

MAYOR-ALDERMANIC CHARTER¹

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¹This compilation includes chapters 1--17 of Title 6, Tennessee Code Annotated, which contain the basic organizational provisions for this form of government. IMPORTANT NOTE: There are many other general laws affecting municipalities organized under this charter which have been omitted because they apply to all municipalities. These are found in various parts of the Tennessee Code Annotated. This compilation has been amended to reflect legislation passed in the 2008 session of the Tennessee General Assembly.

²See page C-40 for acts affecting the Town of Kimball not included in the charter.

MAYOR-ALDERMANIC CHARTER

CHAPTER 1

MAYOR-ALDERMANIC CHARTER--ADOPTION AND SURRENDER

PART 1 -- DEFINITIONS

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PART 1 – DEFINITIONS

6-1-101. Definitions.--The following definitions apply in chapters 1-4 of this title unless the context otherwise requires:

- (1) "Board" means the mayor and the aldermen;
- (2) "Department head" means the city administrator, city recorder, treasurer, police chief and any other department heads appointed by the board or mayor;
- (3) "Officer" means the mayor, aldermen, city attorney and city judge;
- (4) "This charter" refers to chapters 1-4 of this title; and
- (5) "Wards" means a geographical subdivision of the municipality established for the purpose of securing representation on the board. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 1.]

6-1-102. Use of "shall" and "may."--As used in this charter, "shall" is mandatory and "may" is permissive. [Acts 1991, ch. 154, § 1.]

6-1-103. [Repealed.]

PART 2 – ADOPTION OF CHARTER

6-1-201. Right to adopt charter--Incorporation within specified distances from existing cities.--(a) (1) The residents of any incorporated municipality or of any territory wanting to incorporate under this charter may adopt the provisions of this chapter and chapters 2-4 of this title in the manner provided in this chapter. Thereupon the municipality or territory shall be and become incorporated and be governed as herein set forth. No unincorporated territory shall be incorporated under the provisions of this charter unless such territory contains not fewer than one thousand five hundred (1,500) persons, who shall be actual residents of the territory.

(2) No unincorporated territory shall be allowed to hold a referendum on the question of whether or not to incorporate under this charter until a plan of services is documented setting forth the identification and projected timing of municipal services proposed to be provided and the revenue from purely local sources to be payable annually. The plan of services shall be attached to the petition to incorporate when such petition is filed with the county election commission. The plan of services shall include, but not be limited to: police protection, fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, a proposed five-year operational budget, including projected revenues and expenditures, and the revenue from purely local sources to be payable annually. Municipalities that are first incorporated on or after July 1, 1993, that produce no local own source revenues in any fiscal year shall not receive any state-shared revenues during the next fiscal year.

(3) Prior to filing the petition with the county election commission, a public hearing on the referendum on the question of whether or not to incorporate under this charter and plan of services shall be conducted. The public hearing shall be advertised in a newspaper of general circulation for two (2) consecutive weeks.

(b) (1) If any part of the unincorporated territory proposed for incorporation is within five (5) miles of an existing municipality of one hundred thousand (100,000) or more according to the most recent federal census and if the governing body of such municipality adopts a resolution by a two-thirds (2/3) vote indicating that the municipality has no desire to annex the territory, such territory may be included in a proposed new municipality. A petition for incorporation shall include a certified copy of such resolution from the affected municipality.

(2) In any county having a population of more than eighteen thousand two hundred (18,200) and less than eighteen thousand five hundred (18,500) according to the 1990 federal census or any subsequent federal census, if any part of the unincorporated territory proposed for

incorporation is within five (5) miles of an existing municipality of one hundred thousand (100,000) or more in population or within two (2) miles of an existing municipality of more than one thousand (1,000) and fewer than one hundred thousand (100,000) in population, according to the 1990 federal census or any subsequent census, then action on the petition as provided in §§ 6-1-202 and 6-1-204 shall be held in abeyance for fifteen (15) months from the date of filing the petition. If, within this period, the existing municipality does not annex at least twenty percent (20%) of the land area or twenty percent (20%) of the population of the territory proposed for incorporation, then proceedings shall be continued as provided in §§ 6-1-202 and 6-1-204 as though the petition had been filed at the conclusion of the fifteen (15) month period. If the existing municipality annexes at least that part of the territory within this period, then the petition shall be null and void.

(c)-(e) [Deleted by 1993 amendment.]

(f) Notwithstanding the provisions of subsection (a) or (b) to the contrary, a territory may be incorporated if the following conditions are fulfilled:

(1) The territory contains two hundred twenty-five (225) residents or more;

(2) The territory is composed of property which is sixteen hundred (1600) feet or more above sea level on the western border of the territory and contiguous with a county boundary on the eastern border of the territory;

(3) The territory is located within an area which is bordered on the west, north and east by the Tennessee River and on the south by the border between Tennessee and another State; and

(4) The territory is located within a metropolitan statistical area.

(g) (1) Notwithstanding the preceding provisions of this section to the contrary, a territory may be incorporated that meets the following conditions:

(A) The territory contains three hundred (300) residents or more;

(B) The territory's western boundary is contiguous with the western boundary of the county in which it is located;

(C) The territory is located within an area bordered on the north by the Loosahatchie River, on the south of the Wolf River;

(D) The territory's eastern boundary is approximately parallel with the western boundary, but in no place is more than eight (8) miles from the western boundary; and

(E) The territory is located within a metropolitan statistical area.

(2) The territory described in this subsection may incorporate notwithstanding the provisions and restrictions in subsections (a) and (b).

(h) Notwithstanding the requirements of this section, or §§ 6-1-202, 6-1-203, and 6-1-209, or any other provision of law to the contrary, a petition for incorporation may consist of a letter from a resident of the territory desiring to incorporate to the county election commission requesting that the question of incorporating the territory be placed on the ballot. The letter shall describe the exact boundaries of the proposed municipality, indicate the name of the proposed municipality, and indicate under which charter the territory desires to incorporate. The letter shall be treated as a petition meeting all the requirements of law.

(i) (1) Notwithstanding any provision of law to the contrary, whenever the governing body of any existing city affected by this section, by a resolution adopted by a majority vote of its governing body, indicates that it has no interest in annexing the property to be incorporated, and when a certified copy of such resolution and a petition requesting that an incorporation election be held are filed with the county election commission, then the proceedings shall continue as provided in this chapter as though the proposed new incorporation were not within the specified distance of such existing city as provided in this section.

