

The Cleveland City Charter is subject to change.

Any changes will be posted as soon as they are available.

PROPERTY RIGHTS VOTING

- I. **Description of a Nonresident Property Ownership Voter** – A person, who due to the ownership of real property within a city or special school district, may register and vote in that city or special school district election, even though the person does not reside in the jurisdiction.
- II. **Authority Under Which Nonresident Property Ownership Voters Vote**
 - A. **Municipal Elections**
 1. *T.C.A. § 2-2-107* requires that the city charter contain an express provision allowing nonresident real property owners to participate in the municipality's elections.
 2. According to *T. C. A. § 2-2-107*, "notwithstanding any provision of the law to the contrary, if a municipal charter provides for property rights voting, no more than two (2) persons shall be entitled to vote based upon the ownership of an individual tract of property regardless of the number of property owners."
 - B. **Special School District Elections** - *T.C.A. § 49-2-504* provides that "a special school district may, by legislative act, establish eligibility and procedures for nonresident property owners."
- III. **Registration Requirements**
 - A. **Residency Requirement**
 1. Generally - Attorney General Opinion No. 95-026 advises that the general law does not impose a residency requirement on nonresident property owners. Consequently, nonresident property owners may register and vote in the city elections regardless of whether the person is a resident of the county, State of Tennessee, or United States. However, to vote in elections in Tennessee, the person must be a United States citizen.
 2. **Exceptions**
 - a) Municipal charters may require that the nonresident property owner be a qualified voter for members of the General Assembly. If the city charter has such language, then the nonresident property owner must be a resident of the State of Tennessee in order to register and to vote in the city elections.
 - b) Municipal charters may require that the nonresident property owner be a resident of the county or a qualified voter for members of the county civil district. If the city charter has such language, then the nonresident property owner must be a

resident of the county in order to register and to vote in the city elections.

B. Proof of Ownership

1. A person who wants to register as a nonresident property owner must provide the county election commission with information sufficient to demonstrate property ownership within the municipal corporations.
2. Examples - A certified copy of the deed or a certified copy of the tax records which provides the names of the owners of the property would be sufficient proof.
3. Caveats
 - a) If the county allows the applicant to use property tax receipts as proof of ownership, make sure that the receipt indicates who owns the property and not merely who paid the property taxes. There are instances when people other than the owners of the property pay the property taxes, and these taxpayers would not be eligible to register and vote in the city election.
 - b) At the end of the voter registration period, the county election commission may want to verify property ownership with the register of deeds to assure that the person seeking to register holds the last recorded deed for the property involved.

C. Registration Deadline - The registration deadline of thirty (30) days before the election applies to a nonresident property owner seeking to register to vote in a municipal election.

D. Separate Registration - To maintain an accurate count of the number of registered voters within a county, the registration records of nonresident property owners must be kept separately and distinctly from the registration records of voters registered to vote based upon residence. A database other than the statewide database must be used to maintain the registration records of nonresident property owners.

IV. Considerations of Who may Register as a Non-Resident Property Owner

A. Those Named on Deed

1. Individuals - A natural person, and not a corporation or other legally created entity, may register and vote as a nonresident property owner.
2. Multiple Persons - There may be no more than two (2) people registered to vote on a single tract of land.
3. Various Types of Entities Sometimes Owning Property

- a) Partnership - A named partner of the partnership whose name appears on the deed may register and vote.
- b) Limited Partnership – The General Partner of the Limited Partnership may register and vote on property owned by the Limited Partnership.
- c) Corporation - Because a corporation is not a natural person, but a legally created entity, the corporation does not have a right to register and vote. By the same token, representatives of the corporation may not register and vote in place of the corporation. However, any natural person named on the deed as a co-owner of the tract of land may be allowed to register and vote.
- d) Limited Liability Company (LLC) - Same as Corporation.
- e) Trust Agreement – Same as Corporation. Property placed in a trust is owned by the trust, which is a legal entity. The trustee manages the assets in the trust for the benefit of the beneficiary, but does not own the property or other assets in the trust.

B. Tract of Land must be of a Sufficient Enough Size for Owners to Have a Substantial Interest

- 1. To register and vote as a nonresidential property owner, the administrator of elections must find that the property in question is of a sufficient size to give the persons named on the deed a substantial enough interest in the property to constitute more than just a voting lot.
- 2. Guidance from Attorney General Opinions
 - a) Attorney General Opinion No. U88-96 (August 30, 1988) advises that ownership in tracts of land of only a few square feet does not render the person a bona fide owner of real property and does not entitle the person to register to vote in municipal elections.
 - b) Attorney General Opinion No. 82-134 (March 16, 1982) advises that "a fairly strong argument can be made for the restriction of the right to vote to those property owners who own a lot large enough to erect thereupon a dwelling or commercial building."

V. **Charter Requirements** - Other than those charter requirements that may violate the constitution, such as owning the property for a specified period of time before the election, the administrator of elections must impose the specified charter requirements.

