

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
425 FIFTH AVENUE NORTH  
NASHVILLE, TENNESSEE 37243

February 28, 2000

Opinion No. 00-032

Extraterritorial City Zoning

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**QUESTION**

May the City of Mt. Juliet, whose planning commission has been designated a regional planning commission with respect to territory outside the city limits, constitutionally adopt zoning ordinances applying to territory outside the city limits?

**OPINION**

Such zoning authority is constitutional. Once a growth plan is adopted, this authority will be limited to territory within the region and within the city's urban growth boundaries.

**ANALYSIS**

This opinion addresses the constitutionality of the Mt. Juliet Regional Planning Commission. That commission has been designated as a regional planning commission with respect to territory outside its city limits by the Tennessee Department of Economic and Community Development under Tenn. Code Ann. § 13-3-102. Under Tenn. Code Ann. §§ 13-7-301, *et seq.*, such a city may adopt zoning ordinances with respect to territory outside its city limits and within the region. This power applies only if the territory has not been zoned by the county where it is located, and is subject to other statutory restrictions.

The constitutional issue the request appears to raise is whether Mt. Juliet City Commission, which includes no members who live in the regional area outside the city boundaries, may constitutionally adopt a zoning ordinance enforceable in that area. This Office has concluded in the past that this statutory scheme is constitutional. Op. Tenn. Atty. Gen. 98-064 (March 17, 1998); Op. Tenn. Atty. Gen. 83-452 (October 25, 1983). These opinions rely on *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978). In that case, the United States Supreme Court concluded that state statutes subjecting county residents to the city's police and sanitary regulations and other regulatory powers of the adjacent city without allowing them to vote in city elections did not violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. In an unpublished opinion, the Tennessee Court of Appeals has also found this statutory scheme to be constitutional. *Baskin Auto Salvage & Machinery, Inc. v. Board of Mayor and Aldermen of the City of Covington, Tennessee*, 1987 W.L. 5700 (W.S. Tenn. Ct. App Jan. 26, 1987). See also *Mixon v. Ohio*, 193 F.3d 389, 404-06 (6th Cir.

1999) (the “one-person, one-vote” doctrine does not require residents outside the Cleveland limits to be allowed to vote for the Mayor of Cleveland simply because that officer appoints the school board for their district). Research indicates that *Holt* is still the controlling authority on this issue. The statutory scheme has not been amended in any way since our 1998 opinion that would change this result. It should be noted, however, that this Office has concluded that once a growth plan is in effect in Wilson County, the extraterritorial zoning authority of a city whose planning commission has been designated as a regional planning commission will be limited to territory within the region and the city’s urban growth boundaries. Op. Tenn. Atty. Gen. 99-218 (November 4, 1999).

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