

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF CHATTANOOGA, AND ALL ACTS, ORDINANCES, AND OTHER CHARTER PROVISIONS AMENDATORY THEREOF, PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION 9, OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) SO AS TO CHANGE THE CITY'S CHARTER BY DELETING ARCHAIC PROVISIONS AND IMPROVING

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That the Charter of the City of Chattanooga be and is hereby amended as provided herein:

SECTION X. That Section 2 be deleted in its entirety and the following substituted in lieu thereof:

CORPORATE POWERS AND PROHIBITIONS GENERALLY

Sec. 2.1. General enumeration.

The city council of the City of Chattanooga shall have power by ordinance. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2)
(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

(1) Property taxes. To levy and collect taxes upon all property taxable by law for state purposes, but no property shall be exempt from taxation except property exempt from state taxes. (Priv. Acts 1869-70, Ch. 4, § 9, Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Property tax provisions generally, § 6.66 et seq.

(2) Privilege taxes; fees. To levy and collect taxes upon all privileges taxable by laws of the state; to impose any fee or charge reasonably necessary to the exercise of any of its powers. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2; Priv. Acts 1969, Ch. 82, § 5)

Editor's note-The provisions relating to fees and charges set out in § 2.1(2) are derived from § 5, Ch. 82, Private Acts 1969.

Cross reference-Privilege taxes generally, § 6.44 et seq.

(3) Appropriations; payment of city debts. To appropriate money and provide for the payment of all debts and expenses of the city. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2)

Cross references-Appropriations generally, § 6.91 et seq.; borrowing power of city generally, § 6.107 et seq.

(4) General health; abatement of nuisances. To make regulations to secure the general health of the inhabitants, and to prevent, abate and remove nuisances. The city shall have the power to abate and remove nuisances at the expense of the owner or owners and the expense shall be secured by a lien upon the property for which the expenditure is made, which lien shall be superior to all other liens, except liens for state, county and municipal taxes and special assessments, which lien may be enforced by suit in any court of competent jurisdiction of Hamilton County. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Declaration and abatement of nuisances, § 2.7.

(5) Contagious disease; quarantines. To make regulations to prevent the introduction of contagious disease in the city; to make quarantine laws for that purpose, and to enforce same within the corporate limits and within the city's police jurisdiction. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2)

(6) Hospitals. To establish hospitals, and make regulations for the government thereof. To establish and maintain a system of hospitals jointly with Hamilton County, and to make regulations for the operation, maintenance and government thereof. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2)

Cross references-Joint city-county hospitals, § 2.10; for joint city-county hospital board, § 9.3.

(7) Streets and sidewalks generally. To alter, abandon, widen, extend, establish, grade, pave or otherwise improve, clean and keep in repair streets, alleys and sidewalks or to have same done by the owners of adjacent property. The city shall have the power to require the owners abutting to construct, reconstruct, maintain and repair sidewalks in front of such property or the city may construct, reconstruct or repair such sidewalks at the expense of the owner or owners and the expense shall be secured by a lien upon the property for which the expenditure is made, which lien shall be superior to all liens except liens for state, county and municipal taxes, which lien may be enforced in any court of competent jurisdiction in Hamilton County. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Streets and sidewalks generally, Title 15.

(8) Bridges, culverts, sewers and gutters. To construct, erect, establish and keep in repair bridges, culverts, sewers and gutters. (Priv. Acts 1949, Ch. 536, § 2)

(9) Lighting streets and public buildings. To provide for lighting the streets and public buildings. (Priv. Acts 1949, Ch. 536, § 2)

(10) Markets and markethouses. To erect markethouses, establish markets and regulate the same. (Priv. Acts 1949, Ch. 536, § 2)

(11) Erection of buildings by city. To provide for the erection of all buildings necessary for the use of the city. (Priv. Acts 1949, Ch. 536, § 2)

(12) Public grounds. To provide for enclosing, improving and regulating all public grounds belonging to the city within or without the corporate limits. (Priv. Acts 1949, Ch. 536, § 2)

(13) Public wharves. To construct, maintain and repair public wharves, and to regulate the use of wharves, docks and landings, and to fix the rate of wharfage and the rent of any buildings or structures. (Priv. Acts 1949, Ch. 536, § 2)

(14) Gaming. To restrain and prohibit gaming. (Priv. Acts 1949, Ch. 536, § 2)

(15) Licenses-Generally. To license, tax and regulate all businesses and occupations in accordance with the general laws of the state.
Cross reference-Privilege taxes generally, § 6.44 et seq.

(16) Same-Vehicles for hire. To license, tax and regulate taxicabs, automobiles for hire, trucks and buses; to fix a rate to be charged for the carriage of persons and property by any vehicle held out to the public use for hire within the city; to require indemnity bonds, issued by surety companies, or indemnity insurance policies to be filed with the city by the owner or operator of any such vehicle for the protection of the city or any person against loss by injury to person or damage to property, and to make all needful rules or regulations for the government of such conveyances and their operation within the city and for a distance of seven miles beyond the city limits; to issue certificates of convenience and necessity for the operation of taxicabs, automobiles for hire and buses, and to determine the number of taxicabs, automobiles or buses needed for the furnishing of transportation to the inhabitants of the city and the public in general. (Priv. Acts 1949, Ch. 536, § 2)

(17) Same-Theatrical and other exhibitions; suppression of bawdy houses, gambling equipment, etc. To license, tax and regulate theatrical or other exhibitions, moving picture shows, amusements and to prohibit and suppress gambling houses, disorderly houses, bawdy houses, obscene pictures and literature; the sale, manufacture or transportation of intoxicating liquors in violation of the laws of the state or ordinances of the city, and to confiscate and destroy gambling equipment, stills and intoxicating liquors when manufactured, possessed or transported in violation of the federal or state laws or ordinances of the city. (Priv. Acts 1949, Ch. 536, § 2)
Cross reference-Privilege taxes generally, § 6.44 et seq.

(18) Same-Machines used for sport or skill, jukeboxes, etc. To license, tax and regulate machines for use for sport, skill or exhibition, including pinball machines, marble tables or machines, plunger shooting tables or machines, high score games, digger or grabbing machines, video game machines and jukeboxes or other musical devices or machines. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Privilege taxes generally, § 6.44 et seq.

