

HOUSE BILL 1363

By Weaver

AN ACT to amend Chapter 486 of the Private Acts of 1941; as amended by Chapter 670 of the Private Acts of 1949; Chapter 546 of the Private Acts of 1953; Chapter 263 of the Private Acts of 1957; Chapter 366 of the Private Acts of 1959; Chapter 365 of the Private Acts of 1959; Chapter 84 of the Private Acts of 1963; Chapter 85 of the Private Acts of 1963; Chapter 272 of the Private Acts of 1976; Chapter 221 of the Private Acts of 1978; Chapter 173 of the Private Acts of 1978; Chapter 155 of the Private Acts of 1979; Chapter 145 of the Private Acts of 1986; Chapter 179 of the Private Acts of 1990; Chapter 74 of the Private Acts of 1991; Chapter 125 of the Private Acts of 2000, Chapter 91 of the Private Acts of 2002; and any other acts amendatory thereto, relative to the charter for the City of Smithville.

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

SECTION 1. Chapter 486 of the Private Acts of 1941; as amended by Chapter 670 of the Private Acts of 1949; Chapter 546 of the Private Acts of 1953; Chapter 263 of the Private Acts of 1957; Chapter 366 of the Private Acts of 1959; Chapter 365 of the Private Acts of 1959; Chapter 84 of the Private Acts of 1963; Chapter 85 of the Private Acts of 1963; Chapter 272 of the Private Acts of 1976; Chapter 221 of the Private Acts of 1978; Chapter 173 of the Private Acts of 1978; Chapter 155 of the Private Acts of 1979; Chapter 145 of the Private Acts of 1986; Chapter 179 of the Private Acts of 1990; Chapter 74 of the Private Acts of 1991; Chapter 125 of the Private Acts of 2000, Chapter 91 of the Private Acts of 2002; and any other acts amendatory thereto, is amended by rewriting the Charter to read as follows:

ARTICLE I

CHARTER DEFINITIONS, CITY LIMITS, AND CORPORATE POWERS

SECTION 1.01. Act Constitutes City Charter. The City of Smithville, Tennessee, shall continue as a body politic and corporate by the name of The City of Smithville, Tennessee, and this act shall constitute its complete Charter. The City of Smithville shall

have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 1.02. Definitions. As used in this Charter, the following words and terms have the following meaning:

(a) "Alderman" and "Board Member" mean a person elected to the office of Alderman as provided in this Charter, and includes the Mayor.

(b) "At large" means the entire city.

(c) "Board" and "City Board" means the legislative body of the city, which is composed of the Mayor and five (5) Aldermen elected as provided in this Charter.

(d) "Chief administrative office" means the Mayor, or city administrator, if the city administrator's position is established by the Board.

(e) "City" or "Municipality" means the City of Smithville.

(f) "Code" means any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the federal or state government, or by a trade association or other organization generally recognized as an authority in its field of activity.

(g) "Elector" means a qualified voter residing within the city; and a registered owner of real estate situated within the city, or a non-resident who owns property in the city and is otherwise qualified to vote.

(h) "Nonpartisan" means without any designation of candidates as members or candidates of any state or national political party or organization.

(i) The masculine includes the feminine, and the singular includes the plural and vice-versa, except when the contrary intention is manifest.

SECTION 1.03. City Limits.