(2) The provisions of this subsection shall only apply in counties having a population of not less than 80,000 nor more than 83,000 according to the 1990 federal census or any subsequent federal census; provided, that in an adjoining county an existing municipality that is within the specified distance may also use the procedure authorized by this subsection. [Acts 1991, ch. 154, § 1; Acts 1993, ch. 320, §§ 1, 2; Acts 1995, ch. 13, § 1; Acts 1995, ch. 202; Acts 1996, ch. 666, §§ 1, 4; Acts 1996, ch. 708, § 1, § 3; Acts 1998, ch. 1101, § 27.]

6-1-202. Election to adopt charter.--(a) The county election commission shall hold an election for the purpose of determining whether this charter shall become effective for any municipality or newly incorporating territory upon the petition in writing of at least thirty-three and one-third percent (33 1/3%) of the registered voters of the municipality or territory. The petition shall include a current list of the registered voters who live within the proposed territory. The petition shall state in a sufficient manner the boundaries of the proposed municipal corporation, which may be done by a general reference to the boundaries then existing if there is one. Upon receipt of the petition the county election commission shall examine the petition to determine the validity of the signatures in accordance with Section 2-1-107. The county election commission shall have a period of twenty (20) days to certify whether the petition has the sufficient number of signatures of registered voters. If the petition is sufficient to call for an election on the issue of incorporation, the county election commission shall hold an election, providing

options to vote "FOR" or "AGAINST" the incorporation of the new charter, not less than forty-five (45) days nor more than sixty (60) days after the petition is certified. The date of the election shall be set in accordance with Section 2-3-204. The county election commission shall, in addition to all other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the municipality or of the proposed municipality, and post the notice in at least three (3) places in the territory.

(b) At any time not less than thirty (30) days prior to the election provided for in this part, the petition may be withdrawn or may be amended to call for a smaller territory for the proposed municipal corporation so long as all of the proposed smaller territory is contained within the boundaries of the territory described in the first petition. The withdrawal or amendment shall be valid if filed with the county election commission in writing, and if signed by not fewer than fifty-one percent (51%) of those who signed the original petition. In the event such an amended petition is filed, all provisions relating to time periods in § 6-1-201, shall be controlled by the date of the filing of the original petition, notwithstanding the filing of the amended petition, and the county election commission shall publish the notice of election as provided for herein. A petition to withdraw, when filed with and validated by the county election commission, shall render the original petition null and void.

(c) A cash bond equivalent to the costs of the election to incorporate under this charter shall be filed by the petitioners with the county election commission along with the petition for incorporation. [Acts 1991, ch. 154, § 1; Acts 1998, ch. 1101, § 28.]

6-1-203. Petition to incorporate under this charter.--The petition filed in accordance with § 6-1-202 shall be in substantially the form provided in § 6-1-209 and shall include a description of the boundaries of the proposed municipal corporation and the boundaries of the proposed wards, if there is only one (1) alderman to be elected per ward, the wards that will carry the initial two-year term, the proposed name of the municipality and whether it is a city or town. The petition shall include a plan of services setting forth the identification and projected timing of municipal services proposed to be provided and the revenue from purely local sources to be payable annually. The plan of services shall include, but not be limited to: police protection, fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, a proposed five-year operational budget, including projected revenues and expenditures, and a property tax rate to be annually levied upon all taxable property in the area to be incorporated. Boundary descriptions shall contain references to tax maps kept in the office of the county assessor. [Acts 1991, ch. 154, § 1; Acts 1993, ch. 320, § 3; Acts 1995, ch. 13, § 2.]

6-1-204. Registration of voters--Qualifications to vote--Certification of result.--(a) All registered voters of the municipality or of the territory of the proposed municipality are eligible to vote in the election.

(b) The county election commission shall determine and declare the result of the election and shall certify the result in accordance with § 2-8-105(3) within forty-eight (48) hours after the election. It shall publish the results in a newspaper of general circulation in the municipality or territory and, if the municipality is already incorporated, shall file the results with the legislative body or the municipality at its first meeting after the certification. The results shall be entered at large on the minutes of the body with which it is filed.

(c) In any election held by municipalities incorporated under this charter registered voters of the municipality may vote in accordance with this subsection. Upon adoption of a resolution approved by two-thirds (2/3) vote of the board of commissioners of any municipality incorporated under this charter which has a population of not less than seven thousand seven hundred ten (7,710) nor more than seven thousand seven hundred twenty (7,720) according to the 2000 federal census or any subsequent federal census, registered voters who own real property located in any such municipality shall be entitled to vote in all municipal elections and municipal referenda held in such municipality. The provisions of § 2-2-107(a)(3) shall apply to such property rights voting within such municipality. The approval or nonapproval of such resolution shall be proclaimed by the presiding officer of such board and certified by such presiding officer to the secretary of state. [Acts 1991, ch. 154, § 1; Acts 2007, ch. 88, § 1; Acts 2007, ch. 88, § 1.]

6-1-205. Effect of vote.--(a) If the majority of the votes cast are in favor of the adoption of this charter it shall be deemed to have been adopted. The newly adopted charter shall not be effective until the first board takes office as provided in § 6-1-207. Except for the provisions of this charter that are adopted by reference in other municipal charters, the provisions of this charter apply only to those municipalities that have adopted this charter by referendum as authorized by law.

(b) Following the defeat of an incorporation in an election held pursuant to § 6-1-202, no new petition for an election may be filed until after the expiration of four (4) years. If, however, the territory included in the boundaries of the newly proposed municipal corporation includes less than fifty percent (50%) of the actual territory subject to incorporation in the previous election the new petition may be filed after the expiration of two (2) years. [Acts 1991, ch. 154, § 1; Acts 1995, ch. 13, § 3.]

6-1-206. Certification to secretary of state.--After certification of the election results, if at least a majority of the votes cast are "for charter," the county election commission shall certify to the secretary of state that notice was duly given, and application in due form of law made, the description of

boundaries, the entire number of votes cast, the number of votes cast "for charter," the number of votes cast for "against charter," and the corporate name of the municipality. [Acts 1991, ch. 154, § 1.]