(19) Firearms, fireworks, fire hazards, etc. To provide for the prevention and extinguishment of fires. To regulate and prohibit and suppress the sale of firearms and the carrying of concealed weapons; to regulate, prohibit and suppress the sale and use of firecrackers, fireworks and toy pistols and any other business of any character which may be declared to be dangerous to the security and well-being of the inhabitants or to property. To regulate, restrain and prohibit the erection of wooden buildings in any part of the city; to regulate and prevent the carrying on of manufactories dangerous in causing or producing fires. To regulate the transportation, storage and use of combustible, explosive and inflammable materials and the use of lighting and heating equipment and to provide for the abatement and prevention of fire hazards of all kinds. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2)

(20) Fire prevention bureau. To establish a fire prevention bureau for the enforcement of ordinances for the prevention of fires. (Priv. Acts 1949, Ch. 536, § 2)

(21) Weights and measures; standards of quality for foodstuffs. To establish standard weights and measures and regulate the weights and measures to be used in the city; to provide for their enforcement; to provide standards of quality for all foodstuffs and food products used for human consumption and to provide for their enforcement. (Priv. Acts 1949, Ch. 536, § 2)

(22) Inspection, weighing, etc., of lumber, coal, fuel, etc. To provide for the inspection and weighing or measuring of lumber, building material, stone, coal, coke, wood, fuel, hay, corn and other grain or feed. (Priv. Acts 1949, Ch. 536, § 2)

(23) Disorderly persons; breaches of the peace. To provide for the arrest, imprisonment and punishment of riotous and disorderly persons within the city, and for the punishment of all breaches of the peace, noise, disturbance or disorderly assemblies. (Priv. Acts 1949, Ch. 536, § 2)

(24) Animals and fowls. To license, tax, regulate or suppress the keeping and going at large of all animals, including domestic fowls, within the city, to impound the same, and, in default of redemption, to sell or kill the same; to regulate the treatment of animals and provide for the punishment of cruelty to the same. (Priv. Acts 1949, Ch. 536, § 2)

(25) Inspection department: buildings generally. To establish an inspection department for the inspection of the construction of buildings, plumbing, electrical, heating, and to license builders, electricians, plumbers, steamfitters and to impose license fees for permits for the construction of buildings, installation of electric wiring, plumbing or heating systems; to regulate the erection of buildings and other structures; to compel the owner to provide and

maintain fire escapes and other safety features, and to provide fire districts or zones and building zones; to regulate, prohibit or suppress or provide for the destruction and removal of any building or other structure which may be or become dangerous or detrimental to the inhabitants or to the public. (Priv. Acts 1949, Ch. 536, § 2)

(26) Eminent domain. To acquire by eminent domain land and grounds within the city for any municipal or corporate purpose when the public convenience and necessity require it. (Priv. Acts 1949, Ch. 536, § 2)

(27) Acquisition of land beyond corporate limits. To provide for the taking and appropriating of lands and grounds beyond the corporate limits of the city by condemnation when the public necessity so requires for any municipal purpose. (Priv. Acts 1949, Ch. 536, § 2)

(28) Acquisition of property for parks. To acquire all necessary property for park purposes within the corporate limits of the city, either by purchase, condemnation or otherwise. (Priv. Acts 1949, Ch. 715, § 2)
(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

(29) Acquisition of property in Moccasin Bend for parks, recreation. To acquire by gift, purchase or by the exercise of the power of eminent domain land and interest in land or property located generally within the Moccasin Bend of the Tennessee River, lying west of the corporate limits of the City of Chattanooga in Hamilton County, Tennessee, for park and recreational purposes. The city council of the City of Chattanooga shall have power to institute and prosecute any proceedings in the exercise of the power of eminent domain for the acquisition of such property for park and recreational purposes in accordance with the laws of the State of Tennessee relating to the exercise of such right and power, being Sections 3109, et seq., of the 1932 Code of Tennessee [T.C.A. Section 29-16-101 et seq.], and any and all Acts amendatory thereof.

The director of the budget or of accounts or other state official authorized to make allocations and distribution of state funds, be, and hereby is authorized to pay to the City of Chattanooga one hundred thousand dollars (\$100,000.00) appropriated for such purpose by the provisions of Chapters No. 181 and No. 268, Public Acts of Tennessee, 1951, respectively, to be used by the city along with funds provided by the city and Hamilton County and others for acquiring the property described in Section two (2) hereof for park and recreational purposes.

Hamilton County be, and hereby is authorized to appropriate not to exceed fifty thousand dollars (\$50,000.00) for the purpose of aiding the city in acquiring said property for park and recreational purposes. The availability of such park to the residents of Hamilton County will result in such benefits to such county and the citizens thereof as to make proper the contribution by the county to the cost of the acquisition of said land for park and recreational purposes.

The City of Chattanooga be, and hereby is authorized to appropriate not to exceed fifty thousand dollars (\$50,000.00) to be used for the purpose of

acquiring the property hereinabove described and to accept gifts from individuals, firms and corporations of funds to be used for said purpose.

The funds received from the State of Tennessee, Hamilton County, and from individuals, firms and corporations shall be deposited in a separate fund to be used exclusively for the purpose of acquiring said property. (Priv. Acts 1953, Ch. 2, §§ 2-6)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

(30) Protection of children and dumb animals. To provide for the protection of children and dumb animals and to provide for punishment for cruelty to same. (Priv. Acts 1949, Ch. 536, § 2)

(31) Acquisition, disposition, etc., of public buildings, etc. To erect, construct, equip, maintain and operate or sell, lease or dispose of any public building and equipment and appurtenances thereto within or without the corporate limits of the city. (Priv. Acts 1949, Ch. 536, § 2)

(32) Acquisition, disposition, etc., of land or buildings for municipal purposes. To purchase, lease or otherwise acquire and hold any land or building for any municipal purpose. (Priv. Acts 1949, Ch. 536, § 2)

(33) Disposition of surplus property. To authorize the sale, lease or disposition of any property belonging to the City of Chattanooga not needed for public purposes for the fair, reasonable market value thereof. (Priv. Acts 1949, Ch. 536, § 2)

(34) Heating and air conditioning; stationary engineers. To regulate the installation of boilers, heating systems, air conditioning systems and to require permits for such installations, and to examine and license stationary engineers engaging in operating steam plants within the corporate limits. (Priv. Acts 1949, Ch. 536, § 2)

(35) Loudspeakers and other noise making devices. To license, tax, regulate, prohibit and suppress the operation of loudspeakers or other noise making devices on vehicles, aircrafts or buildings. (Priv. Acts 1949, Ch. 536, § 2)

(36) Breaches of the peace; observance of the Sabbath. To prevent and punish by pecuniary penalties all breaches of the peace, noise, disturbances or disorderly assemblies in any street, house or place in the city by day or by night. (Priv. Acts 1949, Ch. 536, § 2)

(37) Solicitors; distribution of handbills. To license, tax and regulate solicitors and the distribution of handbills. (Priv. Acts 1949, Ch. 536, § 2)

(38) Privilege taxes and privilege licenses. To authorize the imposition of a fee of one dollar and fifty cents (\$1.50) for the collection of privilege taxes and the issuance of privilege licenses. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Privilege taxes generally, § 6.44 et seq.

(39) Right-of-way for public utilities. To grant rights-of-way through the streets, alleys, thoroughfares and tunnels and over the bridges of the city for the use of public or quasi-public utilities, and to provide the terms under which said permits may be granted. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Franchises, Title 7; public utilities generally, Title 14.

(40) Regulation of police; fines and imprisonments. To regulate the police of the city; to provide for fines, forfeitures and penalties for the breach of any ordinance of the city and for the enforcement, recovery and appropriation of the same, and to provide for confinement in a workhouse for failure to pay any fine. (Priv. Acts 1949, Ch. 536, § 2; Priv. Acts 1969, Ch. 82, § 2)

(Ord. No. 11305, §1, 08-22-02)

Amendment note-Priv. Acts 1969, Ch. 82, § 2, amended § 2.1(40) by providing for confinement in "a" workhouse in lieu of "the city" workhouse; by providing for confinement for failure to pay any fine instead of "any fine, penalty or forfeiture"; by removing the \$50.00 limitation on penalties.