(1) The boundaries of the city are as follows

"Beginning on the northwest corner of the Charles F. Dearman lot at the intersection of the Dry Creek Road and Highway No. 26 and running thence southwardly with the east side of the Dry Creek Road to Fall Creek; thence eastwardly down Fall Creek to T. B. Webb's northwest corner; thence southwardly with the west boundary line of said Webb to Rex Hayes land, thence with his line westwardly to R. N. Hendrixson's line, thence around with said Hendrixson's line and with his west and south lines so as to include said Hendrixson's said land, to the west boundary line of W. J. Evins' Stock Farm tract of land; thence with said W. J. Evins' south boundary line to the west side of the Smithville and Short Mountain Road so as to include said stock farm eastwardly across said road to a stake on the east side of said road; thence with the east boundary line of said road, northeastwardly, to a road on the south side of the James Williams property, formerly owned by Stokes Adcock; thence with said road to the line of George Summers; thence southwardly and eastwardly with said Summers line to the line of Dixie Bailiff; thence southwardly with Dixie Bailiff's line to the west boundary line of the G. W. Mullican tract of land; thence with said Mullican's west boundary line to the line of R. R. Herndon; thence with said Herndon's west boundary line and south boundary line to Highway 56, so as to include within this boundary all the lands of George Summers, Dixie Bailiff, G. W. Mullican tract, and the R. R Herndon tract; thence with the west side of said highway to a drain crossing said highway just south of the George Johnson place; thence with said drain across said highway to the east side of said highway; thence South with the East side of said highway No. 56 to the Northwest corner of the lands of Sam Jennings; thence running East, South and West

with the boundary lines of Sam Jennings (so as to include all of his land) back to highway No. 56; thence with the East boundary line of said highway to the drain across said highway; thence with the east side of said highway to the southwest corner of the George Johnson tract of land; thence eastwardly with the south boundary line of the said George Johnson tract to the southeast corner of the same; thence northwardly with said Johnson's east boundary line, it also being the west boundary line of the W. G. Estes tract of land, to the line of Lee Loring; thence on northwardly with said Estes and Loring's line to the northwest corner of the W. G. Estes tract of land; thence eastwardly with said Estes line to the line of the tract of land formerly belonging to R. L. Paris; thence with said Paris' east boundary line to the Bright Hill Road; thence eastwardly crossing said road to a stake on the east side of the same; thence northwardly with the east side of said road to Gray's Branch; thence eastwardly down Grays Branch with its meanders to Fall Creek; thence up Fall Creek with the east bank of the same to J. E. Evins' line; thence with J. E. Evins' line northwardly, westwardly and southwardly, back to Fall Creek; thence with the north side of said creek, and up the same to Colvert's line, just across Highway 26 from Colvert's Mill; thence northwardly with Colvert's line to Bill McGuire's east boundary line; thence with said McGuire's east boundary line to his (McGuire's) northeast corner; thence westwardly with said McGuire's north boundary to Colvert's line; thence northwardly and westwardly with Colvert's line to Samantha Robinson's east boundary line; thence southwardly with said Robinson's east boundary line to the north side of Highway 26; thence westwardly with the north side of Highway 26 to a point on said Highway directly north of the

beginning corner; thence southwardly across said Highway 26 to the beginning corner, so as to include all the lands and property and inhabitants within said boundaries. [As amended by Priv. Acts 1953, ch. 546]

(2) In addition, any area or areas annexed since 1953 are hereby included in the above description of boundaries.

SECTION 1.04. Corporate powers. The city is authorized to:

(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 in accordance with Tennessee Code Annotated, Title 9, Chapter 21, and warrants;

(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 Tennessee Code Annotated, Title 29, Chapters 16 and 17, 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;

(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 to the extent authorized by state or federal law. 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, and compel reasonable extensions of facilities for 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, and take and appropriate property therefor under the provisions of §§ 7-31-107--7-31-111 and § 29-16-114 of the general law, or any other manner provided by the general law;

(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, Tennessee Code Annotated, Title 7, Chapter 32 and Chapter 33.

(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) 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;

(25) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, departments, functions, facilities, instrumentalities, conveniences and services;

(26)

(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 in accordance with the Municipal Court Reform Act, codified at Tennessee Code Annotated, Title 16; Chapter 18, Part 3.

(27) 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 dispose them;

(28) Call elections as herein provided; and

(29) 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.

ARTICLE II

BOARD OF MAYOR AND ALDERMEN

SECTION 2.01. Election of Mayor and Aldermen.

