



September 1, 2020

To whom it may concern,

It is my understanding that you have requested an opinion that addresses the legality of ordinance 17-07, which was passed by the Board of Mayor and Aldermen (BOMA) on August 28, 2017. For the reasons set out below, the ordinance is legal.

Tenn. Code Ann. § 6-3-102(b)(5), which is applicable to municipalities such as your city with general law mayor-aldermanic charters, provides:

A municipality whose board has non-staggered or staggered four-year terms may, by ordinance, change to two-year non-staggered or staggered terms. The ordinance shall not affect the present terms of members of the board serving four-year terms, and shall take effect for the next appropriate municipal election following the adoption of the ordinance. After such election, all members of the board shall be elected to serve two-year terms.

Ordinance 17-07 was passed on August 28, 2017, by the BOMA and the language in the ordinance relative to this opinion reads:

NOW, THEREFORE, BE IT ORDAINED, that the election of the Town Board of Mayor and Aldermen, beginning with the election of 2018 shall be as follows: the Mayor and Two Aldermen elected in 2016 will serve until 2020 at which time the Mayor and all Aldermen will be elected for two-year terms thereafter. The two Aldermen who were elected to four-year terms in 2014 will serve until 2018 at which time the two positions will be elected for a term of two years thereafter. The Town will hold an election every two years with a Mayor and four Aldermen elected to a two-year term which shall begin in 2020.

Based upon the language in ordinance 17-07, the members of the BOMA were elected to staggered four-year terms of office, until 2018. However, with the passage of ordinance 17-07, the terms of office became non-staggered two-year terms. The change made by ordinance 17-07 to the term of office for members of the BOMA was authorized by Tenn. Code Ann. § 6-3-102(b)(5).

Please feel free to contact me, if you have other questions. Additionally, please feel free to share this opinion with the administrator of elections. I discussed this issue when it was initially raised with staff in the Division of Elections in the Secretary of State's office. It is my understanding that this same information was shared by staff in that office with the administrator at that time.

With warmest regards,
Elisha D. Hodge
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