



## Newly Elected Official's Guide to Taking Office

by Stephanie O'Hara, MTAS Legal Consultant

You just won an election for your municipal office. Now what? Below we address some common questions of when and how you take office and who may administer your oath.

### When do you take office?

#### Certified election results

Some charters state when a newly elected official will take the oath of office and assume the seat. Despite the charter language, no elected official should be sworn in until the election results have been certified by the election commission. The Tennessee Supreme Court in Shumate v. Claiborne County, 191 S.W.2d 441, 442 (1946) stated:

In Hagan v. Henry, 168 Tenn. 223 [76 S.W.2d 994], followed in other cases, it was held that upon issuance to one of the contestants for an elective office of a certificate of election by the Board of Election Commissioners and his induction, he acquires prima facie the title to the office, and upon induction becomes the lawful occupant thereof.

Therefore, the results must be certified by the election commission prior to the person taking the oath of office.

#### Consult your charter

If election results have been certified by the specified time of the charter, the newly elected official should take the oath and assume the seat as prescribed by the charter. If the charter language is silent on when a newly elected official takes office, MTAS recommends that the person take the oath of office at the next regular meeting after the certification of election results.

#### Holdovers in office

Many charters state that elected officials maintain their office "until their successors have been elected and qualified." The courts interpret the word "qualified" as used in this context as being certified as the winner of the election. The Tennessee Attorney General provides that qualification means "where the election results have been certified and the oath has been taken." Tenn. Op. Att'y Gen. No. 80-427 (Aug. 26, 1980).

## Who can swear you in?

General law authorizes the following officials to administer oaths of office<sup>1</sup>:

- the governor (Tennessee Code Annotated § 8-18-107(b)),
- an active or retired supreme court justice (Tennessee Code Annotated § 8-18-107(b)),
- an active or retired inferior court judge (Tennessee Code Annotated § 8-18-107(b)),
- an active or retired general sessions judge (Tennessee Code Annotated § 8-18-107(b)),
- the county mayor (Tennessee Code Annotated § 8-18-109(b)),
- the county clerk (Tennessee Code Annotated § 8-18-109(b)),
- judges of courts of general sessions (Tennessee Code Annotated § 8-18-109(b)),
- a judge of any court of record in the county (Tennessee Code Annotated § 8-18-109(b)),
- members of the general assembly (Tennessee Code Annotated § 3-1-105(d)(1)),
- every popularly elected or appointed judge of a municipal court (Tennessee Code Annotated § 16-18-303),
- general law mayor-aldermanic chartered city mayors (Tennessee Code Annotated § 6-3-105).

Tennessee Code Annotated § 8-18-107(b) provides in pertinent part:

the governor, an active or retired supreme court justice, an active or retired inferior court judge, or an active or retired general sessions judge may administer the oath to any elected or appointed official.

Tennessee Code Annotated § 8-18-109(b) also provides:

(b) Notwithstanding any other law to the contrary, the county mayor, the county clerk, judges of courts of general sessions, or a judge of any court of record in the county may administer the oath of office for any elected or appointed official. The oath may be administered at any time after an appointment, in the case of appointed officials, or in the case of elected officials after the election, but before the judge or public official

---

<sup>1</sup> While the phrasing of notary authority is fairly broad, MTAS attorneys believe the notary public authority for oaths only extends to oaths for those documents they witness as part of their duties. Tennessee Code Annotated § 8-16-112 provides the following language, but the authority to administer elected officials' oaths is unclear:

A Tennessee notary public is authorized to act in any county in the state and has the power to acknowledge signatures upon personal knowledge or satisfactory proof, to administer oaths, to take depositions, to qualify parties to bills in chancery, and to take affidavits, in all cases. Furthermore, in all such cases the notary public's seal shall be affixed and the notary public shall sign such documents in ink by the notary's own hand unless otherwise provided by law.

Under Tennessee Code Annotated § 2-4-111, election commissioners have the authority to administer oaths. However, this language qualifies "in the performance of their duties," which would include oaths for petitions and affidavits filed with the election commission, but not necessarily oaths of office: "The officers of elections may administer oaths in the performance of their duties."

assumes office, so long as the results of the election establishing that the person taking the oath won the election are certified by the appropriate legal authority. Even though an official may file an oath before the scheduled start of a term of office, the official may not take office until the term officially begins.

Tennessee Code Annotated § 3-1-105(d)(1) provides:

The members of the general assembly may administer the official oath of office for any local public official of any municipality or county, including any county having metropolitan form of government, or any other political subdivision of the state.

