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# Comprehensive Growth Planning

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Dear Reader:

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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.

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# Comprehensive Growth Planning

Reference Number: CTAS-589

## County Growth Plans

Reference Number: CTAS-590

In 1998 the Tennessee General Assembly passed Public Chapter 1101, which requires a coordinated planning effort among a variety of public and private entities throughout the state. The legislation also reforms procedures and requirements for annexation and incorporation. Public Chapter 1101 was codified in T.C.A. § 6-58-101 *et seq.* The law calls for the development of a comprehensive growth plan in each county, covering projected growth for 20 years.

## Designation of Zones

Reference Number: CTAS-591

T.C.A. § 6-58-104(a)(2) specifies that the comprehensive growth plan must identify the following three (3) types of areas if they exist within the county:

1. Urban Growth Boundary (UGB) - a reasonably compact area that contains the corporate limits of a municipality and the adjoining territory where high density commercial, industrial, or residential growth is expected.
2. Planned Growth Area (PGA) - compact sections outside incorporated municipalities and outside growth boundaries where high or moderate density growth is expected, if there are such areas in the county; new incorporations may occur only within these regions. A county has authority to provide services within a PGA and to set a separate tax rate for these services.
3. Rural Area (RA) - territory that is not within another zone and that is to be preserved for uses other than high density development.

Several factors must be taken into account in determining the boundaries of these three (3) areas:

1. Population growth projections, to be developed in conjunction with the University of Tennessee;
2. Current and projected costs of infrastructure, urban services, and public facilities needed for development and methods to finance these needs;
3. The need for additional land area for high density development, after considering the feasibility of redeveloping all sites within the current boundaries;
4. The effect of development upon agricultural land, forests, recreational areas and wildlife management areas; and
5. The likelihood of eventual incorporation into a municipality.

T.C.A. § 6-58-106(a).

## Extraterritorial Planning Jurisdiction

Reference Number: CTAS-592

A city that has been granted power to zone beyond its corporate boundaries (T.C.A. § 13-3-102) cannot zone outside of its UGB, regardless of the five-mile limit. However, if the county has no zoning and the city has not received extraterritorial zoning authority under the statute cited above, then the municipality may zone beyond its city limits only with the approval of the county legislative body. This rule includes territory that is outside the city limits but inside the UGB. The county retains authority to enact zoning (T.C.A. § 13-7-101 *et seq.*) within a PGA, an RA, and a UGB (although presumably only that Section of the UGB that is outside of municipal boundaries). The new law does not expand a county's zoning authority or enact statewide zoning.

## Agreements Regarding Powers

Reference Number: CTAS-593

Counties and cities are authorized to make agreements to refrain from exercising powers, including annexation and receipt of revenue. After five (5) years, agreements to refrain from exercising powers may be renegotiated or terminated upon ninety (90) days notice. The act explicitly allows written contracts between municipalities and owners (developers) regarding annexation, validating those in existence on the effective date of the act.

## Amendment of Growth Plan

Reference Number: CTAS-594

Unless there are "extraordinary circumstances," the initial growth plan remains in place for three (3) years. After the three years, the growth plan may be amended as often as necessary. T.C.A. § 6-58-104(d)(1). Municipal or county mayors are to propose amendments to the growth plan. The mayor proposing the amendment is to file notice of the amendment with the county mayor and mayors of all the municipalities in the county. Upon receiving the notice, the county mayor shall reconvene or reestablish the coordinating committee within sixty (60) days. The coordinating committee then has six (6) months from the date of its first meeting on the proposed amendment to submit its recommendation to the local governing bodies. The amendment shall become part of the county's growth plan after being approved by the local governing bodies and the local government planning advisory committee. The burden of proving the reasonableness of the change is on the party proposing it.

## Joint Economic and Community Development Board

Reference Number: CTAS-596

In addition to the coordinating committee that is formed to formulate a growth plan and any amendments to it, the law requires a board with representatives from both public and private segments of the community to engage in long-term planning and maintain communication among the various interest groups.