6-1-207. Election of officers upon incorporation.--(a) The county election commission shall call an election not later than sixty-two (62) days following the election for adoption of this charter, at which time municipal officials shall be chosen who shall take office immediately following the election. The qualifying deadline for filing nominating petitions shall be as described in § 2-5-101.

(b) In the election held pursuant to subsection (a), where there is more than one (1) alderman to be elected per ward, the alderman receiving the higher number of votes in each ward shall serve a four-year term. The alderman receiving the second higher number of votes shall serve an initial two-year term. All terms thereafter will be four (4) years.

(c) The mayor and each alderman shall serve for the term for which elected or until their successors are elected and qualified. [Acts 1991, ch. 154, § 1.]

6-1-208. Succession to old corporation.--(a) (1) This charter shall take effect in any municipality immediately after the election and qualification of the first board of mayor and aldermen and any then-existing charter of the municipality shall immediately become null and void.

(2) The right, title and ownership of all property of the municipality and all of its uncollected taxes, dues, claims, judgments, and choses in action, and all of its rights of every kind whatsoever, shall immediately become vested in the new corporation chartered under chapters 1-4 of this title.

(3) The new corporation shall answer and be liable for all debts, contracts and obligations of the corporation it succeeds in the same manner and proportion and to the same extent as the former corporation was liable under existing laws.

(4) All ordinances, resolutions, and bylaws duly enacted and in force under the preexisting charter and not inconsistent with this charter shall remain in full force until repealed, modified, or amended.

(b) Any zoning ordinance applicable to any territory incorporated under this charter shall continue to apply to that territory until the municipality enacts a zoning ordinance, or enacts an ordinance rescinding the zoning that applied to such territory. [Acts 1991, ch. 154, § 1.]

6-1-209. Sample petition for adoption.--Petitions for adoption of this charter shall be in substantially the following form:

PETITION FOR INCORPORATION ELECTION FOR TOWN (CITY) _____,
TENNESSEE TO: The County Election Commission, _____ County,
Tennessee

We the undersigned, being registered voters and residents of the territory herein proposed for incorporation, and being in number in excess of thirty-three and one-third percent (33 1/3%) of the registered voters of the herein described territory hereby request the county election commission to hold an election on the question of whether or not the herein described territory shall be incorporated under the terms of Tennessee Code Annotated, title 6, chapters 1-4, and be known by the name and style of the "Town (City) of _____, Tennessee," all as prescribed in Tennessee Code Annotated, title 6, chapters 1-4.

The territory in question, being part of the _____, Civil District(s) of _____ County, Tennessee is further described as:

(Here insert a description of boundaries with references to tax maps)

The wards of the Town (City) shall be as follows:

(Here insert a description of wards, and if there is only one (1) ward state that the boundaries are as described above)

Wards that will carry an initial two-year term:

(For those municipalities incorporating with more than four wards.)

The proposed plan of services is as follows: (Here insert a description of the Plan of Services as defined in Tennessee Code Annotated, Section 6-1-203).

PETITIONERS' SIGNATURES

Name	Residence Address	Date
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(List name and residence as on registration records)

Certificate

I, _____, hereby certify that I, personally, solicited the signatures of the persons appearing on this page and that they, in fact, signed their names to this petition in my presence.

Name

Address

Date

STATE OF TENNESSEE
COUNTY OF _____

On this ___ day of _____, 20__, before me personally appeared _____, to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he (she) executed it as his (her) free act and deed.

Signature and Seal of Notary Public

My commission expires: _____
[Acts 1991, ch. 154, § 1; Acts 1993, ch. 320, § 4.]

6-1-210. General validation provision.-- (a) The adoption, heretofore accomplished, of chapters 1-3 of this title, before June 30, 1991, by any territory or municipality is hereby ratified and validated in all respects. No flaw or defect or failure to comply with any technical requirement of incorporation shall invalidate any ordinance passed by any municipality incorporating under chapters 1-4 of this title, after June 30, 1991.

(b) Notwithstanding any provision of this chapter or any other law to the contrary,

IF the registered voters of any unincorporated territory approved a mayor-aldermanic charter and elected municipal officials, acting pursuant to the provisions of this chapter on or before December 31, 1999; AND

IF from the election of such officials until April 26, 2001, the territory has continuously functioned as a mayor-aldermanic municipality; AND

IF the territory, between the date of such election and April 26, 2001, received and expended state funding allocated for municipalities; THEN
The adoption of such charter, the incorporation of such territory as a mayor-aldermanic municipality and the election of such officials are hereby ratified and validated in all respects; and no flaw or defect or failure to comply with any requirement of incorporation, set forth in § 6-1-201(b), shall invalidate the territory's status as an incorporated municipality or invalidate any ordinance passed by the board. [Acts 1991, ch. 154, § 1; Acts 2001, ch. 129, § 1.]

6-1-211. Elections valid despite informalities.--No informalities in conducting any election held under this chapter shall invalidate it if the election is conducted fairly and in substantial conformity with the requirements of this chapter and the general election law. [Acts 1991, ch. 154, § 1.]

6-1-212--6-1-218. [Repealed.]

6-1-219. New incorporations--situs based taxes.-(a) Notwithstanding any provisions of law to the contrary, whenever a new municipality incorporates under any form of charter, the county or counties in which the new municipality is located shall continue to receive the revenue from all state and local taxes distributed on the basis of situs of collection, generated within the newly incorporated area, until July 1 following the incorporation, unless the incorporation takes effect on July 1.

(b) If the incorporation takes effect on July 1, then the municipality shall begin receiving revenue from such taxes generated within its corporate boundaries for the period beginning July 1.

(c) Whenever a municipality incorporates, the municipality shall notify the Department of Revenue of such incorporation prior to the incorporation becoming effective for the purpose of tax administration.

(d) Such taxes shall include the local sales tax authorized in § 67-6-103, the income tax on dividends authorized in § 67-2-102, and all other

such taxes distributed to counties and municipalities based on the situs of their collection. [Acts 1998, ch. 651, § 1.]

PART 3 -- SURRENDER

6-1-301. Surrender of charter.--(a) After the adoption of this charter and the election of the first board of mayor and aldermen, no election for the surrender of this charter shall be called or held for a period of four (4) years from the date the first board takes office.