Tennessee Code Annotated § 16-18-303 provides (because municipal courts are not “courts of record”):

Notwithstanding any law to the contrary, every popularly elected or appointed judge of a municipal court is authorized to administer oaths.

Mayor-aldermanic charter language (Tennessee Code Annotated § 6-3-105) permits a mayor to administer oaths:

The mayor, after the mayor's election, shall take an oath of office to support the constitution of the state and faithfully discharge the duties of the mayor's office, before any officer authorized to administer oaths. This officer or the mayor shall then induct the aldermen into office by administering to them a similar oath of office. Oaths of office shall be filed in the archives of the municipality.

**What should be stated in the oath?**

If the city’s charter provides an oath, the city should use the oath provided in the charter. If your city’s charter does not provide an oath, example oaths are provided below by position.

Boards:

I, \_\_\_\_\_ [Insert Full Name] \_\_\_\_\_, do solemnly swear (or affirm) that as a member of the \_\_\_\_\_ [Insert Name of Board] \_\_\_\_\_ of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_, I will support and defend the Constitution of the United States, the Constitution and statutes of the State of Tennessee, the charter and ordinances of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_; and that I will, in all appointments and all other business before the \_\_\_\_\_ [Insert Name of Board] \_\_\_\_\_ of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_ vote without favor, affection, partiality, or prejudice; and that I will not promote or assent to any ordinance, resolution, or vote, or take part in or consent to any act, that appears to me will abridge the rights and privilege of the citizens of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_ under the Constitution of the United States and the State of Tennessee.

\_\_\_\_\_  
Signature of Official

I, \_\_\_\_\_ [Insert Name and Title] \_\_\_\_\_, have this day administered the Oath of Office to \_\_\_\_\_ [Insert Name] \_\_\_\_\_, \_\_\_\_\_ [Insert Official’s Title] \_\_\_\_\_, of the State of Tennessee, as prescribed and required by law.

This the \_\_\_\_\_ [Insert Day, Month & Year] \_\_\_\_\_.

\_\_\_\_\_  
Signature of Administer

Other Offices:

I, \_\_\_\_\_ [Insert Full Name] \_\_\_\_\_, do solemnly swear (or affirm) that as \_\_\_\_\_ [Insert Name of Office] \_\_\_\_\_ of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_, I will support and defend the Constitution of the United States, the Constitution and statutes of the State of Tennessee, and the charter and ordinances of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_.

\_\_\_\_\_  
Signature of Official

I, \_\_\_\_\_ [Insert Name and Title] \_\_\_\_\_, have this day administered the Oath of Office to \_\_\_\_\_ [Insert Name] \_\_\_\_\_, \_\_\_\_\_ [Insert Official's Title] \_\_\_\_\_, of the State of Tennessee, as prescribed and required by law.

This the \_\_\_\_\_ [Insert Day, Month & Year] \_\_\_\_\_.

\_\_\_\_\_  
Signature of Administer

Judge:

I, \_\_\_\_\_ [Insert Full Name] \_\_\_\_\_, do solemnly swear [or affirm] that as the municipal judge of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_, I will support and defend the Constitution of the United States, the Constitution and statutes of the State of Tennessee, and the charter and ordinances of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_ and that I will administer justice without respect of persons, and that I will faithfully and impartially discharge all the duties incumbent upon me as Judge of the Municipal Court of the City/Town of \_\_\_\_\_ [Insert City/Town] \_\_\_\_\_ the State of Tennessee, to the best of my skill and ability

This the \_\_\_\_\_ [Insert Day, Month & Year] \_\_\_\_\_.

\_\_\_\_\_  
Signature of Judge

I, \_\_\_\_\_ [Insert Name and Title] \_\_\_\_\_, have this day administered the Oath of Office to \_\_\_\_\_ [Insert Name] \_\_\_\_\_, Judge of the \_\_\_\_\_ [Insert Court & District] \_\_\_\_\_, of the State of Tennessee, as prescribed and required by law.

This the \_\_\_\_\_ [Insert Day, Month & Year] \_\_\_\_\_.

\_\_\_\_\_  
Signature of Administer

**What's next?**

Have questions? Contact your city's MTAS Management Consultant. You can find that information by going to the [MTAS website](#) and entering your city on the front page.

To learn more about available training from MTAS, visit the [MTAS Training](#) webpage, and as a newly elected official, we recommend the [Elected Officials Program](#).