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THE UNIVERSITY of TENNESSEE
MUNICIPAL TECHNICAL ADVISORY SERVICE

In cooperation with the Tennessee Municipal League

TECHNICAL bulletin

May 17, 2011

AMENDMENTS TO THE GENERAL LAW MAYOR-ALDERMANIC CHARTER

by Steve Lobertini, Former Codification Consultant, updated by Stephanie Allen, Legal Consultant

On July 1, 1991, municipalities operating under the general law mayor-aldermanic charter received a completely revised charter. Since that revision, there have been several amendments to the charter, which are summarized in this publication. References to sections of the charter and the amending acts passed by the Tennessee General Assembly are included for each amendment.

Changes to the charter are grouped according to subject matter as follows:

I. Incorporation
II. Board Action
III. Applicability of Charter
IV. Corporate Name Change
V. Annual Budget
VI. Finance and Taxation
VII. Wards and Aldermen
VIII. Staggered and Transitional Terms of Office
IX. Term Limits
X. City Court and Judge
XI. Mayor's Duties

I. INCORPORATION

1. **Population requirement.** To incorporate under this charter a territory must have a population of at least 1,500. *Tennessee Code Annotated* § 6-1-201(a)(1); *1995 Tennessee Public Acts 13*.
2. **Plan of services.** Areas desiring to incorporate must include a plan of services in the petition for incorporation. T.C.A. § 6-1-201(b); Acts 1993, Chapter 320. The plan of services in the petition must contain the following:
   A. A list of services to include, but not be limited to, police and fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, and recreational facilities. T.C.A. § 6-1-203; Acts 1993, Chapter 320.
   B. Proposed five-year operational budget, including projected revenue and expenditures. T.C.A. 6-1-203; Acts 1993, Chapter 320.
   C. Projected timing of services. T.C.A. § 6-1-203; Acts 1995, Chapter 13.
   D. Annual revenue from purely local sources. T.C.A. § 6-1-203; Acts 1995, Chapter 13.
   E. Property tax rate to be annually levied on all taxable property. T.C.A. § 6-1-202; Acts 1998, Chapter 1101.

3. **Public hearing.** Prior to filing a petition to incorporate with the county election commission, a public hearing must be held on the question of whether or not to incorporate under the mayor-aldermanic charter and the plan of services. The public hearing must be advertised in a newspaper of general circulation for two consecutive weeks. T.C.A. § 6-1-201(a)(3); Acts 1993, Chapter 320.
4. **Proximity to existing municipalities.** Only the changes since 1991 are included here. The charter contains other requirements which may apply to your city. See T.C.A. § 6-1-201, as amended, to see how your city fits into these requirements.
   A. A territory may not incorporate within three miles of an existing municipality of fewer than 100,000 people unless it falls within one of the narrow exceptions provided in the T.C.A. T.C.A. § 6-1-201(b)(1)(A); Acts 1993, Chapter 320.
   B. Territories within five miles of existing municipalities more than 100,000 that do not have a metropolitan form of government may not incorporate unless the existing city adopts a resolution by two-thirds vote indicating it has no interest in annexing the area in question. A certified copy of the resolution must be included in the petition for incorporation T.C.A. § 6-1-201(b)(1)(B); Acts 1998, Chapter 1101.
   C. Acts 1995, Chapter 202 allows territories in counties with populations between 18,200 and 18,500 to incorporate. (Scott County has a population of 18,358, according to the 1990 federal census.) Subject to the following conditions:
      (1) It is within five miles of an existing municipality of more than 100,000 population, or within two miles of an existing municipality of more than 1,000 but fewer than 100,000 population, the petition for incorporation shall be held in abeyance for 15 months.
      (2) During that time, if the existing municipality annexes at least 20 percent of the land area or at least 20 percent of the population of the territory proposed for incorporation, then the petition for incorporation shall be null and void.
      (3) If, during that time, the existing municipality does not annex at least 20 percent of the land or 20 percent of the population of the territory, then the incorporation proceedings shall be continued. T.C.A. § 6-1-201(b)(2).
      (4) Acts 1996, Chapter 666, § 1, allows a territory with 225 residents or more, which is located within a metropolitan statistical area, borders on the Tennessee River and another state, has a county on its eastern border, and is 1,600 or more feet above sea level on its western border, to incorporate. T.C.A. § 6-1-201(c).
      (5) Acts 1996, Chapter 666, § 4, allows a territory of 300 or more residents, bordered on the North by the Loosahatchie River, on the South by the Wolf River, on the West by the county line, and within a metropolitan statistical area, to incorporate. T.C.A. § 6-1-201(d)(1).