(b) After the expiration of the four-year period, an election to surrender the charter may be held. In order for a surrender election to be held, a petition requesting surrender of the charter must be filed in the same manner and contain the signatures of the same number of registered voters as provided for the adoption of this charter. The petition must pray for a surrender of the charter and must be accompanied by a cash bond to be posted by the petitioners to cover the cost of the election. In case of a failure to surrender the charter, future elections to surrender it shall not be held more frequently than at four-year intervals. [Acts 1991, ch. 154, § 1.]

6-1-302. Conduct of surrender election.--The county election commission has the same duties with respect to an election for the surrender of a charter as it has with respect to an election to adopt a charter under this title. [Acts 1991, ch. 154, § 1.]

6-1-303. Termination of charter--New charter.--If a majority of the votes cast in the election favor the termination of this form of government the provisions of this charter shall terminate at 12:01 A.M. on the sixtieth day next following the date of the election unless this falls upon Sunday or a holiday, in which case it shall terminate at 12:01 A.M. on the next day. If before the adoption of this charter the municipality functioned under a different charter, thereupon the prior charter shall become effective at the time above mentioned. Territory previously unincorporated shall revert to that status. Another charter, however, may be adopted and the question whether or not another charter shall be adopted may be placed on the ballots used in the election herein mentioned, if the petition filed requests that, and if all other necessary legal steps to adopt the other charter have been taken. [Acts 1991, ch. 154, § 1.]

6-1-304. Election of new officers when charter is surrendered.--If there was a previously incorporated municipality or if a new charter is adopted as provided in § 6-1-303, the county election commission shall call an election not more than sixty-two (62) days following the election for surrender of this charter, at which time municipal officials for the newly adopted form of government shall be chosen who shall take office immediately after the election. The previous board shall hold over until the newly elected officers take office. The qualifying deadline for filing nominating petitions shall be as described in § 2-5-101. All registered voters of the municipality may vote in the election. [Acts 1991, ch. 154, § 1.]

6-1-305. Succession to assets and liabilities after surrender of charter.--(a) In case of a reversion to a former charter or adoption of a new one simultaneously with the surrender of the old, all assets, liabilities and obligations of the old municipality shall become those of the new municipality.

(b) In the event a municipality reverts to unincorporated status, the board of mayor and aldermen shall become trustees of the property and funds of the former municipality, and, under such bonds as may be required by the county legislative body, shall proceed to terminate the affairs of the municipality and dispose of its property. [Acts 1991, ch. 154, § 1.]

6-1-306. Liquidation of affairs.--If the property and funds are more than sufficient to meet the municipality's obligations, the surplus shall be paid into the treasury of the county to become a part of its general fund. If the property and funds are insufficient to meet all the municipality's current obligations, the county legislative body may levy and collect taxes upon the property within the boundaries of the former municipality and pay the revenue to the trustees for the purpose of meeting the current deficit. The trustees shall terminate the affairs of the municipality as soon as possible, but in no event shall the trusteeship continue for more than thirty-six (36) months. Any matters, including obligations maturing after thirty-six (36) months, not disposed of within the thirty-six-month period shall become the responsibility of the county legislative body of the county in which the municipality is located. [Acts 1991, ch. 154, § 1.]

PART 4 – OFFICERS

6-1-401--6-1-406. [Repealed.]

PART 5--CHANGE OF CORPORATE NAME

6-1-501. Right to change corporate name. A municipality may amend this charter for the sole purpose of changing the corporate name of the municipality, including the municipality's designation as a town or city in the manner provided in Section 2 of this part. [Acts 2000, ch. 702, § 1.]

6-1-502. Manner of changing corporate name. The corporate name of a municipality may be changed only in the following manner.

(1) The proposed name change must be approved by resolution by a vote of not less than two thirds (2/3) of the board in the manner provided for ordinances in Section 6-2-102.

(2) If approved by the board, the resolution shall be published in a newspaper of general circulation in the municipality within fourteen (14) days of final approval by the board or the first available opportunity for publication, whichever is sooner. Such resolution shall become operative sixty (60) days after its adoption by the board unless ten percent (10%) of the qualified electors of the municipality sign a petition and present it to the board during such sixty (60) day period requesting that the resolution be referred to the electors, in which case it must receive the approval of a majority of the electors voting thereon at an election held as provided in subdivision (3). If such a petition is not received within such sixty-day period, the resolution shall become operative at the end of such sixty-day period and the Mayor shall file a copy of the resolution indicating the new corporate name of the municipality with the Secretary of State.

(3) Upon receipt of a petition filed in the manner provided in subdivision (2), a certified copy of the resolution shall be sent to the county election commission, which shall place the question whether to approve the resolution on the ballot of the next scheduled municipal election or General Election at which members of the General Assembly are chosen, whichever is sooner. The ballot shall provide options to vote "FOR" or "AGAINST" the resolution. The qualifications for voting shall be the same as otherwise provided in Section 6-1-204 in the election to adopt the original charter under this chapter.

(4) If the majority vote is for the resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns. The county election commission shall then promptly certify the results of the election to the Secretary of State and the new corporate name of the municipality.

(5) If the majority vote is against the election, the question of approving the resolution shall not be included on any subsequent election ballot unless a new resolution is first approved by the board in the manner provided in this section. [Acts 2000, ch. 702, § 1.]

6-1-503. Obligations and liabilities unaffected by change of name.

Any change in the name of any municipality under this part shall have no effect whatever on any obligations or liabilities of the municipality, in contract, tort, or otherwise, all of which shall remain the same as prior to the name change.
[Acts 2000, ch. 702, § 1.]

CHAPTER 2

**POWERS OF MUNICIPALITIES WITH MAYOR-ALDERMANIC
CHARTER**

PART 1 -- ORDINANCES

SECTION

- 6-2-101. Publication of ordinances--Codification.
- 6-2-102. Ordinance procedure.
- 6-2-103. Annual operating budget--Publication--Budgetary comparison
[Effective January 1, 1993].
- 6-2-104. [Repealed.]
- 6-2-105. Ordinances ratified and confirmed.

PART 2 -- MUNICIPAL AUTHORITY GENERALLY

- 6-2-201. General powers.
- 6-2-202--6-2-204. [Repealed.]
- 6-2-205. Special court cost.

PART 3 -- EXPENDITURES AND TAXATION

- 6-2-301--6-2-308. [Repealed.]

