Your Municipal Code

Adopting it and Keeping it up-to-date



MTAS
MUNICIPAL TECHNICAL ADVISORY SERVICE

A statewide agency of
The University of Tennessee's
Institute for Public Service
in cooperation with the
Tennessee Municipal League

The University of Tennessee
Municipal Technical Advisory Service
Conference Center Building, Suite 120
Knoxville, Tennessee 37996-4105
Knoxville: (865) 974-0411
Nashville: (615) 532-MTAS (6827)
Jackson: (901) 423-3710
Martin: (901) 587-7055
Johnson City: (423) 854-9882

To learn more about MTAS,
visit our Web site at
www.mtas.utk.edu

For quick answers to short questions,
call our Answer Line at
1-888-667-6827
9-5 (EST)

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INTRODUCTION

Now that all of your ordinances are in your municipal code and your code has been edited and proofed, the hard part is over! But for the code to be effective, two things must happen. You must adopt it according to state law requirements and keep it up-to-date as you pass new ordinances.

An unadopted code is a waste of many hours of hard work. Unless your code is adopted, many of the sections it contains may be unenforceable. And if you don't keep your code up-to-date by adding new ordinances as they are adopted, you cannot be sure which ordinances in the code are correct and in force and which ones have been amended or repealed. A code that isn't current is as useless as an unadopted code. So, adopt your code, keep it updated, and you can be confident that the ordinance you enforce is indeed the ordinance that is in force.

This booklet tells you how to adopt your code to comply with the state law codification requirements. It is also your guide for drafting ordinances to update your code and suggests a numbering system for all your ordinances. Thanks for asking MTAS to work with you on this important project. If you have any questions, just call us.

Code Adoption Procedures Required by State Law

You must comply with certain provisions in the state law before and after your new code is adopted:

Adoption of Standard Codes by Reference

Tennessee Code Annotated (T.C.A.) §§ 6-54-50l -506, authorize the adoption of various technical codes by reference, but require that one copy of any code adopted by reference be filed in the office of the recorder at least 15 days prior to adoption and thereafter kept available for public use, inspection, and examination. Therefore, before your city adopts its new code of ordinances, be sure you have acquired and have on file at least one copy of any building codes that are adopted by reference in Title 7 and in Title 12.

Notice Prior to Adoption of Municipal Code

T.C.A. § 6-54-508 provides that "... a public hearing shall be held prior to adoption of a code of ordinances and advance notice thereof shall be published in a newspaper of general circulation in the municipality. ... if any part of such code of ordinances contains new provisions of a penal nature, then such published notice shall specifically state such fact and shall also state that a copy of such new provisions is available at the city recorder's office for examination."

A notice in substantially the following form should suffice:

PUBLIC HEARING
ON PROPOSED CODE OF ORDINANCES

Notice is hereby given that a public hearing on the adoption of a municipal code of ordinances will be held by the town council of the town of , Tennessee, at p.m. on the day of 20 , in the town hall. A copy of the proposed code of ordinances is available in the recorder's office for anyone who desires to examine it in advance of the hearing.

Notice is also given that the proposed new code of ordinances contains new provisions of a penal nature.

The general penalty prescribed for violations of the code is set forth in section 5 of the adopting ordinance. See page ORD-2 in the code.

NOTICE AFTER ADOPTION OF MUNICIPAL CODE

T.C.A. § 6-54-509 provides that "Any municipality which on or after March 21, 1955, adopts a code of ordinances shall publish in a newspaper of general circulation in the municipality a notice that a code of ordinances has been adopted and that a copy is available at the city recorder's office for anyone who desires to examine it. Such notice shall also include a statement providing notice of any new provisions of a penal nature in such code of ordinances."

After your new code is adopted, we suggest publishing a notice in substantially the following form:

MUNICIPAL CODE OF ORDINANCES ADOPTED

Notice is hereby given that a municipal code of ordinances was adopted by the board of mayor and aldermen of the town of , Tennessee, on the day of _____ 20___, and is available in the recorder's office for anyone who desires to examine it.