(6) Acts 1996, Chapter 708 added a new subsection to allow territories to incorporate, in spite of being within distance prohibitions of T.C.A. § 6-1-201, if the governing body of an affected existing municipality adopts a resolution by a majority vote indicating it has no interest in annexing the area in question and a certified copy of the resolution and a petition requesting that an incorporation election be held is filed with the county election commission. This is effective in counties with a population between 80,000 and 83,000 people. (Williamson County has a population of 81,021, according to the 1990 federal census.) Existing municipalities in adjoining counties may also use the procedure. T.C.A. § 6-1-201(f).

5. **Election commission.** Examines signatures on the petition for incorporation, certifies the number of signatures within 20 days, and holds an election 45 to 60 days after certification. T.C.A. § 6-1-202; Acts 1998, Chapter 1101.
6. **Validation of certain incorporations.** Incorporation is validated for all cities that satisfy the following conditions:
   A. The registered voters of the unincorporated territory approved this mayor-aldermanic charter and elected municipal officials on or before December 1, 1999;
   B. The territory has been functioning as a mayor-aldermanic city between the date of the election of officials and April 26, 2001; and
   C. During that time the city has received and expended state funding allocated for municipalities. T.C.A. § 6-1-210(b); Acts 2001, Chapter 129.
7. **Qualifications to vote.** Allows registered voters who own real property in certain cities to vote in city elections and referenda subject to the following conditions:
   A. The city has a population between seven thousand seven hundred ten (7,710) and seven thousand seven hundred twenty (7,720) according to the 2000 federal census or any subsequent federal census.
   B. The city's governing body adopts a resolution by a 2/3 majority to allow property owners to vote.
   C. The presiding officer of the board proclaims the approval or non-approval of the resolution and certifies the results to the secretary of state.
   D. The city complies with the provisions of T.C.A. § 2-2-107(a)(3). T.C.A. § 6-1-204; Acts 2007, Chapter 88.

II. BOARD ACTION

1. **General powers.** A new subsection is added to allow cities to create a design review commission. The commission has the authority to develop guidelines for the exterior appearance of non-residential property, multiple family residential property, and entrances to non-residential developments. The commission's power is subordinate to that of the planning commission, which hears appeals from property owners affected by the guidelines. T.C.A. 6-2-201; Acts 2006, Chapter 796.
2. **Ordinances, etc.**
   A. Only one reading is required for board action other than ordinances. T.C.A. § 6-2-102; Acts 1998, Chapter 621.

B. All ordinances passed before the 1991 charter revisions are ratified and confirmed. T.C.A. § 6-2-205; Acts 1992, Chapter 612.
C. Acts 1995, Chapter 13-4 5 deleted the $50 penalty limit for ordinance violations. T.C.A. § 6-2-201(28) and 6-4-302(c).

3. **Quorum.** Now defined as "a majority of the members to which the board is entitled". T.C.A. § 6-2-102; Acts 1998, Chapter 621.
4. **Temporary appointments.** The board makes temporary appointments for vacancies in office. T.C.A. § 6-3-106(a)(3)(B); Acts 1997, Chapter 27. (The mayor makes temporary appointments of other officers and department heads, with confirmation from the board. T.C.A. § 6-3-106(a)(3); Acts 1997, Chapter 27).
5. **Traffic control.** Acts 1998, Chapter 1126 allows a municipality with a population between 700 and 705 to install and maintain a traffic control signal within its corporate limits. The approval of the commissioner of transportation is necessary if the signal is on a state highway. T.C.A. § 6-2-201(16)(B). (The town of Thompson's Station has a population of 703, according to the 1990 federal census.)