Cross references-Courts, fines and imprisonments, Title 4; police and firemen generally, Title 13; authority to provide for city workhouse and imprison violators, § 4.8; maximum fine for ordinance violations, § 4.50.

(41) Police and fire departments. To provide for a police force and fire department and the organization and maintenance of the same, and to provide all proper equipment, houses and stations for said police force and the said fire department. (Priv. Acts 1869-70, Ch. 4, § 9; Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Police and firemen generally, Title 13.

(42) Anchoring and mooring of vessels. To regulate stationary anchorage and mooring of vessels, houseboats or rafts when in the city. (Priv. Acts 1949, Ch. 536, § 2)

(43) Closing of wells, cisterns, etc. To provide for temporary or permanent closing of wells, cisterns and springs used by the public whenever the same are or are likely to be injurious to health. (Priv. Acts 1949, Ch. 536, § 2)

(44) Creation of offices; appointment of officials. To create such offices and provide for the appointment or election of all officers as may be necessary for the good government of the city. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-City officers and employees generally, Title 3.

(45) Bonds of certain city officials. To designate the positions in the city administration, where not otherwise provided by the Charter, in which the incumbent shall give bond, and to fix the amount of such bond. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-City officers and employees generally, Title 3; duty of officers to give bond before entering into office, § 3.2.

(46) Consolidation, etc., of services with county, state, etc. To consolidate any of the services of the city with similar services of any authority authorized by law, county, state or other municipality or to use the service of any authority authorized by law, county, state or other municipality or to cooperate with any authority authorized by law, county, state or other municipality in the construction, establishment, use or acquisition of any services for the city and its inhabitants, upon agreement with the other authorities authorized by law or

jurisdictions as to the services to be provided by each and the respective shares of the cost involved. (Priv. Acts 1949, Ch. 536, § 2)

(47) Tourist camps, trailers, hotels, etc. To license, tax and regulate tourist camps, trailer camps, tourist homes, rest homes, hotels, inns and boardinghouses and the use and occupancy of trailers. (Priv. Acts 1949, Ch. 536, § 2)

(48) Tourist guides. To license, tax and regulate tourist guides within the city and within one mile of the corporate limits thereof. (Priv. Acts 1949, Ch. 536, § 2)

Cross reference-Privilege taxes generally, § 6.44 et seq.

(49) Milk. To establish a milk area for the city, and to license and inspect dairies and milk plants in said area; to license and inspect pasteurizing plants and other plants where milk and milk products are produced and processed, and to prohibit the sale of milk and milk products which have not been approved by the health director. (Priv. Acts 1949, Ch. 536, § 2)

(50) Dangerous, etc., houses and walks. To impose penalties upon the owner or owners, occupants or agents of any house, walk or sidewalk or other structures which may be considered dangerous or detrimental unless, after due notice to be fixed by ordinance, the same be removed or repaired; and, in the event the city shall at its own expense be compelled to remove or repair such property, the cost of such repairs or removal shall be and constitute a lien against said property, and the city shall also be entitled to a personal judgment against the owner or occupant thereof, and said lien may be enforced in any court of competent jurisdiction in Hamilton County. (Priv. Acts 1949, Ch. 536, § 2)

(51) Weeds, rubbish, etc. To impose penalties upon the owner or owners, occupants or agents of any lot or parcel of land in the city for permitting to remain thereon obnoxious weeds, rubbish, grass or leaves which may be considered dangerous or detrimental to the health or safety of the citizens unless, after due notice, to be fixed by ordinance, the same be removed; and, in the event the city shall at its own expense be compelled to remove such grass, rubbish, leaves or weeds from such lot or parcel of land the cost of such removal shall be and constitute a lien against said property, and the city shall also be entitled to a personal judgment against the owner or occupant thereof, and said lien may be enforced in any court of competent jurisdiction in Hamilton County. (Priv. Acts 1949, Ch. 536, § 2)

(52) Acts, businesses, etc., detrimental to public health, safety, etc. To define, prohibit, suppress, prevent and regulate all acts, practices, conduct, business, occupation, callings, trades, uses of property, and all other things whatsoever detrimental to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the city, and to exercise general police powers under the provisions of this Act and the general law. (Priv. Acts 1949, Ch. 536, § 2)

(53) Golf driving ranges and archeries. To license and regulate golf driving courses and archeries in said city, and to require a license from all persons operating or maintaining a golf driving course or archery of thirty dollars

(\$30.00) per annum for each golf driving course or archery. (Priv. Acts 1941, Ch. 535, § 2)

(54) Agents, etc., of boat manufacturers and jobber. To license all persons maintaining an office or place of business as agent or representative of any manufacturer or representative of any manufacturer or jobber of boats, or engaged in dealing in buying or selling boats, shall be classified as boat dealers, and shall pay a privilege tax for each place of business of fifty dollars (\$50.00) per annum. (Priv. Acts 1941, Ch. 535, § 2)

Cross reference-Privilege taxes generally, § 6.44 et seq.

(55) Gasoline filling stations. To, by ordinance, regulate the construction, maintenance and operation of gasoline filling stations; to require permits for the construction, opening and reopening of filling stations; to regulate and zone the streets on which gasoline filling stations may be hereafter erected and existing filling stations reopened, and to provide for the issuance or certificates of necessity and convenience for the construction of additional filling stations, and to determine the number of filling stations that may be permitted on any street or in any block of any street, and such other regulations as may be necessary for the public health, safety and welfare, and collect inspection fees therefor. (Priv. Acts 1939, Ch. 578, § 1)

Cross reference-Zoning generally, § 12.21 et seq.

(56) Barbershops and barber schools and colleges. To regulate the barber profession as practiced in said city, and barber schools or colleges or any barbershop operated in connection therewith, whether for the purpose of training students thereof or otherwise. (Priv. Acts 1937, Ch. 858, § 1; Priv. Acts 1959, Ch. 101, § 1)

State law reference-Municipal regulation of barbers and barbering, T.C.A. § 62-3-131.

(58) Venereal disease. To pass an ordinance to prevent the spread of venereal diseases within said city and to quarantine all persons arrested for prostitution or vagrancy found to be infected with any venereal disease arrested within said city and to provide means and methods for examination of all such persons and means and methods of treating all persons so infected. (Priv. Acts 1937, Ch. 28)

(59) Steam boilers, etc.; regulation of steam fitters. To, by ordinance, regulate the installation of steam boilers, pressure tanks, steam and hot water heating plants, and steam pipes of any character, and to create the office of steam fitter inspector and fix the compensation thereof, and the term of office, and require permits for the installation of steam boilers, pressure tanks, steam and hot water systems or the installation of steam pipes of any character. The provisions of this Act [subsection] shall not apply to any work done in connection with any manufacturing plant or assembly plant. (Priv. Acts 1935, Ch. 778, §§ 1, 2)

(60) Schools. (Repealed by Ord. 10079--see footnote 4) (RESERVED)
(Priv. Acts 1869-70, Ch. 4, § 9)¹

¹ **Editor's note**-Pursuant to Ord. No. 10079, adopted 8-9-94, ratified by vote of people on 11-8-94, Private Acts 1869-70, Chapter 4, Section 9, as it relates to schools, is hereby repealed as of June 30, 1997.