Notice is also given that the new code of ordinances contains new provisions of a penal nature.

The general penalty clause for violations of the code is set forth in section 5 of the adopting ordinance. See page ORD-2 in the code.

Other Code Adoption Requirements

Code Adopting Ordinance, etc.

The adopting ordinance on pages ORD-1 through ORD-4 should be numbered, dated, and signed immediately upon adoption. When the code is ready for adoption, the adopting ordinance should be treated as any other ordinance. It should be numbered and adopted accordingly.

Note that section 2 of the adopting ordinance repeals "all ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code." Section 3 saves certain ordinances from repeal. Make sure that all ordinances that will be affected by section 2 are in the code before final reading. Send all ordinances that you want to include in your municipal code to MTAS. You will have to readopt any ordinances that are omitted from the code and repealed by the adopting ordinance. Ordinances passed after adoption, however, will be included in future code updates. If you have any question as to whether or not an ordinance should be in the code, ask your MTAS consultant.

The "certificate of authenticity" that appears in the back of the code must be certified by the recorder after the code is adopted. Please forward a copy of the adopting ordinance and certificate of authenticity to MTAS after the code has been adopted.

Code Updates

Once your code is adopted, we will update it annually if you send us the ordinances you want to put in the code.

We recommend that you update your code once each year. The first update should be scheduled one year after final reading on your code adopting ordinance. You will be charged a fee based on the MTAS code service charges in effect at the time of the update. The update fee includes 10 copies of the updated pages. Additional copies will be invoiced separately based on our actual costs for duplication, dividers, binders, and shipping.

Update charges are based on a flat fee, which varies according to population, plus $10 per modified page. Modifications to the city charter are not subject to the $10 per page charge. The following charges went into effect in September 2000.

Population	**Update Fee**	**Modified Page Charge**
1 - 2,000	$200	$10
2,001 - 10,000	$300	$10
10,001 & over	$500	$10

These fees are subject to change. Please check with us for current rates.

We have developed procedures we ask you to follow when drafting ordinances to update your code. Following these procedures will help make the update process go smoothly and ensure that the ordinances passed by the board amend the code as intended. Ordinances that update the code either repeal, replace, or amend existing code sections, or add new sections to the code. Ordinances you adopt must be specific as to the sections and language within the code that are changed. To ensure that updates are done correctly, please follow the procedures and examples that follow when adopting ordinances to update your code. The examples contain sample paragraphs that might appear in ordinances amending a municipal code.

General Considerations

Do not attempt to amend or repeal code sections by using phrases such as "all provisions in conflict with." This puts the person updating the code in the position of having to guess what the board intended to amend or repeal. You must determine which code provisions are in conflict with the new provisions and specifically repeal or amend them. Specific repeal of code sections will prevent these problems and make updating your code go more smoothly and quickly.

Amending Existing Code Sections

If the amending ordinance adds a new subsection, it is not necessary to write out the entire subsection if the correct section number, section title, and subsection number are included in the ordinance section.

EXAMPLE

§ 11-502, Anti-noise regulations., is amended by adding subsection (1)(m):

(1)(m) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

If the amending ordinance changes every occurrence of a word to another word within a section or subsection, it is not necessary to write out the section if the correct section number, section title, and subsection number are included in the ordinance section.

EXAMPLE

In § 10-203(3), Running at large prohibited., the word "animal" shall be changed to "dog" throughout the subsection.

In lengthy sections where long phrases or several sentences are changed, write out the whole text of the section as amended in the ordinance.

EXAMPLE

§ 18-203, Statement required., of the municipal code, is amended to read:

18-203. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping sys-

tem, shall file with the superintendent of the waterworks a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Public Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the waterworks.

Repealing Existing Code Sections

If an ordinance repeals a section of the code, it should refer to the specific section that is affected.

