

SENATE BILL 2636

By Stevens

AN ACT to amend Chapter 193 of the Private Acts of 1947; as amended by Chapter 641 of the Private Acts of 1951; Chapter 148 of the Private Acts of 1965; Chapter 6 of the Private Acts of 1993; and any other acts amendatory thereto, relative to the charter of the Town of Samburg.

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

SECTION 1. Chapter 193 of the Private Acts of 1947; as amended by Chapter 641 of the Private Acts of 1951; Chapter 148 of the Private Acts of 1965; Chapter 6 of the Private Acts of 1993; and any other acts amendatory thereto, which constitutes the charter of the Town of Samburg is amended in entirety to read as follows:

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the Town of Samburg, in the County of Obion, and the State of Tennessee, and the inhabitants thereof, be, and the same are, hereby constituted a body politic and corporate under and by the name of the "Town of Samburg." Under that name they may have perpetual succession; may sue and be sued; grant, receive, purchase and hold real-estate, mixed, and personal property, and dispose of the same for the use and benefit of said Town of Samburg; and may have and use a common seal and alter the same at their pleasure.

Section 2. That the Town of Samburg, located in Obion County, Tennessee, be, and the same shall embrace the territory within the following boundaries, to-wit:

"BEGINNING at the mouth of the Indian Creek, running east with said Creek to an Iron Bridge known as Samburg Bridge on the old Samburg and Union City road; thence south with said road to a point where the road turns west; thence, with the old road bed, south to a black top road that leads from

Samburg to Lassiter's Corner; thence with said road, 100 feet east of said road, alongside of a hill to a point where a gravel road heads west; thence with said road west to the waters of Reelfoot Lake extending 1,000 feet out into the water of said lake, thence north a direct line to the mouth of Indian Creek to the beginning."

Section 3. That any territory adjoining the above boundaries of the Town may be added thereto and included in the corporate limits thereof, upon request by the Board of Mayor and Aldermen hereinafter provided for the Town, and such petition may be presented by any interested person or the Board of Mayor and Aldermen may act upon their own initiative for the adding of new territory and the same to be added by an Act of the Tennessee General Assembly as an amendment to this Charter.

Section 4. That the officers of the Town of Samburg to be chosen by the qualified voters thereof shall be as follows: Mayor and six (6) Aldermen, who shall constitute the Town Council and be known as "Board of Mayor and Aldermen", a majority of whom shall constitute a quorum for the transaction of business. No person shall be eligible to hold the office of Mayor or Aldermen unless such person is at least twenty-five (25) years old, a qualified voter under the laws of the State of Tennessee, and has been a bona-fide resident of the Town for a period of at least one (1) year. The Mayor and Aldermen shall be chosen by the qualified voters of the Town of Samburg and shall hold their office until their successors are qualified and elected. Qualified voter shall mean a person eighteen (18) years of age who is duly registered to vote pursuant to the laws of the State of Tennessee, and who has been a resident of the Town of Samburg for a period of ninety (90) days.

Section 5. An election will be held on the first Tuesday of November in even-numbered years. Thereafter, elections will be held every two (2) years so that aldermen shall serve four (4) year staggered terms and the Mayor shall serve a four (4) year term. In case any vacancy in the office of Mayor or Aldermen should result, said vacancy shall be filled within sixty (60) days of the vacancy. The person taking the seat shall serve until the unexpired term is completed.

