



2-8-2011

Legislature Declares When Ordinances, Resolutions to Be Used

Stephanie Allen

Municipal Technical Advisory Service

Dennis Huffer

Municipal Technical Advisory Service

Follow this and additional works at: http://trace.tennessee.edu/utk_mtastop

 Part of the [Public Administration Commons](#)

The MTAS publications provided on this website are archival documents intended for informational purposes only and should not be considered as authoritative. The content contained in these publications may be outdated, and the laws referenced therein may have changed or may not be applicable to your city or circumstances.

For current information, please visit the MTAS website at: mtas.tennessee.edu.

Recommended Citation

Allen, Stephanie and Huffer, Dennis, "Legislature Declares When Ordinances, Resolutions to Be Used" (2011). *MTAS Publications: Hot Topics*.

http://trace.tennessee.edu/utk_mtastop/5

This Bulletin is brought to you for free and open access by the Municipal Technical Advisory Service (MTAS) at Trace: Tennessee Research and Creative Exchange. It has been accepted for inclusion in MTAS Publications: Hot Topics by an authorized administrator of Trace: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

February 8, 2011

LEGISLATURE DECLARES WHEN ORDINANCES, RESOLUTIONS TO BE USED

by Dennis Huffer, Former Legal Consultant; Updated by Stephanie Allen, Legal Consultant

The General Assembly passed a new law that sets out enactments by municipal governing bodies that must be done by ordinance. *Tennessee Code Annotated* § 6-54-512 (2010). Under this new law, beginning September 1, these actions must be accomplished by ordinance:

- A tax levy;
- A special assessment;
- Anything of a permanent nature, i.e., a measure applying to present and future conduct;
- A regulatory or penal measure, i.e., a measure controlling conduct or levying a fine or penalty; and
- Any action required by the general law or the municipality's charter to be done by ordinance.

Other actions may be accomplished by resolution or motion, which is a form of resolution.

Municipal officials and employees should be aware that this is not an earthshaking change. This legislation is an attempt to statutorily re-state and clarify existing law. Most actions of municipal governing bodies already conform to these requirements. The legislature became concerned that some municipalities were seeking charter amendments that allowed many measures traditionally accomplished by ordinance to be done by resolution instead. This law is the legislature's

attempt to make sure certain measures will be by ordinance regardless of any charter provision relaxing this requirement. Thus, any tax levy, special assessment, or permanent or penal measure will have to be considered and voted on more than once to be enacted (unless, of course, the municipality's charter is one of the few that allows ordinances to be adopted on only one reading or consideration).

Under this new law, only a general law can override the requirement of accomplishing the listed actions by ordinance. A good example of this is the new "guns in parks" law that allows municipalities to enact by resolution a prohibition on guns in parks and other recreational areas owned or controlled by the municipality. This is a regulatory and penal measure, as well as permanent in nature, but the general law requires that this be done by resolution. Another example is issuing debt or borrowing money. Some municipal charters require that borrowing money be authorized by ordinance. The general law, however, allows all actions necessary to borrow money to be done by resolution, and this general law provision overrides the charter requirement.

On the other hand, a municipal charter provision would not override this new general law requirement for using ordinances. Many municipal charters, for example, include special assessments in a general

February 8, 2011

LEGISLATURE DECLARES WHEN ORDINANCES, RESOLUTIONS TO BE USED

powers provision that allows the special assessment to be made by resolution or ordinance. Under this new law, the resolution option is foreclosed, and the municipality must use an ordinance to make a special assessment.

This law took effect on September 1, 2009, and applies only to actions taken on and after that date. Municipal officials of cities and towns enacting a tax, a special assessment, a permanent measure, a regulatory or penal measure, or any measure required by the municipality's charter or the general law to be done by ordinance should make sure that if any reading or consideration of the matter takes place on or after September 1, the enactment is by ordinance rather than by resolution.

MUNICIPAL TECHNICAL ADVISORY SERVICE

Knoxville (Headquarters) . . . (865) 974-0411	Jackson (731) 423-3710
Johnson City (423) 854-9882	Nashville (615) 532-6827
	Martin (731) 881-7055

The Municipal Technical Advisory Service (MTAS) is a statewide agency of the University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and water and wastewater management.

MTAS *Hot Topics* are information briefs that provide a timely review of current issues of interest to Tennessee municipal officials. *Hot Topics* are free to Tennessee local, state, and federal government officials and are available to others for \$2 each. Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (865) 974-0411.

www.mtas.tennessee.edu

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution.

MTAS1550 • E14-1050-000-035-11