III. APPLICABILITY OF CHARTER

Acts 1995, Chapter 13 clarifies the conditions under which the provisions of the charter apply to a municipality. It must either

1. Adopt the complete charter by referendum, or
2. Adopt provisions of the charter by reference. T.C.A. § 6-1-205(a).

IV. CORPORATE NAME CHANGE

A municipality may amend its charter for the sole purpose of changing its designation from "city" to "town" or vice versa. The governing body must pass a resolution by two-thirds vote and publish the resolution in a newspaper of general circulation in the municipality. The name change becomes effective 60 days after the resolution is adopted unless 10 percent of qualified electors in the municipality sign and present a petition to the board requesting an election, in which case the resolution must be approved by a majority of the qualified voters at the next election. When the resolution becomes operative, the municipality must file a copy of it with the secretary of state. T.C.A. § 6-1-501—503; Acts 2000, Chapter 702.

V. ANNUAL BUDGET

Publication of the annual budget must include the following:

1. Budgetary comparisons of the proposed budget with the previous year's budget;
2. Estimated current year revenues and expenditures for the general, streets/public works, general purpose school, and debt service funds;
3. Revenues listed separately according to source for each listed fund;
4. Expenditures for each fund;
5. Beginning and ending balances for each fund;
6. Number of full-time equivalent positions for each fund. T.C.A. § 6-2-103; Acts 1992, Chapter 760.

VI. FINANCE AND TAXATION

1. **Revenue from situs-based taxes.** Counties within which new municipalities are incorporated shall continue to receive revenue from all state and local taxes distributed on the basis of situs of collection generated within the new municipality until July 1 following the incorporation, unless the incorporation takes place on July 1. In that case the city receives the revenue beginning July 1. This section also requires the city to notify the department of revenue of the incorporation. T.C.A. § 6-1-220; Acts 1998, Chapter 651.
2. **State-shared revenues.** Areas first incorporating on or after July 1, 1993, that produce no "local own source revenues in any fiscal year shall not receive any state-shared revenues during the next fiscal year." T.C.A. § 6-1-201; Acts 1993, Chapter 320.
3. **Deposits of municipal funds.** Any depository of municipal funds must secure the funds by collateral in the same manner and under the same conditions as state deposits under title 9, chapter 4, parts 1 and 4, or as provided in the collateral pool created under title 9, chapter 4, part 5. T.C.A. § 6-4-402; Acts 1994, Chapter 752.

VII. WARDS AND ALDERMEN

1. **Municipalities greater than 5,000 population.**
   A. Upon incorporation, cities with populations of greater than 5,000 shall have two wards. The previous language required such cities to have no fewer than two wards. T.C.A. § 6-3-101(a); Acts 1996, Chapter 652.
   B. Cities with populations greater than 5,000 may not decrease wards to fewer than two. T.C.A. § 6-3-101(b); Acts 1997, Chapter 77.
2. **Municipalities less than 5,000 population.**
   A. Upon incorporation, cities with populations of less than 5,000 must have only one ward, with the mayor and two aldermen to be elected at large. T.C.A. § 6-3-101(a); Acts 1996, Chapter 652.
   B. Cities incorporated under this charter after June 30, 1991, with populations of fewer than 5,000 and having only one ward, may increase the number of aldermen to a maximum of four without increasing the number of wards, and shall provide for four-year staggered terms. Transitional terms may be less than four years. T.C.A. § 6-3-101(a); Acts 1997, Chapter 77.
3. **Number of aldermen per ward.** The number of aldermen required for each ward is specified depending on the number of wards. In wards with more than one alderman, the aldermen shall have staggered terms. T.C.A. § 6-1-103(b); Acts 1997, Chapter 77.
4. **Increasing or reducing the number of wards and aldermen.** Passage of an ordinance by a two-thirds vote of the "entire membership to which the board is entitled" is required to increase or reduce the number of wards and aldermen. The ordinance shall
   A. Take effect at the next municipal election but shall not affect the existing terms of members of the board;
   B. Specify new ward boundaries;