(1) A Mayor and five (5) aldermen shall be elected in a nonpartisan municipal election conducted by the DeKalb County Election Commission, at the same hours and places for holding general elections and under the general election laws of the state, as follows: The Election Commission of DeKalb County, Tennessee, shall hold a municipal election on the third Tuesday in June of 2013 for the purpose of electing three (3) aldermen to serve until the first Thursday in August of 2016 or until their successors are elected and qualified. At the municipal election of the first Thursday in August of 2014 a Mayor and two aldermen shall be elected to serve until the first Thursday in August 2018 or until

their successors are elected and qualified. Thereafter the terms of the Mayor and aldermen shall be four (4) year terms. The Mayor and aldermen shall be elected at large.

(2) Any elector who has been a resident of the city for at least one (1) year may be qualified as a candidate for Mayor or Alderman by filing a nominating petition submitted to the DeKalb County Election Commission in the time and manner determined by the general laws of the State of Tennessee.

(3) The nominating petition shall be prepared in the form required by the general laws of the State of Tennessee.

(4) Persons nominated may withdraw their nominations by filing written notice to the DeKalb County Election Commission no later than twelve o'clock (12:00) noon prevailing time on the seventh day after the qualifying deadline for the election, pursuant to Tennessee Code Annotated, Section 2-5-204.

(5) Each elector shall be entitled to vote for three (3) candidates for alderman in the June 2013 municipal election, and every four (4) years thereafter, and the candidates receiving the first second, and third highest number of votes shall be elected. Each elector shall be entitled to vote for two (2) aldermen and a Mayor in the August municipal election of 2014 and every four (4) years thereafter. Aldermanic candidates receiving the first and second highest number of votes shall be elected. The Mayoral candidate receiving the highest number of votes shall be elected. Thereafter all regular municipal elections shall be on the first Thursday in August of even years.

(6) All persons living in the municipality who are entitled to vote for members of the General Assembly shall be entitled to vote in municipal elections. Provided, however, any person owning property within the corporate limits of the municipality and residing outside such limits but within DeKalb County may register and vote in municipal elections, if such property ownership is of a residential lot size of not less than thirty-five hundred square feet (3500 sq. ft.) or any person owning a commercial property of any size as long as there are not

more than two (2) persons per deed in either property classification. Multiple floors shall count towards the total square footage residential requirement. Such nonresident shall furnish to the Registrar's office proof of ownership and lot size and location by submitting a copy of the municipality's tax notice or such other document deemed acceptable by the Registrar. Such nonresident shall not be eligible to hold any municipal office or serve on any municipal board or commission.

(7) Commencement of Terms. The terms of office of Mayor and all Aldermen shall commence at 12:01 A.M., on the first day of September following the municipal election, and they shall serve until their successors have been elected and qualified. No informality shall invalidate such an election, provided it is conducted fairly and in substantial conformity with the requirements of this Charter and the general election laws of the state.

SECTION 2.02. Restrictions on candidates and their supporters. Giving or promising to any person or persons any office, employment, money, benefit, or anything of value, by or on behalf of any candidate, shall be deemed to be a violation of Tennessee Code Annotated, Sections 2-19-121 through 2-19-123, and any person convicted thereof shall be ineligible to hold an office or position of employment in the city government for a period of five (5) years.

SECTION 2.03. City Board.

(1) The Mayor and five (5) Aldermen elected under this Charter comprise the Board of Mayor and Aldermen, in which is vested all corporate, legislative and other powers of the city, except as otherwise provided in this Charter.

(2) The salary of the Mayor and Aldermen shall be determined by ordinance; however, those salaries may not be increased or decreased during their term of office for which the salaries are set.

(3) The Board shall meet regularly at least once every month at the city hall or municipal building, or at another place and time prescribed by ordinance. The Board shall meet in special session on written notice of the Mayor or any two

(2) Aldermen and served on the other members of board personally at least forty-eight (48) hours in advance of the meeting. Only the business stated in the written call may be transacted at a special meeting. Informal meetings or work sessions of the Board may be held for the purpose of fact finding and conducting inspections, provided that such meetings shall not be in violation of the Open Meetings Law, codified at Tennessee Code Annotated, Title 8, Chapter 44; however, there shall be no official action taken by the Board in these meetings. The Board shall exercise its powers only in public meetings.

