



November 21, 2024

County Buildings, Hours, and Office Space

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Reference Number: CTAS-576

The county legislative body is required to provide funds to erect a courthouse, jail and other necessary county buildings, but the jail may be a joint facility operated with one or more other counties. T.C.A. §§ 5-7-104, 5-7-105. The courthouse and all county buildings for county officers except the jail and the county highway garage must be erected within the limits of the county town. T.C.A. § 5-7-105. Although not required to do so, the county legislative body may provide offices for the county clerk and other officials outside of the county town so long as an office is maintained in the county town for offices where a county town office is mandated. T.C.A. § 5-7-103. County buildings are to be kept in order and repair at the expense of the county, under the direction of the county legislative body, and a special tax may be levied for this purpose. T.C.A. § 5-7-106.

Under T.C.A. § 5-7-108, the sheriff is charged with the custody and security of the courthouse unless the county legislative body assigns this duty to someone else. It is the duty of the sheriff to prevent trespasses, exclude intruders, and keep the courthouse and the courthouse grounds in order, reporting from time to time the repairs required, and the expense, to the county legislative body. As custodian of the courthouse, the sheriff is a mere agent or administrator of the county legislative body. *Driver v. Thompson*, 358 S.W.2d 477 (Tenn. 1962). See also *Ferriss v. Williamson*, 67 Tenn. 424 (1874);

Under T.C.A. § 5-6-108, the county mayor is designated the custodian of county property that is not by law placed in the custody of other officers. As custodian of these properties, the county mayor acts as an agent or administrator of the county legislative body and must report from time to time when repairs are needed and must obtain authorization from the county legislative body for major repairs that are required. See *Driver v. Thompson*, 358 S.W.2d 477 (Tenn. 1962).

While it is true that the sheriff is charged with the custody and security of the courthouse, unless the county legislative body assigns this duty to someone else, individual county office holders may prescribe rules and regulations with respect to access to their offices, to include but not limited to the times when their office will be open to the public and who may be given access to their offices. Neither the sheriff or the county mayor may dictate to the other county office holders who may or may not have access to their offices. See *Shelby County v. Memphis Abstract Co.*, 203 S.W. 339 (Tenn. 1918).

Non-Smoker Protection Act. Under the Non-Smoker Protection Act, T.C.A. § 39-17-1801 *et seq.*, smoking, which includes the use of vapor products, is prohibited in any enclosed area of any place to which the public is invited or in which the public is permitted and in any enclosed area under the control of a public or private employer that employees normally frequent during the course of employment including private offices and vehicles. The act requires "No Smoking" signs or the international "No Smoking" symbol be clearly and conspicuously posted at every entrance to every public place and place of employment where smoking is prohibited by the act by the owner, operator, manager, or other person in control of that place. A person who smokes in an area where smoking is prohibited shall be subject to a fifty-dollar (\$50) fine. In addition, counties are authorized to prohibit the use of tobacco and vapor products on the grounds of public parks, playgrounds, greenways or any other public property accessible to use by youth (persons under 21) with the exception of sidewalks and roads. T.C.A. § 39-17-1551(e).

Courthouse Hours and Allocation of Courthouse Space. The county legislative body has no statutory authority to establish uniform office hours for the courthouse and require other officials to remain open or closed during these scheduled hours. Op. Tenn. Att'y Gen. U97-005, cited in 98-058. However, elected officials cannot neglect the business of the office without being subject to removal from office in an ouster suit. T.C.A. § 8-47-101. Therefore, each official is under a duty to maintain office hours that will allow the public reasonable access to the offices and allow the work of the office to be performed in a timely and efficient manner. See also *Boarman v. Jaynes*, 109 S.W.3d 286, 291 fn4 (Tenn. 2003) (. . . we construe "working time" to mean a reasonable number of hours. Thus, as the Court of Appeals stated in *Jenkins v. Armstrong*, 31 Tenn.App. 33, 211 S.W.2d 908 (1947), public officials could not be held to the duty of an unreasonable working time beyond what was considered as usual office hours.).

Each official can decide whether to remain open on holidays. T.C.A. § 15-1-101. See e-Li Reference Number: CTAS-178.

The county commission has complete control over county building office space and has the authority to assign office space within the courthouse. See *Anderson County Quarterly Court v. Judges of the 28th Judicial Circuit*, 579 S.W.2d 875 (Tenn. Ct. App. 1978). County buildings are public property held by the county in trust for the public use and are under the jurisdiction of the county commission as the representative agency of the County at large. *Henry v. Grainger County*, 290 S.W. 2, 3 (Tenn. 1926) (any rule other than the one we declare would lead to entanglements and abuses against which the public

should be protected as a matter of public policy). There is neither express or implied authority for the sheriff or the mayor to dictate to the other elected officials of the County what space they shall occupy in county buildings and other such matters affecting them in the discharge of their official duties. *Driver v. Thompson*, 358 S.W.2d 477 (Tenn. 1962) (assignment of office space is peculiarly a function of the county legislative body as to matters in its jurisdiction). *See also Easterly v. Harmon*, 1997 WL 718430, n4 (Tenn.Ct.App.,1997) (County fee officials are independent entities. They do not work for and are not subject to the mayor's control.).

ADA Compliance. T.C.A. § 68-120-204(a)(1) requires public buildings constructed, enlarged or substantially altered or repaired after July 1, 2012 be designed and constructed pursuant to standards approved by the responsible authority. The minimum standards shall be the 2010 ADA Standards for Accessible Design and any amendments thereto. If a local building inspector is the responsible authority, the local government may use the 2010 ADA Standards for Accessible Design or choose other standards from the codes or publications of other nationally recognized agencies or organizations.

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