(61) Waterworks. To provide the city with water by waterworks or otherwise, within or beyond the boundaries of the city. (Priv. Acts 1869-70, Ch. 4, § 9)

(62) Watchmen. To establish, support and regulate watchmen by day and by night. (Priv. Acts 1869-70, Ch. 4, § 9)

(63) Ferries. To regulate ferries so as not to conflict with the laws of Tennessee. (Priv. Acts 1869-70, Ch. 4, § 9)

(64) Disorderly, etc., houses. To protect and suppress disorderly houses and bawdy houses. (Priv. Acts 1869-70, Ch. 4, § 9)

(65) Additional general powers. To pass all ordinances not contrary to the Constitution and laws of the state necessary for the health, convenience, safety and general welfare of the inhabitants of the city, and to carry out the full intent, corporate purposes and meaning of this Act as fully as if specifically authorized and as if the powers were expressly conferred. (Acts 1839-40, Ch. 32, § 3; Priv. Acts 1949, Ch. 536, § 2)

Cross reference-General authority of city council to pass ordinances, § 11.1.

(xx) General powers. To have and exercise all powers which now or hereafter would be competent for this charter specifically to enumerate, as fully and completely as though said powers were specifically enumerated herein; and such powers as may be authorized pursuant to general state law for a municipal government to exercise including, but not limited to, the power to sue or be sued, implead or be impleaded in all courts of law and equity; and no enumeration of particular powers by this charter shall be held to be exclusive.

Sec. 2.2. Establishment, alteration of wards.

The city council of the City of Chattanooga may by ordinance establish, alter, modify, change, abolish, merge or consolidate any district or districts within the boundaries of the city. (Priv. Acts 1965, Ch. 256, § 2)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 2.3. Municipal band.

The city council of said city shall have the power to establish and maintain a municipal band and to appropriate money from the municipal treasury for that purpose, and are hereby empowered to levy a special tax, not to exceed one-half (1/2) of one mill on the annual tax aggregate, for such purpose. (Priv. Acts 1927, Ch. 246, § 1)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Cross reference-Authority to appropriate for youth concerts, § 6.92.

Sec. 2.4. Opening and closing hours of merchants.

The city council may, by ordinance, regulate opening and closing hours of merchants, including grocery stores and meat markets, in the City of Chattanooga. (Priv. Acts 1937, Ch. 25, § 1)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 2.5. Parking meters.

(1) In order to promote public safety and relieve traffic congestion on the streets of the City of Chattanooga, said city be, and is hereby, authorized and empowered to provide by ordinance for the installation, operation, maintenance, policing and supervision of parking meters on its streets as an aid to the regulation and control of the parking of vehicles thereon, and to fix and require the payment of a fee for the privilege of parking opposite such meters when they are in operation, and to determine on what streets or parts of streets in said city parking meters shall be placed, and the hours during which same shall be in operation. In event there is any revenue left after paying the cost of acquiring, maintenance and enforcement of the ordinances authorized herein, such net revenue shall become a part of the general fund of the city.

(2) Ordinance No. 2331 of the City of Chattanooga, passed on third and final reading September 5th, 1939, entitled:

"An Ordinance relating to traffic and regulating the use of public streets and highways of the City of Chattanooga, Tennessee, providing for the installation, regulation and control of the use of parking meters; requiring deposit of coins for the use of parking meters and parking meter zones; establishing and defining parking meter zones; authorizing the payment for parking meters and the installation thereof, and for repairs and supply parts therefor exclusively from the receipts obtained from the operation of parking meters, and authorizing the setting aside of all or a part of said receipts as a special fund for such payment; providing for the enforcement hereof; providing penalties for a violation of the provisions hereof."

be, and the same is, hereby in all things validated, ratified and approved. (Priv. Acts 1941, Ch. 416, §§ 2, 3)

Editor's note-Ord. No. 2331, referred to above, was replaced by Ord. No. 4269, § 1, which was, in turn, replaced by Ordinance Nos. 6016, § 1, 6211, § 1, 7643, § 1, 7700, § 1, 8040, 8437, § 1, 8465, § 1, 8565, § 1 and 12626, § 3, the parking meter provisions, which are codified as section 24-316 et seq. of the Code of Ordinances.

Sec. 2.6. Lease contracts with federal government.

The charter of the City of Chattanooga, Tennessee, and all acts heretofore passed amendatory, be, and the same are hereby amended so as to authorize the city council of said city to enter into lease contracts with the United States of America for the use of any property owned by said city for the purpose of constructing armories and auxiliary buildings in which to house its military

forces, said lease contracts to be for such terms and upon such conditions as the city council may determine, and for such rental, including nominal rent, as may be agreed upon by the city council and representatives of the United States of America. (Priv. Acts 1951, Ch. 532, § 1)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 2.7. Declaration of nuisances; abatement of same.

The City of Chattanooga shall have power to make regulations to secure the general health and safety of the inhabitants, and to prevent and remove nuisances. In order to accomplish these objects, the city council may declare, by ordinance, what constitutes nuisances, and provide for the abatement of the same, and make or cause to be made all repairs and improvements necessary for the health, safety and convenience of the inhabitants; and all expenses or outlay of said city shall be reimbursed by the owner or owners, and shall be secured by a lien upon the property upon which the expenditure is made, which lien shall be superior to any other contractual lien and may be enforced by suit in the chancery court. (Priv. Acts 1937, Ch. 830, § 2) (Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Cross reference-Authority to abate nuisances, § 2.1(4).

Sec. 2.8. Creation, discontinuance, etc., of offices not provided for by charter.

Said city council and mayor shall have power from time to time to create, fill, and discontinue other offices and employments than those herein prescribed, according to their judgment of the needs of the city.

When said city council shall, as now authorized by law, create any new office, the ordinance creating such office may provide that it shall be filled by appointment by the Mayor with the approval of said city council. (Priv. Acts 1869, Ch. 4, § 6; Priv. Acts 1901, Ch. 432, § 6; Priv. Acts 1911, Ch. 10, § 21; Priv. Acts 1913, Ch. 301, § 4)

(Paragraphs 3, 4, and 10 of the Amended Plan appended to the Agreed Order, dated

1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 2.9. Authority to subscribe to stock in railroad or turnpike companies.

Said corporation [the city] shall have power to subscribe for stock in any railroad or turnpike company, and pay for the same with its bonds or otherwise; provided, that any subscription of stock herein provided for shall, before the same shall become valid and binding, be approved by a majority of the taxpayers of the city. (Priv. Acts 1866, Ch. 8, § 28)

Sec. 2.10. Construction, enlargement, etc., of joint city-county hospitals.

(1) Hamilton County, Tennessee, and the City of Chattanooga, Tennessee, be and are hereby authorized to jointly construct and maintain a new hospital or enlarge existing hospitals now jointly maintained by said county and city.

(2) After the completion of such hospital or hospitals, the county court and city are authorized to have the same operated by the existing hospital board now in charge of the operation of the hospitals operated and maintained jointly by Hamilton County and the City of Chattanooga. (Priv. Acts 1937, Ch. 314, §§ 1, 3)

Editor's note-Section 2 of Priv. Acts 1937, Ch. 314 has been omitted from this compilation, since it establishes a named board to supervise the original hospital construction.

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Cross reference-General authority to establish hospitals, § 2.1(6).

Sec. 2.11. Privilege tax on pleasure automobiles and motorcycles, taxicabs, buses, etc.