(4) A majority of those sewing on the board constitutes a quorum. The Board may by ordinance adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The Board may subpoena and examine witnesses and order the production of books and papers.

SECTION 2.04. Mayor as Presiding Officer.

(1) The Mayor shall preside at meetings of the Board, and shall not have a vote on any matter except in case of a tie vote. He shall be recognized as the ceremonial head of the city. He shall be the officer to accept process, and upon whom process against the city shall be sewed. He shall appoint at the first meeting after every election each member of the Board of Aldermen as a commissioner to the certain city departments as follows, Finance and Taxation, Street and Safety, Water and Sewer, Sanitation and Police and Fire Departments. He shall perform other duties prescribed by this Charter and by ordinances not inconsistent with this Charter.

(2) The Mayor shall have veto power over any legislative action of the Board of Mayor and Aldermen. The Mayor's veto may be over-ridden by a two-thirds ($\frac{2}{3}$) majority vote of all currently sitting members. Upon passage of a legislative ordinance or resolution, the Mayor shall notify the Board in writing of his veto within ten (10) days and the reasons for the veto. Should the Mayor choose not to veto an action of the Board and fails to sign the ordinance or

resolution by the next regular meeting, the ordinance or resolution shall be deemed to be approved and become a law without the Mayor's signature.

SECTION 2.05. Vice-mayor. The Board, at the first regular meeting after the newly elected Aldermen have taken office following each regular municipal election, shall elect from its membership a Vice-Mayor for a term of two (2) years and who shall have a vote on all questions proposed at any meeting. The Vice-Mayor shall perform the duties of the Mayor during his absence or inability to act, and shall fill out any expired term in the office of Mayor, in which case an alderman shall be elected by majority vote of the Board to serve as Vice-Mayor. In the event of a vacancy in the office of Mayor, the Vice-Mayor is to serve as Mayor until the next regular municipal election

SECTION 2.06.

(1) Vacancy in office of Mayor or Alderman. A vacancy exists if the Mayor or Alderman resigns, dies, moves his residence from the city, is convicted of malfeasance or misfeasance in office, a felony, a violation of this Charter or election laws of the state, or a crime involving moral turpitude, fails to attend any meeting of the Board for a period of ninety (90) days with no extenuating circumstances, or has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office, The Board by resolution shall declare a vacancy to exist for any of these reasons, and the finding is final.

(2) The Board shall fill vacancies in the office of Alderman by affirmative vote of a majority of the remaining members, 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.

(3) All such elections by the Aldermen 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 to break the tie.

(4) Any person convicted of malfeasance or misfeasance in office, a felony, or a crime involving moral turpitude is prohibited from holding office or employment with the city for a period of ten (10) years after the conviction is final.

SECTION 2.07. Restrictions on Aldermen. The Board shall act in all matters as a body, and no member shall seek individually to influence the official acts of the Mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the Mayor or any other officer or employee. The Board shall deal with the various agencies, officers and employees of the city, except Boards or Commissions authorized by this Charter, solely through the Mayor or chief administrative officer, and shall not give orders to any subordinates of the Mayor or chief administrative officer, either publicly or privately. Nothing herein prevents the Board from conducting inquiries into the operation of the city government and the conduct of the city's affairs as it deems necessary. The office of any Alderman violating any provision of this section shall immediately become vacant upon his conviction in a court of competent jurisdiction.

SECTION 2.08. Designation of Official Newspaper. The Board by motion shall designate from time to time a newspaper of general circulation in DeKalb County, Tennessee, as the newspaper for publication of official notices of the city.

SECTION 2.09. City Legislation.