Section 6. The Board of Mayor and Aldermen of the Town of Samburg shall, by ordinance, have full power and authority within the corporate limits:

(1) To levy and collect taxes upon all property, including real, personal and mixed property, poll and privileges taxable under the laws of the State of Tennessee;

(2) To appropriate and borrow money, and to authorize the expenditure of money for any municipal purpose;

(3) To grant to any person, firm or corporation a franchise, exclusive or otherwise, for the operating of a utility service including, but not limited to, telephone, telegraph, bus service, and cable television services within the corporate limits of the town and within one (1) mile thereof, under such terms and conditions as the Board of Mayor and Aldermen may deem proper. However, no such franchise shall be granted for a period of more than twenty (20) years with option for renewal. Such franchise shall be granted by ordinance and regulated by the laws of the State of Tennessee;

(4) To open, establish, extend, widen, alter, abolish and discontinue any street or alley, and to grade, pave and otherwise improve the same, and to establish, maintain and keep in repair culverts, sewers, gutters, or to alter, change, abolish, and discontinue the use of the same;

(5) To regulate and provide for the construction of sidewalks and walking trails as approved by the Board of Mayor and Aldermen;

(6) To regulate all adult entertainment businesses. To suppress all immoral exhibitions;

(7) To prohibit gambling houses, saloons, and illicit sale of liquors within the corporate limits of the Town of Samburg;

(8) To make all necessary regulations and laws to secure the health, safety, peace, and the general welfare of all the inhabitants of the Town. To prevent and punish by pecuniary penalty or imprisonment all breaches of the peace, noise, disturbance, or disorderly assemblies in any place in the Town;

(9) To provide for the erection or removal of all buildings that may be necessary for the use of the Town;

(10) Regulate the disposal of refuse within the Town. These powers shall include, but are not limited to, the size and location of containers for such disposal, dates and times of refuse pick up, designation of authorized sites of disposal, and the setting of fees for said disposal. The prohibition against disposal at unauthorized sites and the setting of fees for disposal at unauthorized sites;

(11) To provide for penalties and fines not to exceed fifty dollars (\$50.00) to be assessed for violation of any ordinance declared as a result of the act;

(12) To establish and regulate a fire department;

(13) To establish and regulate police of the Town, to impose fines, forfeitures, and penalties for breach of any ordinance or general law of the State of Tennessee and to provide for recovery of the same as set by the Board of Mayor and Aldermen;

(14) To provide for the arrest and confinement of any person found in violation of any state or federal law;

(15) To regulate or prevent the discharging of any weapon, fire-works or any other explosive. To regulate the sale of fire-works within the corporate limits of the Town, and provide penalties for violations;

(16) To remove and prevent all filth in the Town and all encroachments into, and obstructions upon, all streets, alleys, lanes, sidewalks, and pavements, and provide for the cleaning of the same;

(17) To enact all zoning laws;

(18) To prevent and remove any nuisances;

(19) To regulate, tax, license or suppress the keeping of all animals within the Town, in pursuance of ordinance and within state and local laws; and

(20) To exercise and have all other powers, functions, rights, privileges, and immunities granted by general laws necessary or desirable to promote or

protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the Town and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were enumerated herein. No enumeration of particular powers in this charter shall be held to the exclusivity of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited by the Constitution of the United States, the Constitution of the State of Tennessee, or general law.

Section 7. Board of Mayor and Aldermen.

(a) The Mayor and six (6) Aldermen elected under this charter shall compose the Board of Mayor and Aldermen, in which is vested all corporate, legislative and other powers of the town, except as otherwise provided in this charter.

(b) The compensation of the Mayor and Aldermen shall be set by ordinance. The Mayor, Aldermen, Town Attorney and City Recorder may be reimbursed for actual and necessary expenses incurred in the conduct of their official duties. The salaries of the Mayor and the Aldermen cannot be raised during their term of office.

(c) The Board of Mayor and Aldermen shall meet regularly once a month with date and time to be posted by ordinance. The Board shall meet in special sessions upon written Public notice of the Mayor or the majority of Alderman and service for the other members of the Board or as agreed upon by duly adopted motion at a regular or special meeting. Only the business stated in the written call or stated at meeting during which the special meeting is called, may be transacted at special meeting.

(d) All ayes and nays of all votes shall be recorded in the journal.

Section 8. Mayor as presiding officer. The Mayor shall preside at meetings of the Town Council. The Mayor shall only vote on matters coming before the board to break a tie. The Mayor shall be recognized as the ceremonial head of the Town. The

Mayor shall be the officer to accept process against the Town, and shall perform other duties imposed by the charter and by ordinances not inconsistent with this charter. This Charter specifically authorizes the Mayor to direct the work of the employees and their various departments on a daily basis.