PART 4 -- OFFICERS

- 6-2-401--6-2-404. [Repealed.]

PART 5 -- ABOLITION OF CHARTER

- 6-2-501--6-2-506. [Transferred.]

PART 1 – ORDINANCES

6-2-101. Publication of ordinances–Codification.--Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. [Acts 1991, ch. 154, § 1.]

6-2-102. Ordinance procedure.--An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted on one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. [Acts 1991, ch. 154, § 1; Acts 1998, ch. 621, § 1.]

6-2-103. Annual operating budget–Publication–Budgetary comparison [Effective January 1, 1993].--(a) Notwithstanding the provisions of any other law to the contrary, the governing body shall publish the annual operating budget and budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated) which information shall include the following:

- (1) Revenues and expenditures for the following governmental funds: general, streets/public works, general purpose school and debt service.
- (2) Revenues for each fund shall be listed separately by local taxes, State of Tennessee, federal government and other sources.
- (3) Expenditures for each fund shall be listed separately by salaries and other costs.
- (4) Beginning and ending fund balances shall be shown for each fund.
- (5) The number of full-time equivalent employee positions shall be shown for each fund.

(b) The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget. [Acts 1991, ch. 484, § 8; Acts 1992, ch. 760, § 2.]

6-2-104. [Repealed.]

6-2-105. Ordinances ratified and confirmed.--All ordinances adopted on or prior to June 30, 1991, are hereby ratified and confirmed. [Acts 1992, ch. 612, § 2.]

PART 2 – MUNICIPAL AUTHORITY GENERALLY

6-2-201. General powers.--Every municipality incorporated under this charter may:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of title 29, chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the Local Government Public Obligations Act, title 9, chapter 21;

(12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities and public services to be furnished the municipality and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The

board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the municipality and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions of §§ 7-31-107--7-31-111 and 29-16-114, or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, title 7, chapters 32 and 33;

This subsection may not be construed to prohibit a municipality with a population of not less than seven hundred (700) nor more than seven hundred

five (705) according to the 1990 federal census or any subsequent federal census from installing and maintaining a traffic control signal within its corporate limits, and any such municipality is expressly so authorized; provided, however, no device shall be installed to control traffic on a state highway without the approval of the Commissioner of Transportation.

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefor, and provide standards of weights, tests and measures;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person convicted in the city court of offenses against the laws and ordinances of the municipality who fails to secure the fine imposed upon such person, or contract with the county to keep these persons in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse so provided until the fines are paid;

(28) (A) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction.

(B) Provide by ordinance for court costs;

(29) Establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the municipality;

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(31) Call elections as herein provided;

(32) Create a design review commission which shall have the authority to develop general guidelines and to develop procedures for the approval of such guidelines for the exterior appearance of all non-residential property, multiple family residential property, and any entrance to non-residential developments within such municipality; provided that such authority is subordinate to and in no way exceeds the authority delegated to a municipal planning commission pursuant to title 13, chapter 4. Any property owner affected by such guidelines may appeal a decision by the design review commission to such municipality's planning commission or if there is no planning commission to the entire municipal legislative body; and

(33) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated. [Acts 1991, ch. 154, § 1; Acts 1995, ch. 13, § 4; Acts 1998, ch. 621, § 2; Acts 1998, ch. 1126, § 1; Acts 2006, ch. 796, § 1.]

6-2-202--6-2-204. [Repealed.]

6-2-205. Special court cost. (a) It is the intent and purpose of this section to authorize the collection of a special court cost for each summons, warrant, citation, presentment, or indictment which:

(1) Is filed and heard in a criminal court, general sessions court or municipal court;

(2) Involves behavior occurring within the corporate limits of any municipality to which this section applies that leads to the filing of charges for a traffic or criminal offense; and

(3) Involves enforcement by a municipal law enforcement officer.

(b) The special court cost is ten dollars (\$10) and shall be charged and collected in addition to other authorized court costs by the appropriate court clerk.

(c) The special court cost funds shall be collected by the clerks for each traffic or criminal offense which:

(1) Is enforced by a municipal law enforcement officer; and

(2) Involves conduct occurring within the corporate limits of any municipality to which this section may apply.

(d) The funds collected from this special court cost by the clerks shall be transferred to the city treasurer on an annual basis, and the treasurer shall establish a special fund for municipal traffic regulation and enforcement.

(e) All funds collected under this section shall be used for the sole purpose of traffic regulation and enforcement within the municipality.

(f) The provisions of this section shall in no manner modify or repeal other requirements to collect court costs under any other public or private act applicable to the county where such municipality is located.

(g) (1) The provisions of this section shall be applicable to any municipality having a population of not less than five thousand three hundred eighty (5,380) nor more than five thousand three hundred ninety (5,390) according to the 1990 federal census or any subsequent federal census.

(2) This section shall have no effect unless it is approved by a two-thirds (2/3) vote of any municipal legislative body to which it may apply. [Acts 1997, ch. 213.]

PART 3 -- EXPENDITURES AND TAXATION

6-2-301--6-2-308. [Repealed.]

PART 4 -- OFFICERS

6-2-401--6-2-404. [Repealed.]

PART 5 -- ABOLITION OF CHARTER

6-2-501--6-2-506. [Transferred.]

CHAPTER 3**BOARD OF MAYOR AND ALDERMEN****SECTION**

- 6-3-101. Election of board--Municipalities incorporating under chapters 1-4 of this title after June 30, 1991.
- 6-3-102. Election of board by municipalities incorporated under chapters 1 and 2 of this title, on or prior to June 30, 1991.
- 6-3-103. Residence requirements for officers.
- 6-3-104. Dates for municipal elections.
- 6-3-105. Oaths of office.
- 6-3-106. Duties of mayor.
- 6-3-107. Vicemayor--Vacancies in office.
- 6-3-108. Duties of the board.
- 6-3-109. Compensation.