(1) Any action of the Board having a regulatory effect, relating to revenue or appropriation of money, awarding franchises or contracts over five hundred dollars (\$500.00), conveying or leasing or authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this Charter or the general laws of the state, shall be done only by ordinance. Other actions of the Board may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be "Be It Ordained by the Board of Mayor and Aldermen of the City of Smithville": No action of the Board is valid or binding unless approved

by the affirmative vote of at least three (3) members of Board. Any ordinance that repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance except an emergency ordinance must be approved on two (2) considerations not less than one (1) week apart and becomes effective when adopted upon second and final consideration unless its terms provide a later effective date. The summary of every ordinance shall be considered on the first and second considerations. Ordinances shall become effective upon final passage unless provided otherwise in the ordinance or in the general laws of the State of Tennessee. The summary of each resolution shall be read prior to its adoption and shall become effective when adopted unless its terms provide otherwise. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on one (1) consideration and become effective immediately, by the affirmative votes of four (4) members of the Board, if the ordinance contains a full statement of the facts creating the emergency, but any emergency ordinance shall be effective for only ninety (90) days. Appropriations, revenues, franchises, contracts, levy of taxes, or special privileges shall not be passed as emergency ordinances. Any Alderman may introduce an ordinance or resolution before the Board of Mayor and Aldermen.

(2) The Board shall have the general and continuing ordinances of the city assembled and copied in a well-bound book or loose-leaf filler book, a copy of which shall be kept currently up-to-date by the City Recorder and shall be available to the public.

(3) The Board may have the general and continuing ordinances of the city assembled into an official Code of the City, a copy of which shall be kept up to date by the City Recorder and shall be available to the public. After adoption of the City Code all ordinances shall be adopted as additions to, deletions from, or amendments to the Code.

(4) Standard Codes as described in Section 1.02(g), maybe adopted by ordinances that contain only references to titles, dates, issuing organizations, and changes to the standard Codes the Board deems desirable. Procedures prescribed by general law shall be followed when adopting standard codes. Copies of the official Code and any standard Codes adopted by reference shall be available to the public at prices fixed by the Board.

(5) The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the City Recorder.

SECTION 2.10. Contributions, Donations to Non-Profit Organizations. The Council is authorized to appropriate public funds for contributions or donations to non-profit organizations, in accordance with the general laws of the State of Tennessee. The Council is prohibited from appropriating public funds for private-for-profit organizations.

ARTICLE III

ORGANIZATION AND PERSONNEL

SECTION 3.01. Organization of City Government. The city government shall be organized into departments of Records, Finance, Police, Fire, and of Public Works and Utilities, unless otherwise provided by ordinance. The Board shall determine by ordinance the functions and duties of all departments and offices. The Board by ordinance may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city, subject to the following limitations:

(1) The number of members and the authority of the Board, as provided in this Charter, shall not be changed;

(2) All officers and employees of the city, except as otherwise specifically provided by ordinance, shall be appointed and removed by the Mayor but only with the approval of at least two-thirds ($\frac{2}{3}$) majority vote of the Council present

voting upon the appointment or removal, and the employees shall be under the direction and control of the Mayor; and

(3) The office of Mayor shall not be abolished, nor shall his powers, as provided in this Charter, be changed.

SECTION 3.02. Administrative duties of Mayor. The Mayor shall be the chief executive officer of the city government. The Mayor shall be the ceremonial head of the city and preside at all meetings of the Board of Mayor and Aldermen. The chief executive officer shall be responsible for the enforcement of laws, rules and regulations, ordinances, and franchises of the city and the City Attorney shall take legal actions the chief executive officer directs for such purposes. He may conduct inquiries and investigations into the affairs of the city and shall have other powers and duties provided by ordinance not inconsistent with this Charter. The board may create the position of city administrator to assist the Mayor with meeting the requirements of this section.

SECTION 3.03. City Attorney. The Board shall appoint a City Attorney, and Assistant City Attorneys as authorized by ordinance. The City Attorney, or an Assistant City Attorney designated by him, shall be responsible for representing and defending the city in all litigation in which the city is a party; attending all meetings of the Board; advising the Board, Mayor and other officers and employees of the city concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing other duties prescribed by the Board.