Example

Municipal Code § 11-201, Public drunkenness., is repealed.

Replacing Existing Code Sections

If an ordinance replaces an entire section of the code, it should refer to the specific section to be replaced.

Example

§ 1-104, Ordinance procedure., is replaced by the following § 1-104,

Ordinance adoption procedures.:

> 1-104. Ordinance adoption procedures. Only the caption of an ordinance, instead of the entire ordinance, shall be read on all three (3) readings.

Adding New Sections to the Code

If new provisions are to be added to the code, determine where the material should go in the code. If there is no code section in which to put the new provisions, create a new one. If you have any questions as to the proper placement of a new provision, ask your MTAS consultant.

Example

> § 1-401, Administration of municipal business., is added to the municipal code to read as follows:
>
> 1-401. Administration of municipal business. The city administrator shall administer the business of the municipality and perform such duties as may from time to time be designated or required by the board of mayor and aldermen.

The existing sections of that code chapter should be renumbered as follows:

> Existing § 1-401, entitled Reports of condition of property., shall become § 1-402;

Existing § 1-402, entitled Recommeded personnel policies., shall become § 1-403; and,

Existing § 1-403, entitled Other duties., shall become § 1-404.

EXAMPLE

Subsection (11), Payroll deductions., is added to § 4-303 of the municipal code to read as follows:

(11) Payroll deductions. Only payroll deductions specifically mandated or authorized by federal or state act may be deducted at each pay period from each employee's pay.

AMENDMENTS TO BUILDING CODES ADOPTED BY REFERENCE

T.C.A. § 6-54-502(b) states that when a city has "adopted building codes by reference ... except when a municipal governing body by a vote of at least two-thirds of its total membership elects not to incorporate by reference any specific change or amendment, the municipal governing body *shall incorporate by reference all such subsequent changes and amendments thereof, properly identified as to date and source*" [italics added for emphasis]. The building codes referred to include the fire code adopted in Title 7 of the municipal code and the codes adopted by reference in Title 12: Standard Building Code, Standard Plumbing Code, etc.

You should adopt amendments to these codes each year as the amendments are published. Blanket provisions such as "all future amend-

ments to the building code are hereby adopted" are not sufficient as the statute requires each amendment to be "properly identified as to date and source."

EXAMPLE

> § 12-201, Plumbing code adopted., of the Municipal Code, is amended by deleting the words "1989 edition with 1990 revisions" and substituting "1991 edition with 1992 and 1992-93 revisions."

Ordinance Numbering

Ordinances should be numbered so the codifier can tell that all ordinances for a given year have been sent for codification. MTAS recommends a numbering system that includes the year of the ordinance as well as an ordinance number. Ordinance numbers should be consecutive from year to year; the first ordinance for a given year should have the next logical number from the last ordinance of the preceding year. For example, if the last ordinance of 1993 was "93-42," the first ordinance for 1994 should be "94-43." The first two digits are the year in which the ordinance was passed and the second two digits are the ordinance number. This system not only provides a quick reference of the year in which the ordinance passed, it also makes it easy for the codifier to tell whether or not any ordinances are missing.

Good luck with your code, and call MTAS if you need us!

MTAS Mission Statement

The Municipal Technical Advisory Service (MTAS) was created in 1949 by the state legislature to enhance the quality of government in Tennessee municipalities. An agency of The University of Tennessee's Institute for Public Service, MTAS works in cooperation with the Tennessee Municipal League and affiliated organizations to assist municipal officials.

By sharing information, responding to client requests, and anticipating the ever-changing municipal government environment, MTAS promotes better local government and helps cities develop and sustain effective management and leadership.

MTAS offers assistance in areas such as accounting and finance, administration and personnel, fire, public works, law, ordinance codification, communications, and wastewater management. MTAS houses a comprehensive library and publishes scores of documents annually.

All MTAS publications are free to Tennessee city, county, state, and federal officials. There is a charge for all private sector requests.

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