The city council of the City of Chattanooga, Tennessee, shall have power by ordinance to levy a privilege tax on automobiles for hire, taxicabs, automobile passenger buses, and require indemnity bonds in surety companies or indemnity insurance policies to be filed with the city finance officer of said city by the owner or operator of any such vehicle for the protection of the city or any person against loss by injury to person or property. The said city council shall also have authority to levy a privilege tax upon the running of automobiles for pleasure and motorcycles, not to exceed five dollars (\$5.00) per annum on automobiles and two dollars (\$2.00) per annum on motorcycles. Said license shall be renewable annually, and for said license and each renewal thereof a fee fixed by ordinance not to exceed five dollars (\$5.00) for automobiles and not to exceed two dollars (\$2.00) for motorcycles may be charged. (Priv. Acts 1929, Ch. 652, § 3) (Paragraphs 4 and 13 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Cross reference-Privilege taxes generally, § 6.44 et seq.

Sec. 2.12. Repealed. (Ord. No. 11306, §1, 08-22-02)

Editor's note-The repealed section dealt with the City being prohibited from operating off-street parking facilities.

Sec. 2.13. Reserved.
(Ord. No. 10741, § 1(1), 8-18-98)

Sec. 2.14. Supplemental pension payments.

The city council may by ordinance provide for supplemental payments to all persons who are receiving a pension from the City of Chattanooga, and the same shall be payable from the general funds of the city. (Ord. No. 6783, § 1, 8-13-74)

Editor's note-Ord. No. 6783, § 1, adopted Aug. 13, 1974, proposed an amendment (Proposal 1) to the charter, subsequently approved at a referendum of the electorate Nov. 5, 1974. The provisions of § 2.14 became effective 60 days after date of election.

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

SECTION X. That Section 4 be deleted in its entirety and the following substituted in lieu thereof:

Sec. 4.1. Jurisdiction and appeals from city court for ordinance violations; contempt.

The city court shall be a court of record and shall have original and exclusive jurisdiction of all violations of municipal ordinances, and all state statutory offenses that may be adopted by reference pursuant to Tennessee Code Annotated §§ 55-10-307, 55-10-308, 16-18-302, or any other applicable state enabling legislation. In all city cases, in which the fine imposed does not exceed ten dollars (\$10.00), the judgment of the city court shall be final and no appeal shall be had therefrom. In all other cases an appeal may be taken to the circuit court of Hamilton County, as now provided by law.

The city court and the judge thereof shall have and exercise the same jurisdiction in cases of contempt of court as is now provided by statute for circuit and criminal courts and the judges thereof. (Priv. Acts 1901, Ch. 432, § 77; Priv. Acts 1901, Ch. 495, § 5; Priv. Acts 1915, Ch. 221)

Sec. 4.2. Court costs; litigation tax not required.

The city judge, in all cases heard or determined by this court for offenses against the corporate laws and ordinances, shall tax in the bill of costs an amount as established by the city council, and a litigation tax as provided by state law shall be added to that amount. The City Court Clerk shall collect, all fines, costs and forfeitures imposed by the municipal court for offenses against the laws and ordinances of the city, to be paid into the treasury.

The sum of five dollars (\$5.00) [shall] be added as and in the nature of court cost to the cost incurred in the city court of the City of Chattanooga on all forfeitures of fines or monies for or on conviction for violation of any city ordinances and that said increase in court costs for the city court of the City of Chattanooga be collected by the clerk of said court and paid over to the treasurer of the City of Chattanooga who will account for said funds and pay same over to the trustees of the firemen's and policemen's insurance and pension fund together with all other monies properly collected for credit to said fund as hereinbefore set out. (Priv. Acts 1937, Ch. 868, § 3; Priv. Acts 1945, Ch. 425, §§ 2-6; Priv. Acts 1969, Ch. 165, § 1; Ord. No. 10742, § 1(1), 8-18-98)

Sec. 4.3. Sessions of city court; signing of minutes and process.

A session of said city court shall be held daily except for holidays and weekends. All process issuing from said court shall be signed by either the judge or the clerk thereof. (Priv. Acts 1901, Ch. 432, § 78)
(Ord. No. 11308, §1, 08-22-02)

Sec. 4.4. Judge and clerk of city court may administer oaths.

Both the judge and clerk of said [city] court shall be authorized to administer oaths and affirmations. (Priv. Acts 1901, Ch. 432, § 81)

Sec. 4.7. -- 4.19. Reserved.

CHAPTER II. CITY JUDGE²

Sec. 4.20. Qualifications.

No person shall be eligible to the office of city judge unless he shall have been for at least one year next before his election a citizen of Tennessee and a resident of said city. (Priv. Acts 1911, Ch. 10, §§ 4, 22; Priv. Acts 1919, Ch. 76)

Sec. 4.21. Vacancies in office.

Any vacancy occurring in the office of the city judge shall be filled by appointment of the mayor, concurred in by the city council, which appointment shall be valid only until the next primary or general election or referendum which is held in the city after the vacancy occurs. (Priv. Acts 1911, Ch. 10, § 22; Ord. No. 11010, § 1, 5-9-00)

Sec. 4.22. Oath of office; bond.

The city judge shall take an oath of office and enter into a bond, with good security, to be approved by the City Council, in the sum of five thousand dollars (\$5,000.00), payable to the City of Chattanooga, and conditioned for the faithful discharge of the duties of his office. (Priv. Acts 1868, Ch. 45, § 15; Priv. Acts 1911, Ch. 10, § 13)
(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.23. Salaries to be paid semi-monthly.

The salaries for city judge(s) shall be set by the city council on an annual basis as part of the regular budget process; provided that no decrease in the salary of judges shall be enacted during the judges' term of office. Officials shall be payable in equal semi-monthly installments. (Priv. Acts 1949, Ch. 627, § 3; Priv. Acts 1970, Ch. 343, § 3)

Sec. 4.24. Acting Judges; vacancy.

In the event of the absence, incompetency, or other disability of the city judge, the mayor with confirmation of the city council may appoint some qualified person to act in his stead and while so acting he or she shall be vested with the same powers and shall perform the same duties hereby bestowed and imposed upon the city judge. Where the judge finds it necessary to be absent from holding court for not to exceed ten (10) business days, he may designate in writing to be filed with the clerk of the court a name of a special judge to hold court in his place and stead; said person shall be a person who has the qualifications of such a judge and who shall take the same oath and have the same authority as a regular judge to hold court for the occasion. In the event the office of city judge shall become vacant for any cause, the city council shall elect some qualified person to serve until the next general or primary election, at

² **Cross reference-**Minimum salary of city judges, § 3.6.

which time such judge shall be elected by the voters of such city as heretofore provided.

Sec. 4.25. - 4.29. Reserved.
(Ord. No. 11014, § 1, 5-9-00)

Sec. 4.30. Emergency special judges.

The mayor is hereby authorized and empowered to appoint emergency special judges of the city court during any period of emergency proclaimed by the mayor or any other state or municipal official authorized to proclaim a state of emergency in the city. Such emergency special judges shall possess all the judicial power and jurisdiction now conferred on the city court or city judge; may hold court sessions at such place or places as the judge of the first division may designate, either at the city courtroom or elsewhere, as the exigencies of the situation may demand; and the authority of such emergency special judges shall cease at the termination of the state of emergency. (Priv. Acts 1969, Ch. 102, § 7; Priv. Acts 1969, Ch. 180, § 3)

Secs. 4.31 -- 4.36. Reserved.