SECTION 3.04. Department of Records. The City Recorder shall be the director of the Department of Records.

(1) Appointment. The chief executive officer, with the approval of a majority of the Board, shall appoint a City Recorder, who also may be appointed to the positions of Finance Director or Treasurer, or both.

(2) Recorder's Functions at Board Meetings. The City 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.

(3) Custody of Official Records. The City Recorder, or his 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.

(4) Ownership of Records. All such records shall be the property of the City of Smithville,

(5) Copies of Records and Ordinances.

(A) The City Recorder shall provide, copy, and, when required by any officer or person, certify copies or records, papers and documents in his office.

(B) Fees for copying and certification shall be established by ordinance.

SECTION 3.05. Treasurer.

(1) The board shall appoint a treasurer;

(2) The treasurer is to collect, receive and receipt the taxes and all other revenue (and bonds) of the municipality, and the proceeds of its bond issues, and disburse them;

(3) The board may appoint the Recorder as treasurer.

SECTION 3.06. City Judge—City Court.

(1) There shall be a city court presided over by a City Judge appointed by the Board;

(2) The City Judge shall have the qualifications, term of office, if any, and receive the compensation the board may provide by ordinance;

(3) In the absence or disability of the City Judge, the Mayor may designate a qualified person to serve as City Judge to be the acting City Judge until one can be appointed at the next regularly scheduled meeting of the Board, or as otherwise provided by ordinance;

(4) Powers to Enforce Ordinances;

(A) The City Judge may impose fines, costs and forfeitures, and punish by fine for violation of city ordinances in accordance with the Municipal Court Reform Act, codified at Tennessee Code Annotated, Title 16, Chapter 18, Part 3;

(B) The City Judge may preserve and enforce order in the court and enforce the collection of all fines, costs and forfeitures imposed;

(C) The City Judge may remit, with or without condition, fines and costs imposed for violation of any ordinance provision.

(5) Fines and costs. Receipts of the city court shall be deposited daily with the City Treasurer, and the City Judge shall make monthly reports thereof to the Board.

(6) The City Judge shall keep a docket of all cases handled by him.

(7) The City Judge shall be exclusive judge of the law and the facts in every case before him, and no officer or employee of the city shall attempt to influence his decision except through pertinent facts presented in open court.

SECTION 3.07. Officers and Employees. Offices and positions of employment shall be filled from time-to-time as the Board determines necessary. Salaries, wages, and remuneration for all positions shall be in accordance with motion duly made and adopted by majority vote. In determining salaries, wages, and remuneration, due consideration shall be given to duties, responsibilities, technical knowledge and skill and education required to satisfactorily perform the work, and the availability of persons having the qualifications desired.

SECTION 3.08. Personnel Actions. The appointment and promotion of employees of the city shall be on a basis of merit, considering technical knowledge and education required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications. The Mayor, or the city administrator, if established by the Board, may, with the approval of a majority of the Board, make appointments, promotions, transfers, demotions, suspensions, and removal of all employees

SECTION 3.09. Personnel Rules. The Board shall, by ordinance, adopt personnel rules and regulations governing personnel administration by the city, not inconsistent with the provisions of this Charter.

SECTION 3.10. Oath of Office. Before a person takes any office in the city government, he shall subscribe to the following oath or affirmation, administered by the City Recorder or any judge or official authorized by general law to administer oaths:

I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and the State of Tennessee, that I will, in all respects observe the provisions of the Charter and ordinances of the City of Smithville, and that I will faithfully discharge the duties of the office of _____.

SECTION 3.11. Official Bonds. The Mayor and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees designated by the Board, shall give a fidelity bond or faithful performance bond, as determined by the Board, with some surety company authorized to do business in the State of Tennessee as surety, in an amount as prescribed by the Board. All bonds and sureties are subject to approval by the Board. The cost of bonds shall be paid by the city. The bonds shall be blanket bonds covering offices and positions to be bonded, and individual bonds may be secured only when blanket bonds are not obtainable.