Section 9. Vice-Mayor. There shall be a Vice-Mayor who shall be selected at the first meeting after each election by the Board from among their number. The term of office for Vice-Mayor shall be a period of four (4) years. The Vice-Mayor shall perform the duties of the Mayor during any temporary absence or inability to act. In case of a vacancy in the office of mayor, the Vice-Mayor shall complete the unexpired term.

If the Vice-Mayor is completing an unexpired term of the office of Mayor, the Vice-Mayor's position as Aldermen shall become vacant and the Board shall fill the Vacancy as provided in Section 5. The Board shall select another of their number to complete the unexpired term of Vice-Mayor. The Vice-Mayor shall also sign checks in the absences of the Mayor.

Section 10. Restrictions on Aldermen. The Aldermen shall act on all matters as a body. No member shall seek individually to influence the official acts of any officer or employee of the town, to direct or request the appointment or removal of any person for office or position of employment, or interfere in any way with the performance of duties by any officer or employee. Nothing herein contained shall prevent the Board of Aldermen from conducting such inquiries into the operations of the town government and the conduct of the Town's affairs as it may deem necessary.

Section 11. Ordinances. Any action of the Board having a regulatory or penal effect, awarding franchises, are required to be done by ordinance under this charter, or the general laws of the State, shall be done only by ordinance. Other actions 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 Town of Samburg". Every ordinance must be approved on two (2) readings and there shall be no more than one (1) reading on any one (1) day. Two-thirds (2/3) of the Board of Aldermen present at the

meeting shall vote in favor of an ordinance or it shall be deemed as failed. An ordinance may receive first reading upon its introduction. Ordinances shall take effect upon final reading, adoption and being signed by the Mayor unless a different effective date is designated in the ordinance and attested to by the Town's City Recorder and witnessed by the ayes and nays of the Board of Aldermen.

Ordinances shall be identified with two (2) part numeration. The first part shall consist of the two (2) digits representing the last two (2) digits of the year the ordinance was introduced. The second part shall be the number of its order of introduction that year.

All duly enacted ordinances and this Charter shall be compiled in a well bound volume or volumes to be known as the "Samburg Municipal Code."

Section 12. Organization of town government. The Town government shall be organized into such departments and offices as shall be provided by ordinance. The Board of Aldermen shall determine by ordinance the functions and duties of all departments and offices. The Board may establish, abolish, merge, or consolidate offices, positions or employment and departments. It 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 and departments.

Section 13. Administrative duties of Mayor. The Mayor shall be the Chief Executive Officer of the Town and:

(1) Shall have access to all of the books, records, offices and paper of every kind pertaining to the Town's business. The Mayor may not remove originals or disseminate any of the above books, records, or papers of any kind, except at official meeting;

(2) Shall present in writing or verbally to the Board recommendations on the needs of the Town;

(3) May make temporary appointments to the offices of Town Recorder, Town Attorney, Town Judge and Chief of Police in cases of absence or other

temporary disability. Temporary appointments shall be effective until such time as they are confirmed or rejected by the Board;

(4) Shall make appointments to boards and commissions as authorized by ordinance or general law, upon the approval of the Board of Aldermen;

(5) Shall take all proper measures for the preservation of public order and preservation of the peace and he or she may call upon the Governor for aid;

(6) Shall sign checks and drafts drawn upon the Town by the Town Recorder; and

(7) Shall sign all contracts and permits authorized by the Board to which the Town is a party.

Section 14. Town Recorder. The Board shall hire or appoint a Town recorder.