6-3-101. Election of board--Municipalities incorporating under chapters 1-4 of this title after June 30, 1991.--(a) Any municipality incorporating under this charter after June 30, 1991, shall have at least one (1) ward but not more than eight (8) wards. Any municipality having a population of less than five thousand (5,000) shall upon incorporation have one (1) ward, and its board shall consist of a mayor and two (2) aldermen elected at large. Any municipality having a population of more than five thousand (5,000) shall upon incorporation have two (2) wards, and its board shall consist of a mayor to be elected at large and two (2) aldermen elected from each ward. The mayor and aldermen elected to the first board shall serve the four (4) and two (2) year terms prescribed by § 6-1-207(b). At each election thereafter the mayor and aldermen shall be elected to four (4) year terms, except in transitional elections prescribed by subsection (c). Any municipality that incorporated under this charter after June 30, 1991, and that has a population of less than five thousand (5,000) and has only one (1) ward, may by ordinance increase the number of aldermen to a maximum of four (4) without increasing the number of wards. The ordinance shall provide for staggered four (4) year terms in accordance with § 6-1-207(b), but may provide for transitional terms of less than four (4) years.

(b) (1) Any municipality incorporated after June 30, 1991 may increase or reduce the number of wards, except that municipalities having a population of more than five thousand (5,000) shall not reduce the number of wards below two (2). The board of any municipality having between one (1) and four (4) wards shall consist of a mayor elected at large and two (2) aldermen elected from each ward, except that municipalities having more than one (1) ward may reduce the number of aldermen from each ward from two (2) to one (1). The board of any

municipality having between five (5) and eight (8) wards shall consist of a mayor elected at large and one (1) alderman elected from each ward. In wards having more than one (1) alderman, the aldermen shall serve staggered terms of office within their wards.

(2) Any municipality that has only one (1) ward may provide by ordinance for numerical designations for aldermanic positions. After numerical positions have been designated, candidates for alderman shall qualify by indicating on the qualifying petition the position the candidate is seeking. Ballots shall indicate the position to be filled by the selection of candidates listed under "Alderman, position 1," "Alderman, position 2," and so on. Any qualified person residing in the municipality may seek an open aldermanic position, but may qualify in any election for only one (1) position.

(c) All increases and reductions in the number of wards and aldermen under this section shall be accomplished only by ordinance passed by a two-third (2/3) vote of the entire membership to which the board is entitled. The ordinance shall:

(1) Take effect at the next municipal election, but shall not affect the present terms of members of the board of mayor and aldermen;

(2) Where appropriate, establish and describe the new ward boundaries;

(3) Provide for a transitional election following the adoption of the ordinance in which the mayor and/or aldermen running for office shall be elected for terms that will expire at the next municipal election;

(4) At the second municipal election following the adoption of the ordinance provide for a system of staggered terms of office under which the mayor is elected for a term of four (4) years, in cities with an even number of wards half the total number of mayor and aldermen running for office are elected to four (4) year terms, in cities with an uneven number of wards one (1) more or one (1) less than half the total number of mayor and aldermen running for office, are elected to four (4) year terms, in both classes of cities the remaining aldermen are elected to two (2) year terms, and following which all aldermen shall be elected for four (4) year terms;

(5) In the case of a ward that has been abolished provide that any alderman whose term extends past the life of a ward shall serve as an alderman at large for the remainder of the term. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, §§ 3, 4; Acts 1996, ch. 652, § 1; Acts 1997, ch. 77; Acts 2003, ch. 261, § 1.]

6-3-102. Election of board by municipalities incorporated under chapters 1 and 2 of this title, on or prior to June 30, 1991.--(a) (1) A municipality incorporated under chapters 1 to 2 of this title, on or before June 30, 1991, may, by ordinance, establish wards, increase or decrease the number

of wards, increase or decrease the number of aldermen to no fewer than two (2) and no more than eight (8) in accordance with § 6-3-101.

(2) Any municipality that has only one (1) ward may provide by ordinance for numerical designations for aldermanic positions. After numerical positions have been designated, candidates for alderman shall qualify by indicating on the qualifying petition the position the candidate is seeking. Ballots shall indicate the position to be filled by the selection of candidates listed under "Alderman, position 1," "Alderman, position 2," and so on. Any qualified person residing in the municipality may seek an open aldermanic position, but may qualify in any election for only one (1) position.

(b) (1) A municipality whose board has staggered two-year terms may by ordinance change to staggered four-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board of mayor and aldermen, shall provide for the transitional election of some members of the board of mayor and aldermen for three (3) year terms. After this initial election, all members of the board of mayor and aldermen shall be elected for four (4) year terms.

(2) A municipality whose board has nonstaggered two-year terms may by ordinance change to staggered four-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board, shall provide for the transitional election of some members of the board for two-year terms. After this initial election, all members of the board shall be elected for four-year terms.

(3) A municipality whose board has nonstaggered two-year terms may by ordinance change to nonstaggered four-year terms. The ordinance shall take effect for the next municipal election and shall not affect the present terms of members of the board.

(4) A municipality whose board has nonstaggered four-year terms may by ordinance change to staggered four-year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board, shall provide for the transitional election of some members of the board for either two (2) or six-year terms. After this initial election, all members of the board shall be elected for four-year terms.

(5) A municipality whose board has staggered two (2) year terms may, by ordinance, change to non-staggered two (2) year terms. The ordinance, which shall take effect for the next municipal election and shall not affect the present terms of members of the board of mayor and aldermen, shall provide that the members elected at the next election will serve transitional terms of three (3) years. After such election, all members of the board shall be elected to serve two (2) year terms.

(6) 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.

(c) (1) Notwithstanding any provision of this chapter to the contrary, any municipality incorporated under this charter that is located within two (2) counties and has a population of not less than one thousand four hundred fifty (1,450) nor more than one thousand four hundred seventy-five (1,475) according to the 1990 federal census or any subsequent federal census may by ordinance provide for the election of its mayor to a four-year term and the election of its aldermen to staggered four-year terms beginning with municipal elections that are conducted after January 1, 2001.

(2) Nothing in subdivision (c)(1) shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

(3) Subsection (c)(1) shall have no effect unless it is approved by a two-thirds (2/3) vote of any municipality within two (2) counties and has a population of not less than one thousand four hundred fifty (1,450) nor more than one thousand four hundred seventy-five (1,475) according to the 1990 federal census or any subsequent federal census. Its approval or nonapproval shall be proclaimed by the presiding officer of such municipality and certified to the Secretary of State. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, §§ 5, 6, 7; Acts 1994, ch. 574, § 1, § 2; Acts 1998, ch. 691, § 1; Acts 1998, ch. 954, § 1; Acts 2000, ch. 613, §§ 1, 2; Acts 2003, ch. 261, § 2; Acts 2007, ch. 90, § 1]

6-3-103. Residence requirements for officers.--(a) No person shall be eligible for the office of mayor unless such person has resided within the municipality for at least one (1) year next preceding the election.