Composition. The final makeup of each board is to be established by interlocal agreement, but at a minimum must include the county mayor, the mayor or city manager of each city in the county (in a county with multiple cities, the smaller cities may rotate for representation, according to interlocal agreement), and an owner of greenbelt property. Boards are encouraged to include school system representatives as well. A county or city mayor or city manager may designate an alternative representative on the board and its executive committee so long as the alternative has experience or education in administration, economic or community development, or planning and be able to speak for the represented official.

Executive Committee. The executive committee is to be selected by the entire board but must consist of at least the county mayor and the mayors of the larger municipalities.

Powers. Boards are authorized to exercise on behalf of constituent members any authority contained in the interlocal agreement that may be exercised separately by the constituent member. Such authority includes the authority to contract with an industrial development corporation, development district, human resources agency, nonprofit corporation, or private business to deliver services that further economic growth in the community.

Term of Office. The terms are to be determined by interlocal agreement, with a maximum of four (4) years; all terms must be staggered except for those of elected officials, whose terms of service on the board coincide with their terms of office.

Meetings. The full board must meet a minimum of four (4) times a year, and the executive committee must also meet at least four (4) times annually with an executive committee meeting occurring at least once in each calendar quarter. Both bodies are subject to the open meetings law and are required to keep minutes and attendance.

Funding. Costs are shared jointly among participating governments according to a statutory formula based upon population. The board may accept donations and grants. It must adopt a budget by April 1 each year; While participating governments retain full authority to approve their contributions to the board, if a participating government does not contribute its share, the board may impose such sanctions

or conditions as it deems proper. Before applying for any state grant, local governments must certify their compliance with these provisions.

Exception. If a county has previously formed a similar agency, it may apply to the local government planning advisory committee for an exception to these provisions.

Donation of Funds. A joint economic and community development board is authorized to transfer or donate funds that it has received from participating governments and outside sources to other public or non-profit entities within the county to be used for economic or industrial development purposes. T.C.A. § 6-58-114.

## Annexation

Reference Number: CTAS-598

In 2014, the law on annexation was substantially revised. Public Chapter 707 made several significant changes to the methods used by municipalities to annex unincorporated territory. Under Public Chapter 707, municipalities may no longer annex by ordinance and may only annex by resolution pursuant to T.C.A. 6-51-104, which generally requires written consent of the affected property owners or approval by referendum. No annexations by resolution of property being used primarily for agriculture will be permitted unless written consent of the property owners is obtained. Municipalities may, by resolution, propose annexation of territory that does not adjoin the boundary of the main part of the municipality if the territory is within the urban growth boundary and is either to be used for industrial, commercial or residential purposes in the future or owned by a governmental entity. Such resolution can only be ratified with written consent of the property owners. T.C.A. § 6-51-104.

Municipalities are required to send a copy of the resolution describing the territory proposed for annexation to the property owners within the territory, adjoining property owners, the county mayor, and the county commissioners whose district includes the territory. Municipalities are also required to post and provide newspaper notice of the resolution. Additionally, municipalities must submit the plan of services to the local planning commission if one exists. The planning commission must study and compile a written report on the plan of services and hold a public hearing on the plan. T.C.A. §§ 6-51-102, 104.

A municipality may expand its urban growth boundaries to annex a tract of land without reconvening the coordinating committee or receiving approval from the county or any other municipality if: (1) The tract is contiguous to a tract of land that has the same owner and has already been annexed by the municipality; (2) The tract is being provided water and sewer services; and (3) The owner of the tract, by notarized petition, consents to being included within the urban growth boundaries of the municipality. T.C.A. § 6-58-118.

Finally, counties having a metropolitan form of government will be permitted to expand their urban services districts using any method authorized by their charter. This includes methods in general law which are referenced in the charter and which were applicable at the time the charter or charter amendment was approved. T.C.A. § 6-51-123.