CHAPTER III. CLERK OF CITY COURT

Sec. 4.37. Reserved.
(Ord. No. 11018, § 1(1), 5-16-00)

Sec. 4.38. Clerk.

The mayor shall appoint the city court clerk at the time (s)he appoints all other department heads, subject to confirmation by a majority vote of the entire membership of the council. The term of the clerk shall be concurrent with that of the mayor and until the clerk's successor is appointed and qualified. The mayor may remove the clerk at any time with the approval of a majority vote of the entire membership of the council.
(Priv. Acts 1901, Ch. 432, § 76; Ord. No. 10742, § 1(1), 8-18-98; Ord. No. 11018, § 1(1), 5-16-00)

Sec. 4.39. Keeping of minutes and dockets.

The clerk of said court shall keep the records and minutes of the court in the same manner that the records and minutes of other municipal courts of state are required by law to be kept. The clerk shall also prepare for each session of the court a docket of all cases not previously disposed of. (Priv. Acts 1901, Ch. 432, § 80)

Sec. 4.40. Duties pertaining to functioning of court.

The clerk of the city court is hereby authorized to issue all writs and processes necessary to the functioning of said court; to administer oaths and to take acknowledgments; and to accept appearances, waivers and pleas of guilty to citations issued for traffic violations. (Priv. Acts 1969, Ch. 102, § 5)

Secs. 4.41 -- 4.49. Reserved.

CHAPTER IV. FINES, PENALTIES AND FORFEITURES

Sec. 4.50. Maximum fine for violation of ordinance.

The City Council shall have power by ordinance to provide for fines, forfeitures and penalties for the breach of any ordinance of the city and for the enforcement, recovery and appropriation of the same. (Priv. Acts 1901, Ch. 432, § 11; Priv. Acts 1911, Ch. 10, § 13; Priv. Acts 1969, Ch. 82, § 2) (Ord. No. 11305, §1, 08-22-02)

Editor's note-Prior to the enactment of Priv. Acts 1969, Ch. 82, § 2, § 4.50 provided: "The board of commissioners shall have power by ordinance to impose fines not to exceed fifty dollars (\$50.00) for the violation of any ordinance."

Sec. 4.51. Suits for and recovery of fines, penalties and forfeitures.

All fines, penalties or forfeitures imposed by the bylaws and ordinances of said corporation, shall be sued for and recovered as other moneys are under the existing laws of the state for the use of said city. (Acts 1839, Ch. 32, § 5; Priv. Acts 1911, Ch. 10, § 13)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 4.52. Reserved

SECTION X. That Section 5 be deleted in its entirety and the following substituted in

lieu thereof:

ELECTIONS OF MAYOR, COUNCIL MEMBERS AND CITY JUDGES³

- Ch. I. In General, §§ 5.1--5.25**
- Ch. II. Mayor and City Council §§ 5.26--5.37**
- Ch. III. City Judge, §§ 5.38--5.49**
- Ch. IV. Election Offenses, §§ 5.50--5.52**

CHAPTER I. IN GENERAL

Sec. 5.1. Which districts voters to vote in.

The voters shall vote by ballot, and only in the districts in which they may have resided thirty (30) days next preceding the election. (Acts 1889, Ch. 29, § 2)

³**Cross references**-City court generally, Title 4; mayor and city council generally, Title 8; recall of elective officers, § 3.18 et seq.; initiative and referendum, § 11.24 et seq.

Only persons who are residents of the City of Chattanooga shall be eligible to vote in City elections.

(Paragraph 27 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 5.2. Elections-Required.

Candidates to be voted for in all municipal elections at which the mayor and council members and city judges are to be elected under the provisions of this Title shall be nominated by a primary election to be held by the commissioners of election at Hamilton County, Tennessee, of the legally qualified voters of said city at large, and no other names shall be placed upon the official ballot or be voted for at such regular election except those selected in the manner hereinafter prescribed. (Priv. Acts 1911, Ch. 10, § 5; Priv. Acts 1911, Ch. 126, § 2)

(Paragraphs 4 and 28 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388 and Ord. No. 9713, § 1, 5-5-92, § 17.28 of Charter)

MAYOR AND COUNCIL ELECTIONS

Sec. 5.3. Same-When held; hours polls open.

Primary elections for Mayor and City Council members shall be held on the first Tuesday in March, 1993, and every four (4) years thereafter. The Mayor and each City Council member shall be elected by a majority of the votes cast for the office he or she seeks. If no candidate for Mayor or no candidate for one or more City Council seats attains a majority in the March elections, a run-off election shall be held on the second Tuesday in April. The run-off election shall be held between the two candidates in each such contest who received the highest number of votes. Those candidates elected either in the first election in March or in the run-off election in April shall file a bond, take the oath of office and assume their respective duties on the first Monday after the second Tuesday in April following the initial March elections, each to serve until the first Monday after the second Tuesday in April, 1997, or until a successor is elected and qualified. A Mayor and all City Council members shall be elected to four (4) year terms of office in the same manner thereafter.

Said primary and run-off elections shall be held, as far as possible, at the voting places in the various districts, and the polls shall be opened at 9:00 o'clock a.m. and closed at 7:00 o'clock p.m. (Priv. Acts 1911, Ch. 10, § 5; Priv. Acts 1951, Ch. 327, § 1) (Paragraph 28 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Editor's note-The phrase "the regular election" in the first sentence of § 5.3 has been replaced with the phrase "the second Tuesday in April," as hereinabove set out. Section 5.3 was impliedly amended by Ord. No. 7036, adopted May 11, 1976, set out in this charter compilation as § 5.13.1.

Sec. 5.4. Same-Supplemental registration.

The primary elections herein provided for shall be deemed elections within the meaning of the provisions of the election laws, requiring a supplemental registration preceding each election, so that there shall be such supplemental registration before each primary election and again before each regular election;

and registration as now provided by law, shall be a prerequisite to voting in either primary or other elections under this Act. (Priv. Acts 1911, Ch. 10, § 5)

Sec. 5.5. Same-Candidates to file petitions.

Any person desiring to become a candidate for mayor or city council member shall, at least thirty (30) days prior to said primary election, file with said board of election commissioners and over his own signature a statement of his candidacy; that he has the qualifications prescribed by this Act, and that he requests that his name be printed upon the official primary ballot and at the same time he shall file with said board of election commissioners the petition of at least twenty-five (25) qualified voters of said city requesting such candidacy. Each petition shall be verified by one or more persons as to the qualifications and residence, with street number of each of the persons so signing the said petition. (Priv. Acts 1911, Ch. 10, § 6; Priv. Acts 1911, Ch. 126, § 2; Priv. Acts 1939, Ch. 85, § 1)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 5.6. Same-Publication of names of candidates; distribution of ballots, etc.