(1) The Recorder shall keep and preserve the Town seal and all official records not required by law or ordinance to be filed elsewhere; attend all meetings of the Board unless excused by the Board or Mayor; maintain a journal showing the proceedings of all such meetings, the Aldermen present and absent, each motion considered, the title of each resolution and ordinance considered and the vote on each question; and prepare and certify copies of official records. The Recorder shall maintain the Samburg Municipal Code in a current and usable manner and shall furnish the Mayor and each Alderman with a copy of such code upon assuming office for use during their terms in office.

(2) The Recorder shall execute a bond to the Town of Samburg in such sum as the Town, by its Board of Mayor and Aldermen may require, conditioned for the faithful performance of the Recorder's duties as the Town Recorder and for the faithful handling of the funds belonging to the Town.

(3) The Recorder shall act as Tax Collector and issue receipts for taxes collected and enter on the tax books the payments of taxes on the date on which they are collected.

(4) The Recorder shall serve as Treasurer and as such shall receive and keep safely all funds of the Town and shall pay same upon warrants signed by the Recorder and the Mayor.

(5) The Recorder, in order to protect and keep safe the Samburg Town Ordinances, as passed by the Mayor and Board of Aldermen, shall remove from the Ordinance Book and proffer only a copy of such Ordinance as requested by any citizen of the State of Tennessee. The Recorder shall have the duty to protect and maintain the Ordinance Book.

(6) The Recorder shall act as the Town Court Clerk and shall take all monies and record all monies due the Samburg Court.

(7) The Recorder shall keep a docket book of all cases.

Section 15. Town Attorney. The Board shall appoint a Town Attorney. The Town Attorney shall be responsible for advising the board, officers and employees 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 such other duties as may be prescribed by the Board.

Section 16. A Town Judge shall be appointed by the Board. A person designated by the Board shall serve in the absence or incapacity of the judge.

(a) Qualifications: The Town Judge must be a minimum of thirty-five (35) years old as provided by general law, be a resident of the State of Tennessee and be licensed by the State of Tennessee to practice law.

(b) The Town Judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty as permitted by the State of Tennessee and other ordinances of the Town.

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

(d) The Town Judge will be allowed to hold open court in Samburg.

Section 17. Chief of Police. The Chief of Police shall thoroughly acquaint himself with the by-laws and ordinances of the Town and laws of the State of Tennessee. It shall be his duty to enforce such by-laws, ordinances, and laws and he is hereby granted full police power, which he may properly exercise without the necessity of obtaining a warrant during certain emergencies. The Chief of Police shall perform such other and further duties as the Board of Mayor and Aldermen shall authorize by proper resolution, by ordinance or by general law.

Section 18. Officers and employees. Only the officers and positions of employment provided for in the annual budget, as approved by the Board, shall be filled unless an emergency that demands the immediate filling of a position arises. In determining salaries, due consideration shall be given to the duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work and availability of persons having the qualifications desired.

Section 19. Political activity. No full-time employee of the Town shall continue in such employment of the Town after becoming a candidate for nomination or election to any Town office, however, this provision shall not apply to Mayor, Aldermen, and members of the Board or commissions, the Town Attorney or Town Judge.

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 Town government.

No person shall orally, by letter, or otherwise solicit or be in any manner concerned in soliciting and assessment, subscription or contribution from any employee of the Town in connection with any town election.

It shall be unlawful for any person who willfully or corruptly violates any provision of this section, and upon conviction, such person shall immediately forfeit and vacate their office or position and be ineligible to hold any office or position of employment in the Town government for a period of ten (10) years thereafter.

Section 20. Prohibited acts. No officer or employee shall accept any free or preferred service, benefits or concessions from any person, company or firm regulated by or doing business with the Town.

Section 21. Fiscal year. The fiscal year of the Town government shall begin on the first day of July and shall end on the thirtieth day of June the succeeding year.

Section 22. Annual budget. Prior to the beginning of each fiscal year, the Mayor shall submit to the Board a proposed budget for the next fiscal year, showing separate accounts for the General Fund, Street Aid Fund, Hotel/Motel Tax Fund, Garbage Fund. Sub-Funds for clarity include Fire Department, Police Department, Building, each utility, and each includes the following:

- (a) Revenue and expenditures during the preceding year;
- (b) Estimated revenue and expenditures for the current fiscal year;
- (c) Estimated revenue and recommended expenditures for the next fiscal year; and
- (d) Any other information and data, such as work programs and unit cost, in justification of recommended expenditures that may be considered necessary.

