

## INTRODUCTION

State law changes in Tennessee impact many provisions in the ordinance codes of Tennessee municipalities. This pamphlet is intended to assist municipal attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Tennessee municipalities.

This pamphlet is current through the 2019 first extraordinary session of the 111th Tennessee General Assembly.

Not all provisions of this pamphlet will apply to your Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of your Code.

The provisions of this pamphlet are intended to assist municipal attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Tennessee must be consulted as to the applicability of a given statute or case to a particular situation.

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## GENERAL PROVISIONS

1. *When ordinances required.* Certain actions must be by ordinance. See T.C.A. § 6-54-512.
2. *Penalties.* Penalties for ordinance violations are restricted. See T.C.A. §§ 6-54-306 and 6-54-308. See also T.C.A. § 16-18-302.
3. *Duplication or incorporation of state penal laws.* Subject to certain exceptions, municipal courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference statutes if the statutes are Class C misdemeanors. See T.C.A. § 16-18-302.
4. *Religious liberty.* Municipal ordinances substantially burdening a person's free exercise of religion are restricted. See T.C.A. § 4-1-407.

## ADMINISTRATION

1. *Archives and record management fee.* Archives and record management fees are authorized and restricted. See T.C.A. § 6-54-136.
2. *Municipal purchases of secondhand articles.* Municipal purchases of used or secondhand articles are restricted. See T.C.A. § 12-3-1202.

## **ANIMALS**

1. *Pet dogs in outdoor dining areas at restaurants.* Ordinances allowing pet dogs in outdoor dining areas of restaurants are restricted. See T.C.A. § 6-54-135.

## **BUILDINGS AND BUILDING REGULATIONS**

1. *Minimum standards.* Minimum building code standards are promulgated in T.C.A. § 68-120-101.
2. *Manufactured homes.* Regulation of the installation of manufactured homes is preempted to the state. See T.C.A. § 68-126-412.

## **BUSINESSES**

1. *Veterinary practice.* Subject to certain exceptions, municipalities may not regulate the authorized practice of veterinary medicine. See T.C.A. § 63-12-145.
2. *Tattoos.* Local regulation of tattooing is preempted to the state. See T.C.A. § 62-38-210.
3. *Transportation network companies ("Uber").* A transportation network company is not subject to any regulations passed by a municipality or other governmental entity governing private passenger for-hire vehicles pursuant to T.C.A. § 7-51-1003. See T.C.A. § 65-15-302.

## **NUISANCES**

1. *Graffiti.* Removal of graffiti is regulated and restricted. See T.C.A. § 6-54-127.

## **OFFENSES AND MISCELLANEOUS PROVISIONS**

1. *Firearms.* Subject to exceptions, the regulation of the transfer, ownership, possession or transportation of firearms, ammunition or components of firearms or combinations thereof is preempted to the state. See T.C.A. § 39-17-1314.
2. *Gambling.* The regulation and prohibition of gambling is preempted to the state. See T.C.A. §§ 39-17-509, 39-17-610, 3-17-112 and 39-17-659.
3. *Methamphetamine precursors.* Certain ordinances regulating sales of products containing any immediate methamphetamine precursor are preempted. See T.C.A. § 39-17-431(n).
4. *Public intoxication.* Subject to certain exceptions, no municipality shall adopt any local law, ordinance, resolution or regulation having the force of law rendering public intoxication or drunkenness in and of itself, or being a common drunkard, or being found in enumerated places in an intoxicated condition, an offense, a violation of the subject of criminal or civil penalties or sanctions of any kind. See T.C.A. § 33-10-203.
5. *Blasting.* The subject of blasting is preempted to the state. See T.C.A. § 68-105-110.
6. *Dextromethorphan.* Regulation of dextromethorphan is preempted to the state. See T.C.A. § 39-17-440.
7. *Tobacco.* Subject to certain exceptions, the regulation of tobacco products is preempted to the state. See T.C.A. § 39-17-1551.
8. *Shooting ranges.* Local regulation of shooting ranges is restricted. See T.C.A. § 39-17-316.
9. *Drug offenses.* Certain drug offenses are preempted to the state. See T.C.A. § 39-17-401.

## **PLANNING AND ZONING**

1. *Zoning map.* Compilations of zoning ordinances and zoning maps are required. See T.C.A. § 13-7-212.

2. *Zoning limitations on agricultural land.* Zoning of certain agricultural lands is restricted. See T.C.A. § 6-54-126.

#### **TRAFFIC AND VEHICLES**

1. *Unmanned traffic enforcement cameras.* Use of unmanned traffic enforcement cameras is restricted. See T.C.A. § 55-8-198.