Upon the expiration of the time of filing the statements and petitions for candidates, the said board of election commissioners shall cause to be published once a week for three (3) consecutive weeks in one or more daily newspapers published in the city the names of the persons that will appear upon the primary ballots for mayor and city council, respectively, and the said board of election commissioners shall thereupon cause the primary ballots to be printed and distributed, the primary held, the vote canvassed, and certified as now required by law in cases of regular municipal elections. (Priv. Acts 1911, Ch. 10, § 7; Priv. Acts 1911, Ch. 126, § 2; Priv. Acts 1915, Ch. 398, § 1; Priv. Acts 1939, Ch. 85, § 2; Priv. Acts 1957, Ch. 73, § 5)

Editor's note-In the opinion of the City Attorney, this section is modified by paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388.

Sec. 5.7. Reserved.

Sec. 5.8. Reserved.

Sec. 5.9. Same-Certification of names of two candidates receiving highest vote for each administrative post.

In each city primary election hereafter held, the board of election commissioners shall certify in writing to the city finance officer the names of the two (2) candidates for each administrative post receiving the largest number of votes therefor, or such candidate, if less than two (2). (Priv. Acts 1957, Ch. 73, § 5; Ord. No. 10742, § 1(1), 8-18-98)

Sec. 5.10. Same-Persons receiving majority vote in primary deemed elected.

In each city primary election hereafter held if any candidate for mayor, city judge or city council member shall receive a majority of the votes cast for all

candidates for the office or administrative post for which he was a candidate, he shall be declared elected, and given a certificate of election, and his name shall not be placed on the ballot in the regular election.

If, under the provisions of this section, said primary election shall result in the election of candidates to fill all of the offices to be filled, no further election shall be held, and the term of office of all officers elected as the result of said primary election shall begin at the time it would have begun if they had been elected at the regular or second election provided for in the Charter of the City of Chattanooga. (Priv. Acts 1957, Ch. 73, § 6; Priv. Acts 1959, Ch. 13, § 1) (Paragraphs 3, 4 and 28 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 5.11. Same-Inspectors at voting places.

Each of the candidates to be voted for in said primary or run-off election shall, upon conferring that authority in writing, have, from the opening of the polls until the votes shall have been counted and certified by the elections officers, an inspector at each voting place to watch the election. (Priv. Acts 1911, Ch. 10, § 8)

Sec. 5.12. Same-Expense of primary election.

The said board of election commissioners shall also certify to the City of Chattanooga for payment such expense as shall have been properly incurred in holding said primary election, and said amount of expense shall be a charge against said city, and shall be paid by it in like manner as other miscellaneous expenses. (Priv. Acts 1911, Ch. 10, § 7)

Sec. 5.13. Purpose of regular election.

Any regular election hereafter shall be held for the purpose of filling such offices and not otherwise filled as the result of the primary and in accordance with the provisions of section 6 of this act [section 5.10 hereof]. (Priv. Acts 1957, Ch. 73, § 7) (Paragraph 3 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 5.14. Reserved.

Sec. 5.15. Compensation of commissioners of election.

The City of Chattanooga shall pay the commissioners of election of Hamilton County reasonable compensation for their services in and about municipal elections, the same to be determined and fixed by the city council of said city, but not to exceed one hundred dollars to each commissioner in any one year. (Priv. Acts 1911, Ch. 10, § 26)

Editor's note-In the opinion of the City Attorney, this section is modified by paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388.

Secs. 5.16 -- 5.25. Reserved.

Sec. 5.26. Council to be judge of eligibility and election of members of board.

Said city council shall judge the eligibility and the election of its members. (Priv. Acts 1911, Ch. 10, § 14)

Editor's note-In the opinion of the City Attorney, this section is modified by paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388.

Sec. 5.27. Effect of redistricting on residency requirement.

Any reorganization and adjustment of district boundaries shall not affect any candidate's eligibility for City office in a redistricted area where the candidate has resided in the new district for at least one year. (Ord. No. 9724, § 1(2), 5-19-92)

Secs. 5.28 -- 5.37. Reserved.

CHAPTER III. CITY JUDGES

Sec. 5.38. Term of office.

The term of office of the city judges of Chattanooga, Tennessee, shall be for a term of eight (8) years commencing on September 1, 2006 and until a successor is elected and qualified. (Priv. Acts 1949, Ch. 192, § 3; Ord. No. 10740; § 1(1), 8-18-98)

Sec. 5.38.1.

Separate elections shall be held for each of the two (2) divisions of City court.

Sec. 5.39. Manner of nomination and election.

Candidates to be voted for the office of city judge shall be nominated by a primary election to be held by the commissioners of election at Hamilton County, Tennessee, of the legally qualified voters of said city at large, and no other names shall be placed upon the official ballot or be voted for at such regular election except those selected in the manner hereinafter prescribed.

The primary election for such nomination shall be held on the first Tuesday in May before the August elections. Qualification of candidates, certification of petitioners, and the conduct of the election shall be as set forth in the state's "Election Code."

In each primary election hereafter held, if any candidate for city judge shall receive a majority of the votes cast for all candidates for the office, (s)he shall be declared elected, given a certification of election, and no further election for the office shall be held at the following August general election, and the term of office shall begin at the time it would have begun if the regular August election for city judge had been held.

If no candidate receives a majority of all votes cast at the May primary for the office of city judge, a regular election shall be held for the purpose of filling the office on the following first Thursday of August. In any such regular election hereafter held, the two (2) candidates who receive the largest number of votes for city judge in the primary shall be the candidates, and the only candidates whose names shall be placed upon the ballot. (The term of office shall begin on September 1, after the August election.) (Priv. Acts 1949, Ch. 192, § 4; Priv. Acts 1969, Ch. 102, § 2; Ord. No. 10740, § 1(2), 8-18-98)

Secs. 5.40 – 5.49. Reserved.

CHAPTER IV. ELECTION OFFENSES

Sec. 5.50. Offenses in state elections declared to be offenses in city elections.

Every act or deed, whether of commission or omission, denounced by law as an offense in the case of regular state elections is hereby declared to be a like offense in the case of any primary, regular or removal election held under this Act, and to be punishable in like form and manner. (Priv. Acts 1911, Ch. 10, § 10)

State law reference-Prohibited practices under state election code, T.C.A. § 2-19-101 et seq.

Sec. 5.51. Offering reward, etc., for vote prohibited.

Any candidate for nomination or election under this Act who shall to any person pay, give, or offer to pay or give, directly or indirectly, money or anything of value, or who shall knowingly suffer any person to do so, for the purpose of obtaining the vote or influence of an elector, or of obtaining his vote or influence against an opposing candidate, shall be disqualified as mayor or council member [or city judge], and this section shall be so construed as to prohibit any candidate for nomination or election under this Act from promising to appoint or use his influence for the appointment of any person to a position of income. (Priv. Acts 1911, Ch. 10, § 11)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388)

Sec. 5.52. Bribery.

Any person who shall agree to perform any services in the interest of any candidate for any office provided in this Act, in consideration of any money or other valuable thing for such services performed in the interest of any candidate, shall be punished by a fine not exceeding three hundred dollars (\$300.00) or be imprisoned in the county jail not exceeding thirty (30) days. (Priv. Acts 1911, Ch. 10, § 12)

SECTION X. That Section 6.167. be deleted in its entirety and the following substituted in lieu thereof:

Sec. 6.167. Appropriations for, use of legal liability fund.