A copy of the complete budget shall be filed with the Recorder for public inspection and a copy shall be furnished to each Aldermen.

Section 23. Public hearing on budget. After receiving the proposed budget, the Board shall fix a time and place for a public hearing thereon. A notice of the hearing shall be published once in a newspaper having general circulation in the Town ten (10) days before the hearing. The publication shall appear with appropriate notice of date of the hearing.

Section 24. Adoption of budget. After the public hearing the Board shall adopt the budget with such modifications as the Board considers necessary or desirable. If emergency conditions prevent the adoption of a budget before the beginning of the new fiscal year, the appropriations of the last fiscal year shall become the appropriations for the new fiscal year. Amendments may be made to the original budget at any time during

a current fiscal year after appropriate notice is published in the newspaper and a public hearing is held before the Board.

Section 25. Control of expenditures. The Board shall be responsible for controlling expenditures of the various agencies of the Town government to accomplish maximum efficiency and economy. No expenditures shall be made in excess of appropriations.

Section 26. Unauthorized contract or expenditures. Any contract or agreements made in violation of the provisions of this charter or ordinances of the Town shall be void and no expenditures shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorizes or makes any expenditure thereunder; every person who shall knowingly receive such a payment, shall be jointly and severally liable to the Town for the full amount so paid or received. A violation of this section by any officer or employee shall be cause for removal.

Section 27. Sale of property. The Board of Mayor and Aldermen may sell Town property that is obsolete, surplus or unusable; provided, however, that any sale exceeding five hundred dollars (\$500) shall be subject to approval by the Board.

Section 28. Omitted property. The Town Recorder shall add to the assessment rolls any taxable property that may have been omitted by the county assessor. Such property shall be appraised and assessed at the same ratio as other property of the same class located in the town.

Section 29. Bonds on contracts. Each bid on a contract for any public works or improvement shall be accompanied by cash or surety company bid bond in the amount of five percent (5%) of the amount of the 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.

Section 30. Property taxes. All property subject to taxation shall be subject to the property tax levied by the Town pursuant to the general laws of the State of Tennessee.

Section 31. Tax levy. The Board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation. The levy shall be made in accordance with the general laws of the State of Tennessee.

Section 32. Tax due dates and tax bills. The due dates of property taxes and the method of payments of such taxes shall be fixed by State of Tennessee. The Town shall send tax bills to taxpayers, showing the assessed valuations, amount of taxes due, tax due dates, and information as to delinquency dates and tax penalty, or interest thereon. Property taxes which become delinquent shall be subject to penalty and interest to be fixed by ordinance. On and after the date such taxes become delinquent, the tax records of the Town shall have the force and effect of a judgment of a court of record.

Section 33. Collection of delinquent taxes. The Board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the Mayor for the sale of goods and chattels to be executed by any police officer of the Town under the laws governing the execution of such process; or by the County Trustee as provided by general law; or by the Town Attorney acting in accordance with general laws providing for the collection of delinquent Town or county taxes; by garnishments; by suits in chancery; or by any two (2) or more of the foregoing methods, or by the use of any other available legal process or remedy.

Section 34. Other general laws. Notwithstanding any provision of this charter, the Board may elect to operate under or adopt any general law or public act available to municipalities of the State, in lieu of or in addition to provisions of this charter.

Section 35. Ordinances to continue in effect. All ordinances, resolutions and bylaws of the Town of Samburg not inconsistent with the act shall remain in full force and effect until modified or repealed in accordance with the provisions of this act.

Section 36. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

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 Town of Samburg. Its approval or nonapproval shall be proclaimed by the presiding officer of the local legislative body and certified to the secretary of state.

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.