SECTION 3.12. Political Activity Prohibited. No person shall directly or indirectly give, render or pay any money, service, or other valuable consideration to any person for or on account of or in connection with employment by the city government in violation of

Tennessee Code Annotated, Title 2, Chapter 19, Part 1. No person shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution from any employee of the city in connection with any city election. Any person who by himself or with others willfully or corruptly violates any provision of this section is guilty of a misdemeanor, and upon conviction thereof he shall immediately forfeit and vacate the office or position he holds and be ineligible to hold any office or position of employment in the city government for a period of five (5) years thereafter.

SECTION 3.13. Personal Financial Interest. Officers and employees of the city shall not profit personally, directly or indirectly, from any business transacted with the city government, nor shall any officer or employee accept any free or preferred service, benefits or concessions from any person, company or firm regulated by or doing business with the city.

ARTICLE IV

FISCAL ADMINISTRATION

SECTION 4.01. Fiscal Year. The fiscal year of the city government shall begin on the first day of July of each year and end on the last day of June of each year. The fiscal year of all boards, commissions, branches, or other divisions of the city government shall begin and end as the Board provides by ordinance, and if no such ordinance is passed by the Board, it shall be commensurate with the fiscal year of the city government.

SECTION 4.02. Control of Expenditures. The chief administrative officer shall control expenditures of all agencies of the city government to accomplish maximum efficiency and economy. He shall prepare and submit quarterly finance reports of all revenues and expenditures to the Board.

SECTION 4.03. Purchasing. Purchasing for the City of Smithville shall be in accordance with the State of Tennessee's Municipal Purchasing Law of 1983, compiled in Tennessee Code Annotated, Title 6, Chapter 56, Part 3, as amended. The chief

administrative officer shall be the purchasing agent authorized to make purchases in accordance with established purchasing rules and regulations.

SECTION 4.04. Unauthorized Contract or Expenditure. Any contract or agreement made in violation of the provisions of this Charter or ordinances of the city is void and no expenditure may be made thereunder. Every officer and employee who knowingly makes or participates in any such contract or agreement, or authorizes or makes any expenditure thereunder, and their sureties on their official bonds, and every person who knowingly receives such payment, are jointly and severally liable to the city for the amount so paid or received. A violation of this section by any officer or employee is cause for his removal.

SECTION 4.05. Annual Audit. Within thirty (30) days after the beginning of each fiscal year, the Board shall employ an independent, certified public accountant to make an audit of all financial records of the city. The auditor shall perform adequate sampling to determine the validity of the records. Each audit shall include a determination of the legality of transactions, mathematical accuracy of records, complete accountability, and application of accepted municipal accounting principles. It shall be made in accordance with generally accepted auditing standards and in conformity with generally accepted accounting principles. The audit shall be completed and a report, including a summary for publication, shall be submitted to Board within one hundred eighty (180) days after the end of the fiscal year.

SECTION 4.06. Bonds for Public Works Contracts. Each bid on a contract for any public works or improvement shall be accomplished by a cash or surety company bid bond in the amount of five percent (5%) of the amount bid. Before any contract is awarded, the contractor shall give bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price. The Board may waive these requirements for contracts under five thousand dollars (\$5,000.00).

SECTION 4.07. Property Taxes. All property subject to taxation is subject to the property tax levied by the Board. The County Assessor of Property shall assess all property subject to taxation, except property assessed by the State of Tennessee.

SECTION 4.08. Tax Levy. The Board shall make a tax levy expressed as a fixed rate per one hundred dollars (\$100.00) of assessed valuation not later than July 1 of each year, and the tax levy may be set by the Board at a regular meeting or at a meeting specially called for that purpose. In the event of the Board's failure to make a tax levy as herein provided, the prior year's tax rate shall continue in effect.