(b) No person shall be eligible for the office of alderman unless such person has resided within the ward for at least one (1) year next preceding the election.

(c) Residence within any area annexed in a year preceding an election shall be counted in meeting the residence requirement of this section.

(d) Any officer moving from such officer's ward, in the case of an alderman, or moving from the municipality, in the case of the mayor, during the term of office shall be presumed to have vacated the office, and it shall be declared vacant, and filled as provided in § 6-3-107. [Acts 1991, ch. 154, § 1.]

6-3-104. Dates for municipal elections.--The board may by ordinance change the date of municipal elections. The new election date shall not become effective until after the next election. The ordinance changing the election date shall provide for the extension of the terms of members of the board necessary to meet the election date, but no term may be extended for more than two (2) years beyond its regular expiration date. [Acts 1991, ch. 154, § 1.]

6-3-105. Oaths of office.--The mayor, after his 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. [Acts 1991, ch. 154, § 1.]

6-3-106. Duties of mayor.--(a) The mayor:

(1) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;

(2) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(3) (A) Shall make temporary appointments of any officer or department head as those terms defined in § 6-1-101, except that of alderman, arising from the absence, sickness or disability of any such officer or department head, and shall report such appointment to the board at its next regular meeting.

(B) The board may confirm or reject the mayor's temporary appointments, or, at its discretion, make its own temporary appointments. The board shall make appointments to fill vacancies in office.

(4) (A) May call special meetings of the board upon adequate notice to the board and adequate public notice;

(B) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted;

(5) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party;

(6) As a member of the board, may make motions and shall have a vote on all matters coming before the board;

(7) Shall make appointments to boards and commissions as authorized by law.

(b) Unless otherwise designated by the board by ordinance, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(1) Those duties set forth in § 6-4-101, if the board does not appoint a city administrator or if someone else is not designated by the board to perform those duties.

(2) (A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board;

(B) Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(3) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board;

(4) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(5) Such other duties as may be designated or required by the board. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 8; Acts 1997, ch. 27, §§ 1, 3.]

6-3-107. Vicemayor--Vacancies in office.--(a) The board shall elect an alderman to the office of vicemayor who shall serve as mayor when the mayor is absent or unable to discharge the duties of the mayor's office, and, in case of a vacancy in the office of mayor, until the next regular municipal election.

(b) (1) By affirmative vote of a majority of the remaining members, the board shall fill a vacancy in the office of alderman for the unexpired term, but any portion of an unexpired four-year term for alderman or mayor that remains beyond the next municipal election shall be filled by the voters at that election, if the vacancy occurs at least twenty (20) days before the latest time for filing nominating petitions for candidates in that election.

(2) All such elections by the board shall be made by voice vote, on the calling of the roll. If a tie vote occurs in filling a vacancy on the board, the presiding officer shall vote a second time to break the tie. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 9.]

6-3-108. Duties of the board.--In the absence of the mayor and vice-mayor, the board may elect an alderman to act as presiding officer. [Acts 1991, ch. 154, § 1; Acts 1997, ch. 27, § 2.]

6-3-109. Compensation.--(a) The compensation of all officers shall be established in the ordinance adopting the annual budget and capital program.

(b) The compensation of the mayor may not be diminished during the mayor's term of office. [Acts 1991, ch. 154, § 1.]

CHAPTER 4

OFFICERS AND DEPARTMENT HEADS

PART 1 -- CITY ADMINISTRATOR

SECTION

6-4-101. Duties of city administrator.

PART 2 -- CITY RECORDER

6-4-201. City recorder--Appointment.

6-4-202. Recorder's functions at board meeting.

6-4-203. Custody of official records.

6-4-204. Copies of records and ordinances.

PART 3 -- CITY JUDGE--CITY COURT

6-4-301. City judge--Jurisdiction--Appointment--Qualifications and compensation--Elections.

6-4-302. Power to enforce ordinances.

PART 4 -- TREASURER--DEPOSITS OF MUNICIPAL FUNDS

6-4-401. Appointment and duties of treasurer.

6-4-402. Depositories of municipal funds.

PART 1 – CITY ADMINISTRATOR

6-4-101. Duties of city administrator.--(a) The board may appoint a city administrator who shall be under the control and direction of the board. The city administrator shall report and be responsible to the board.

(b) The board may, by ordinance, require the city administrator to perform any or all the following duties:

- (1) Administer the business of the municipality;
- (2) Make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;
- (3) Keep the board fully advised as to the conditions and needs of the municipality;
- (4) Report to the board the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;
- (5) Recommend to the board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;
- (6) Recommend specific personnel positions, as may be required for the needs and operations of the municipality, and may propose personnel policies and procedures for approval of the board; and
- (7) Perform such other duties as may from time to time be designated or required by the board. [Acts 1991, ch. 154, § 1.]

PART 2 – CITY RECORDER

6-4-201. City recorder--Appointment.--The board shall appoint a city recorder, who also may be appointed to the positions of finance director or treasurer, or both. [Acts 1991, ch. 154, § 1.]

6-4-202. Recorder's functions at board meeting.--The recorder or his designee shall be present at all meetings of the board, and keep a full and accurate record of all business transacted by the board to be preserved in permanent form. [Acts 1991, ch. 154, § 1.]

6-4-203. Custody of official records.--(a) The recorder or the recorder's designee shall have custody of, and preserve in the recorder's office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the board, contracts, bonds, title deeds, certificates, and papers, all official indemnity or security bonds (except the recorder's bond, which shall be in the custody of the mayor), and all other bonds, oaths and affirmations and all other records, papers, and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

(b) All such records shall be the property of the municipality. [Acts 1991, ch. 154, § 1.]

6-4-204. Copies of records and ordinances.--(a) The recorder shall provide, copy, and, when required by any officer or person, certify copies or records, papers and documents in the recorder's office.

(b) Fees for copying and certification shall be charged as established by ordinance. [Acts 1991, ch. 154, § 1.]

PART 3 – CITY JUDGE–CITY COURT

6-4-301. City judge--Jurisdiction--Appointment--Qualifications and compensation--Elections.--(a) There shall be a city court presided over by a city judge appointed by the board or elected as provided in subsection (c).

