impose a property tax that raises an amount of revenue not less than the amount of the annual revenues derived by the city from state-shared taxes. The city must collect the property tax before the city may receive state-shared taxes.

Within six months of incorporation, the city shall adopt by ordinance a plan of services the city proposed to deliver. Rights and remedies required of TCA 6-51-108 apply to the plan of services. This provision sets forth what the citizen can expect as the result of the incorporation and remedies available to the citizen if the city does not follow through on delivery of services in a timely manner. It also requires annual reporting on the part of the city.

Qualification and Certification. All registered voters of the territory proposed for incorporation are eligible to vote in the election. The county election commission shall determine and declare the result of the election and shall certify the result within forty-eight (48) hours after the election. It shall publish the results in a newspaper of general circulation in the city or territory and shall file the results with the legislative body of the city at its first meeting after the certification. The results shall be entered at large on the minutes of the body with which it is filed. [TCA 6-1-204].

Effect of Vote. If the majority of the voters are in favor of the adoption of the charter, it shall be deemed to have been adopted. The newly adopted charter shall not be effective until the first board takes office. The board may take office immediately after the election is certified.

Following the defeat of an incorporation in the election, no new petition for an election may be filed until after the expiration of four (4) years. [TCA 6-1-205].

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