## Notice of Annexation

Reference Number: CTAS-599

Before any territory may be annexed, the governing body of the municipality must adopt a plan of services establishing, at a minimum, the services to be delivered and the projected timing of the services. Upon adoption of the plan of services, the municipality must forward a copy of the plan of services to the county mayor in whose county the territory being annexed is located. T.C.A. § 6-51-102. The municipality must also forward a copy of the annexation resolution to the county mayor. T.C.A. § 6-51-104. The county mayor must also be notified by the annexing municipality of the final decision in any *quo warranto* proceeding contesting a proposed annexation or the outcome of any referendum regarding annexation.

T.C.A. §§ 6-51-103, 6-51-105. The county mayor is required to notify the appropriate departments and offices of the county regarding information received from the municipality pertaining to a proposed annexation. T.C.A. §§ 6-51-102 through -105.

Annexing municipalities are also required to provide a copy of the annexation resolution, along with a copy of the portion of the plan of services dealing with emergency services and a detailed map designating the annexed area, to any affected emergency communications district upon ratification of a resolution to annex. T.C.A. § 6-51-119.

Once an annexation resolution is approved by referendum, the annexing municipality is required to record the resolution with the register of deeds in the county or counties where the annexation was adopted

or approved. The annexing municipality must also send a copy of the resolution to the comptroller and the assessor of property of each county affected by the annexation. T.C.A. § 6-51-121.

## Distribution of Taxes after Annexation

Reference Number: CTAS-601

When a city annexes property that generates wholesale beer taxes or local option sales taxes, the amount of revenue produced at the time of the annexation continues to go to the county for a period of 15 years.

Any increases over this amount are distributed to the annexing municipality. Note that this does not affect the distribution of the first half of the local option sales tax, which continues to go to education funding.

Formula for Distribution. If the business operated for a full twelve (12) months before annexation, the county receives the monthly average for that period. If the business operated for at least one (1) full month but fewer than twelve (12) months before annexation, the county receives the average amount of each full month of operation. If the business operated for less than a month before annexation, or if it began operation within three (3) months of annexation, then the revenue for the first three (3) months is averaged and the county receives that amount.

Exceptions. There are several exceptions to the distribution formula. If the wholesale beer tax or the local option sales tax is repealed, revenue amounts from the repealed tax will end; similarly, if the distribution to municipalities is reduced by the General Assembly, revenue amounts will be decreased proportionally. Finally, if a business closes or relocates, thereby reducing tax revenues, the city may petition the Department of Revenue no more than once annually for a reduction in amounts. A county may voluntarily waive rights to the revenue.

County Responsibility. Upon annexation, each county is responsible for identifying tax-producing properties and providing a list of them to the Department of Revenue. Counties should also monitor the impact of annexations on all revenue-generating properties within the affected area. Some of the taxes received from such areas are not administered by the Department of Revenue. For example, certain of the taxes are collected and remitted by beer wholesalers. If the county does not monitor such transactions and inform the appropriate parties, it may lose out on tax revenue to which it is entitled.

T.C.A. § 6-51-115.

## Incorporation

Reference Number: CTAS-602

New municipalities may be created in Tennessee only inside a planned growth area as designated in a comprehensive growth plan. Any new municipality must enact a property tax at least equal to its share of state taxes and must adopt a plan of services within six (6) months of incorporation. Before an incorporation election may be held, the county legislative body must approve the city limits and urban growth boundary for the proposed municipality. T.C.A. § 6-58-112.

## Consolidation of City and County Governments

Reference Number: CTAS-603

After the passage of 1998 Public Chapter 1101, the law allows creation of a consolidation charter commission upon petition by qualified county voters equal to ten percent (10%) of the votes cast in the county for governor in the last gubernatorial election. (Previous law required the county and principal city to call for a consolidation commission.) The law also specifies procedures for appointment to the charter commission (under one (1) method, the county mayor appoints county members, subject to confirmation by the county legislative body). T.C.A. § 7-2-101.

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