(b) (1) (A) Where the city judge is appointed, the city judge shall have the qualifications, term of office, if any, and receive the compensation the board may provide by ordinance.

(B) The board may appoint the general sessions court judge of the county or counties in which the municipality lies to act as city judge.

(2) In the absence or disability of the city judge, the mayor may designate a qualified person to serve as city judge or may designate the general sessions court judge of the county or counties in which the municipality lies to be acting city judge until one can be appointed at the next regularly scheduled meeting of the board, or as otherwise provided by ordinance.

(c) (1) The board may require, by ordinance, that the city judge meet the constitutional qualifications and be elected in the same manner as a judge of an inferior court. Constitutional provisions applicable to judges of inferior courts shall apply to the elected city judge.

(2) If an elected city judge is unable, temporarily, to preside over city court for any reason, then the judge shall appoint a general sessions judge of the county or counties within which the municipality lies to sit in the judge's place. If no general sessions judge is available, then the city judge shall appoint an attorney, meeting the same qualifications as a general sessions judge, to sit temporarily. [Acts 1991, ch. 154, § 1; Acts 1992, ch. 612, § 10; Acts 1996, ch. 652, §§ 2, 3; Acts 2004, ch. 914, § 6.]

6-4-302. Power to enforce ordinances.--(a) The city judge may impose fines, costs and forfeitures, and punish by fine for violation of city ordinances.

(b) The judge may preserve and enforce order in the court and enforce the collection of all fines, costs and forfeitures imposed.

(c) In default of payment, or good and sufficient security given for the payment of any fines or forfeitures imposed, the judge shall commit the offender to the workhouse or other place provided for this purpose, and to any labor provided by ordinance until the fines or forfeitures are fully paid at the rate set in § 40-24-104. No such imprisonment shall exceed the period of time established in § 40-24-104, for any one (1) offense. Fines may be paid in installments in the manner provided by ordinance. The city judge may remit,

with or without condition, fines and costs imposed for violation of any ordinance provision. [Acts 1991, ch. 154, § 1; Acts 1995, ch. 13, § 5.]

PART 4 – TREASURER--DEPOSITS OF MUNICIPAL FUNDS

6-4-401. Appointment and duties of treasurer.--(a) The board shall appoint a treasurer.

(b) The treasurer shall collect, receive and receipt for the taxes and all other revenue (and bonds) of the municipality, and the proceeds of its bond issues, and disburse them.

(c) The board may appoint the recorder as treasurer. [Acts 1991, ch. 154, § 1.]

6-4-402. Depositories of municipal funds.--Depositories of the municipal funds shall be designated by ordinance. The board shall require any financial institution that becomes a depository of municipal funds to secure such funds by collateral in the same manner and under the same conditions as state deposits under Title 9, Chapter 4, Parts 1 and 4, or as provided in a collateral pool created under Title 9, Chapter 4, Part 5. [Acts 1991, ch. 154, § 1; Acts 1994, ch. 752, § 4.]

CHAPTERS 5-17

[Reserved.]

RELATED ACTS¹

PAGE

Priv. Acts 1981, ch. 51,
"Privilege tax on the occupancy of hotels and motels, etc." C-42

¹The validity of this act is questionable since the town operates under the general law mayor-aldermanic charter.

CHAPTER NO. 51

HOUSE BILL NO. 1029

By Rhinehart

Substituted for: Senate Bill No. 1222

By Crouch

AN ACT to authorize the Town of Kimball to levy a privilege tax on the occupancy of hotels and motels, to regulate collection of the tax, and to provide for the application of the tax revenue.

WHEREAS, the vast majority of business trade in the Town of Kimball is from tourism and from persons staying temporarily in the Town; and

WHEREAS, the Town of Kimball provides fire and police protection, ambulance service, and other services to these visitors; and

WHEREAS, these visitors use the streets maintained by the Town of Kimball; and

WHEREAS, the Town of Kimball has little or no income from taxes from these visitors to defray the cost of the services provided; and

WHEREAS, the Town of Kimball needs an increased tax base to keep providing the same high level of services to an increasing number of temporary visitors to the Town, now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this Act unless the context otherwise requires:

(d) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(e) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist

court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(f) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(g) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days.

(h) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(i) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

SECTION 2. The Board of Mayor and Aldermen (hereinafter "legislative body") is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this Act.

SECTION 3. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the town.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the town.

SECTION 4. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the town to the trustee or such other officer as may by ordinance of the legislative body be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the

custom of the operator, and if credit is granted by the operator to the transient; then the obligation to the town entitled to such tax shall be that of the operator.

SECTION 5. The trustee or other authorized collector of the tax authorized by this Act shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the trustee by the operator with such number of copies thereof as the trustee may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the trustee and approved by the legislative body prior to use. The trustee shall audit each operator in the town at least once per year and shall report on the audits made on a quarterly basis to the legislative body. The legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this Act.

SECTION 6. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 7. Taxes collected by an operator which are not remitted to the trustee on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition for penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the town of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the town, which records the Trustee shall have the right to inspect at all reasonable times.

SECTION 9. The trustee in administering and enforcing the provisions of this Act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

For his services in administering and enforcing the provisions of this Act, the trustee shall be entitled to retain as a commission one percent (1%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, Chapter 23, it being the intent of this Act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this Act. The trustee shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this Act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the trustee and the ordinance authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

SECTION 10. The trustee is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund or such other fund as the legislative body may specify by ordinance.

SECTION 11. The provisions of this Act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of this Act shall continue to be in full force and effect, it being the legislative intent now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included herein.

SECTION 12. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the Town of Kimball, not more than ninety (90) days subsequent to its approval by the Governor. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and shall be certified by him to the Secretary of State.

SECTION 13. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this Act shall take effect upon being approved as provided in Section 12.

PASSED: March 23, 1981

Ned R. McWherter,
SPEAKER OF THE HOUSE OF REPRESENTATIVES

John S. Wilder
SPEAKER OF THE SENATE

APPROVED: March 30, 1981

Lamar Alexander,
GOVERNOR

This is to certify that according to the official records in this office, House Bill No. 1029, which is Chapter No. 51 of the Private Acts of 1981, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

GENTRY CROWELL
Secretary of State