C. Provide for transitional elections;
D. Provide staggered terms of office;
E. Specify terms of office for the mayor and board;
F. Where a ward is abolished, provide that an alderman in such ward with an unexpired term shall serve as an alderman at large for the remainder of the term. T.C.A. § 6-3-101(c); Acts 1996, Chapter 652.

5. Numerical designation of aldermanic positions. Cities with only one ward may by ordinance designate aldermanic positions by number. Candidates for alderman may seek any one open aldermanic position, and must indicate the position they are running for on their qualifying petition. Ballots will designate "Alderman, position 1," "Alderman, position 2," etc. T.C.A. § 6-3-101(b)(2); T.C.A. § 6-3-102(a)(2); Acts 2003, Chapter 261.

VIII. STAGGERED AND TRANSITIONAL TERMS OF OFFICE

1. Cities may provide for transitional two-year terms or transitional six-year terms for boards that are changing to staggered four-year terms from non-staggered four-year terms. T.C.A. § 6-3-102(b)(3); Acts 1992, Chapter 612.
2. Boards with staggered two-year terms may change to non-staggered two-year terms. T.C.A. § 6-3-102(b)(4); Acts 1994, Chapter 574. Transitional terms are provided in this section.
3. Boards with staggered or non-staggered four-year terms may change to staggered or non-staggered two-year terms. T.C.A. § 6-3-102(b)(5); Acts 1998, Chapter 691.
4. Boards with non-staggered two-year terms may by ordinance change to non-staggered four-year terms. T.C.A. § 6-3-102(b)6); Acts 2007, Chapter 90.
5. Cities located within two counties, with populations between 1,450 and 1,475, may provide by ordinance that the mayor may be elected to a four-year term and the board to four-year staggered terms. T.C.A. § 6-3-102(c); Acts 1998, Chapter 954; Acts 2000, Chapter 613. (Spring Hill, population 1,464 according to the 1990 federal census, is in Williamson and Maury counties.)

IX. TERM LIMITS

Cities may establish term limits for the mayor and aldermen by adopting an ordinance by 2/3 vote at two separate meetings. The ordinance does not become operative until it is approved by the majority in an election. T.C.A. § 6-3-110; Acts 2010, Chapter 999.

X. CITY COURT AND JUDGE

1. Acts 1998, Chapter 621 provides specific authority for cities to establish court costs by ordinance. T.C.A. § 6-2-201(28)(B).
2. Where the city judge is appointed, the board may provide the judge's term of office in the ordinance establishing the judge's qualifications and compensation T.C.A. § 6-4-301(b)(1)(A); Acts 1992, Chapter 612.

3. The "Municipal Court Reform Act of 2004" made the following changes:
   A. Deleted the city judge's jurisdiction over all cases under the laws and ordinances of the municipality.
   B. Deleted the authority of city recorder to serve as city judge.
   C. Deleted concurrent jurisdiction with general sessions court.

XI. MAYOR'S DUTIES

1. The mayor's authority to make temporary appointments of officers and department heads arising from sickness, etc., is limited as follows:
   A. The mayor may not make temporary appointments of aldermen.
   B. The mayor must report temporary appointments to the board at its next meeting.
   T.C.A. § 6-3-106(a)(3)(A); Acts 1997, Chapter 27.
2. The board must pass an ordinance to designate someone to perform the mayor's duties, as indicated in T.C.A. § 6-3-106(b); Acts 1997, Chapter 27. Before passage of this act, an ordinance was not required.

The material presented here is only a summary of changes to the general law mayor-aldermanic charter enacted after the 1991 charter revision. The complete charter contains much more that applies to cities with this charter form.

For more information about this subject, please contact your MTAS municipal management consultant.

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