SECTION 4.09. Tax Due Dates. Property taxes shall be due on October 1 of each year, Property taxes shall become delinquent on March 1 of each year, at which time a penalty prescribed by the general laws of the State of Tennessee shall be added and thereafter the taxes are subject to interest at the rate prescribed by the general laws of the State of Tennessee for each month or fraction thereof until paid. On and after the date when the taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record.

SECTION 4.10. Delinquent Taxes. The Board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the City Judge for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a General Sessions Court; or by the County Trustee as provided by general law; by garnishment; by suits in Chancery; or by any two (2) or more of the foregoing methods, or by the use of any other available legal processes.

SECTION 4.11. County May Collect Taxes. The city may contract with the county for the collection of city taxes. The contract may provide for reasonable fees to be paid to the county for this service.

SECTION 4.12. Taxes Not to be Excused. All officers or employees of the city are prohibited from excusing taxes, penalties, interest, special assessment, or other charges due the city, but errors may be corrected when authorized by Board.

SECTION 4.13. Disbursements by Checks. All disbursements, except for any agency of the city administered by a Board or Commission, shall be made by checks signed by the City Treasurer and countersigned by the Mayor, or city administrator, if appointed by the Board. The Council may by resolution designate other officers to sign such checks in the absence or disability of the Mayor, city administrator, or City Treasurer.

SECTION 4.14. Tax Anticipation Borrowing. The Board may borrow money in anticipation of taxes, for payment of current and necessary expenses.

ARTICLE V

INTERGOVERNMENTAL COOPERATION AND CONTRACTING

SECTION 5.01. Intergovernmental Cooperation and Contracts. In addition to other powers granted in this Charter, the Board may contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof, or with any duly authorized agency of the federal or state government, for the exercise of any power or function the city is authorized to undertake by the Charter in accordance with the general law.

SECTION 5.02. Execution of Such Powers. The Board may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any such contract or cooperative action. The parties to the contract or cooperative action, or any of them, may acquire, by gift or purchase, or by the power of eminent domain exercised by one (1) or more of the parties, the lands, buildings, and other property necessary or useful for the purposes of the contract or cooperative action, either within or without the corporate limits of one (1) or more of the contracting parties, and may hold or acquire the property jointly. The city may provide for the financing of its share or portion of the cost or expenses of the contract or cooperative action as if it were acting alone and on its own behalf.

The contract may also provide for the establishment and selection of a joint commission, officer or officers to supervise, manage, and have charge of a joint service or project, and may provide for the powers and duties, terms of office, compensation, if

any, and other provisions relating to the members of the joint commission, officer, or officers. The contracts may include and specify terms and provisions relative to the termination of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be given of termination or cancellation. Cancellation or termination does not relieve any party participating in the contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of the cancellation or termination.

SECTION 5.03. Immunities and Liabilities of Officers. All public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article enjoy the same immunities and are subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

SECTION 5.04. Handling of Funds. All money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided bylaw, shall be deposited and disbursed in accordance with the provisions of the contract or cooperative action.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 6.01. The provisions of this article are supplemental to any authority granted the city under any other applicable law.

SECTION 6.02. Penalties. The violation of any provision of this Charter, for which a penalty is not specifically provided, is declared to be a misdemeanor, and any person guilty of a violation shall be fined not more than fifty dollars (\$50.00). Each day the violation continues shall be considered a separate violation.

SECTION 6.03. Severability. If any article, section, subsection, paragraph, sentence, or part of this Charter is held invalid or unconstitutional, this invalidity or unconstitutionality does, not affect or impair any other parts of this Charter unless it clearly appears that the other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this Charter that each article, section subsection, paragraph, sentence, or part be enacted separately

and independently of each other, and to that end the provisions of this Charter are declared renewable.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Smithville, with such vote to be taken not fewer than sixty (60) nor more than one hundred twenty (120) days following the passage of the act by the General Assembly. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state within ten (10) days of such vote.

SECTION 3. 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, it shall become effective as provided in Section 2.