A. Various Types of Enforceable Requirements Placed in Municipal Charters

CHARTER OF THE CITY OF CLEVELAND, TENNESSEE¹

CHAPTER NO. 78

HOUSE BILL NO. 1649

By Representative Stockburger

Substituted for: Senate Bill No. 1633

By Senator Patten

AN ACT to amend in its entirety the present Charter of the City of Cleveland, Tennessee, which is Chapter 307 of the Acts of Tennessee of 1903 and Chapter 204 of the Acts of Tennessee of 1909, as amended by Chapter 286 of the Acts of Tennessee of 1909, Chapter 286 of the Private Acts of 1911, Chapter 124 of the Private Acts of 1913, Chapter 213 of the Private Acts of 1913, Chapter 165 of the Private Acts of 1915, Chapter 631 of the Private Acts of 1919, Chapter 705 of the Private Acts of 1921, Chapter 57 of the Private Acts of 1923, Chapter 459 of the Private Acts of 1923, Chapter 236 of the Private Acts of 1931, Chapter 409 of the Private Acts of 1933, Chapter 452 of the Private Acts of 1935, Chapter 450 of the Private Acts of 1937, Chapters 352, 527, 528, 530, 532 and 802 of the Private Acts of 1949, Chapters 187 and 196 of the Private Acts of 1953, Chapter 449 of the Private Acts of 1953, Chapter 201 of the Private Acts of 1955, Chapter 348 of the Private Acts of 1959, Chapter 400 of the Private Acts of 1961, Chapter 85 of the Private Acts of 1967, Chapter 156 of the Private Acts of 1969, Chapter 287 of the Private Acts of 1970, Chapter 176 of the Private Acts of 1971, Chapter 80 of the Private Acts of 1975, Chapter 116 of the Private Acts of 1977, Chapters 348 and 349 of the Private Acts of 1982, and all acts amendatory thereto.

WHEREAS, the City of Cleveland, Tennessee is incorporated by Chapter 307 of the Acts of Tennessee of 1903, as amended; and

¹Priv. Acts 1993, ch. 78, is the current basic charter act for the City of Cleveland, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2015 session of the Tennessee General Assembly. Sections of the charter which have been amended contain at the end of those sections the citation to the official act or acts constituting the amendment or amendments. No other changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the acts including the basic charter appears at the end of the charter.

- (a) Any action required by general law to be by ordinance;
- (b) Any action required by this charter to be by ordinance;
- (c) Any action that levies a tax;
- (d) Any action that makes a special assessment;
- (e) Any action that is permanent in nature; and
- (f) Any action that has a regulatory or penal effect. [As amended by Priv. Acts 1994, ch. 165, § 1; Priv. Acts 2001, ch. 24; and Priv. Acts of 2009, ch. 17]

ARTICLE III

Elections

Section 1. Date of general city election. A general city election shall be held on the same date as the regular August election in 1996 and each even-numbered year thereafter. [As replaced by Priv. Acts 1994, ch. 165, § 2]

Section 2. General election laws apply. All elections shall be conducted by the commissioners of elections of Bradley County in accordance with the general election laws of the state and this charter.

Section 3. Voter qualification requirements. Persons meeting the residency requirements prescribed by the election laws of the State of Tennessee and persons owning at least fifty percent (50%) fee simple interest in a parcel of real property of at least five thousand (5,000) square feet within one (1) of the councilmanic districts of the City of Cleveland for a period of six (6) months prior to an election and who are otherwise qualified to vote in State elections shall be eligible to vote in city elections, provided the person is properly registered in accordance with the applicable laws of the State of Tennessee. Non-resident property owners who own property in more than one (1) councilmanic district must declare both the district in which the owner elects to vote, and the piece of property being utilized to provide such voting privilege, and such declaration shall be permanent unless the owner sells the property in the district. The city council may authorize the ballots for these non-resident property owners be cast by mail. [As amended by Priv. Acts 1997, ch. 12, § 1 and ch. 85, § 1]

Section 4. Election and transition procedure. At the first regular city commission meeting in September, 1993, following the general city election held on August 5, 1993 the two commissioners elected in that general city election

**REGISTRATION FOR PROPERTY RIGHTS
VOTING IN CLEVELAND CITY ELECTIONS**

FOR OFFICE USE ONLY

EFFECTIVE DATE

Property Location Dist. Prec. Ward

Proof of ownership is required to register your property rights.

I, _____, hereby declare the following information is correct and accurate:
print name

Residence address _____
House Street City State Zip Code

Mailing Address _____
(if different from above) House Street City State Zip Code

Cleveland City Property Address _____
House Street Cleveland TN City State Zip Code

- I further declare that:
1. I am a resident of Tennessee;
 2. I acquired this property on or about ____/____/____, which is at least six months prior to the next election; (date)
 3. I have at least fifty percent (50%) interest in the above property and
 4. The parcel of real property is at least five thousand (5,000) square feet,
 5. I understand I shall be permanently assigned a council district according to the address of the property listed above until that property is sold.

signature of Property Rights Voter Birth Date Social Security Number Today's Date

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