There shall be included in the budget and appropriated to the legal liability reserve fund an amount which the city council reasonably anticipates will be needed to create and maintain the fund at a level to meet any liability of the city under the Tennessee Governmental Tort Liability Act and any other applicable laws that may create liability resulting from acts or omissions of any officials, officers or employees of the city while engaged in the exercise of any of their functions, governmental or proprietary. Disbursements from the fund shall be made only for this purpose and the cost for litigation claims for or against the city, and neither the creation of this fund, nor the appropriation of money to the fund from whatever source, shall constitute a waiver of any legal immunity from suit for acts or omissions of officers and employees of the city, and the city council shall not have the power to waive such immunity. The city attorney may settle or compromise and authorize payments from the legal liability fund, which does not exceed fifteen thousand (\$15,000.00) dollars. The city council may increase this amount by ordinance. All payments in excess of fifteen thousand (\$15,000.00) dollars or larger amounts, as may be subsequently amended by ordinance, are subject to approval by the city council. (Acts 1923, Ch. 580, § 2)

SECTION ____. That the present Charter of the City of Chattanooga, Title 6, Chapter II, Section 6.35, and all Acts and Ordinances amendatory thereof, which currently state

Sec. 6.35. Delinquent tax attorney-Appointment.

The Mayor shall appoint some practicing attorney or attorneys as Delinquent Tax Attorney(s) who shall proceed with the collection of delinquent taxes as provided by the provisions of this article and applicable laws.

shall be amended by deleting the language in said sections in their entirety and inserting in lieu thereof the appropriately designated section:

The Mayor may appoint a practicing attorney or the City Attorney's Office as the Delinquent Tax Attorney to proceed with the collection of delinquent taxes as provided by the provisions of this Title and applicable laws.

SECTION ____. That the present Charter of the City of Chattanooga, Title 9, Chapters I, II and III, and all Acts and Ordinances amendatory thereof, which currently state

MUNICIPAL BOARDS AND COMMISSIONS⁴

- | | |
|-----------------|-------------------------------------------|
| Ch. I. | In General, §§ 9.1--9.13 |
| Ch. II. | Reserved, §§9.14 - 9.28 |
| Ch. III. | City-County Historical Commission, |
-

§§ 9.29--9.34

CHAPTER I. IN GENERAL

Sec. 9.1. Board of electrical examiners.

The city council of the City of Chattanooga, Tennessee, are hereby authorized and empowered to license and regulate the business of electricians and electrical work of all character in said city, and create a board of electrical examiners, and to pass all ordinances necessary to carry out and enforce the powers herein granted. (Priv. Acts 1933, Ch. 572, § 2)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 9.2. Boards of plumbing examiners.

The city council of the City of Chattanooga, Tennessee, shall have power by ordinance to regulate and control plumbers and plumbing works; to provide by ordinance for the creation of boards of plumbing examiners and for the licensing of plumbers and to pass all other ordinances necessary to carry out and enforce the powers herein delegated. (Priv. Acts 1929, Ch. 584, § 2)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Cross reference-Privilege taxes generally, § 6.44 et seq.

Sec. 9.3. Hospital board.

There be, and hereby is created a hospital board consisting of Z.U. Wheland, A.F. Porzelius and Allen Lupton, who shall have charge of selecting a site, plans and the making of all contracts in connection with the erection of a new hospital or the enlargement or extension of existing hospitals now jointly operated by Hamilton County and the City of Chattanooga. Said board shall make such contracts in the joint names of Hamilton County and the City of Chattanooga; provided, however, that said board shall not make contracts for the expenditure of sums in excess of that allotted by said county and city for the erection or extension of such hospitals. (Priv. Acts 1937, Ch. 314, § 2)

Cross reference-General authority to establish and maintain hospitals, § 2.1(6).

Secs. 9.4 -- 9.13. Reserved.

CHAPTER II. RESERVED

Secs. 9.14 -- 9.28. Reserved.

CHAPTER III. CITY-COUNTY HISTORICAL COMMISSION

Sec. 9.29. Created; power, authority.

There is hereby created and established the Chattanooga-Hamilton County Historical Commission which is hereby vested with power and authority to

acquire by lease, purchase, gift or otherwise, real estate and any and all other forms of property to carry out the purposes of this Act [chapter]. The commission is hereby vested with the authority and power to own and operate a historical museum, to collect, exhibit, and otherwise preserve, publish and disseminate the historical lore of Chattanooga and Hamilton County, Tennessee; to prepare records, exhibits, and to distribute all appropriate historical data; to conduct research programs and educational programs, and use all recognized methods in collecting and preserving the history of the people who founded Hamilton County and Chattanooga, who have lived in the area since it was founded, furnished it leadership and performed noteworthy human deeds in business, commerce, education, military adventure, and in all other fields of human endeavor; to collect data concerning the institutions said people have established and to set up a central place or headquarters from which said programs will be operated and said exhibits will be placed on public display. (Priv. Acts 1953, Ch. 522, § 1)

Sec. 9.30. Membership; terms.

The Chattanooga-Hamilton County Historical Commission shall be composed of a board of seven (7) members who shall have terms of seven (7) years. The terms of the members of the first commission shall be staggered so that the term of one member shall expire on April fifteenth (15th) of each year. Each succeeding commissioner shall have a term of seven (7) years, starting on April fifteenth (15th) of the year of his or her election. The Governor of Tennessee, the Comptroller of the State Treasury, the County Judge of Hamilton County, and the Mayor of the City of Chattanooga, will serve as ex officio members of the commission, each having one vote on all matters brought before the commission for consideration. The governor, comptroller, mayor and county executive shall hold a seat on the commission by virtue of their office and their terms will coincide with their terms as governor, comptroller, mayor and county executive. It is the intent of this Act [chapter] to create seven (7) commissioners in addition to the governor, comptroller, mayor and county executive. (Priv. Acts 1953, Ch. 522, § 2)

Sec. 9.31. Terms of initial members; filling vacancies.

The members of the first commission, in addition to the governor, comptroller, mayor and county executive, shall be Miss Zella Armstrong, Hugh P. Wasson, Fred Hixson, Paul Mathes, Roy McDonald, Scott Brown, and Col. Van Dyke Ochs. The term of Miss Armstrong shall be from April 15, 1953 until April 15, 1960; the term of Hugh P. Wasson shall be from April 15, 1953 until April 15, 1959; the term of Fred Hixson shall be from April 15, 1953 until April 15, 1958; the term of Roy McDonald shall be from April 15, 1953 until April 15, 1956; the term of Scott Brown shall be from April 15, 1953 until April 15, 1955; the term of Col. Van Dyke Ochs shall be from April 15, 1953 until April 15, 1954. All vacancies on the commission shall be filled by a majority vote of the members of the commission. (Priv. Acts 1953, Ch. 522, § 3)

Sec. 9.32. Officers.

The commission shall elect from its membership a chairman, vice-chairman, secretary and treasurer. It shall be the duty of the chairman to preside over all meetings of the commission and during his absence the vice-chairman shall act as chairman and exercise all the authority and power vested in the chairman. The secretary shall keep or cause to be kept a well bound record of all

proceedings, transactions, accounts, et cetera, and shall have general supervision over all records, research and educational programs of the commission. The treasurer shall be the custodian of all funds of the commission which shall be disbursed only upon warrants signed by the treasurer and chairman. He shall be required to give bond for the faithful performance of his duties of not less than five thousand dollars (\$5,000.00) and such additional amount or amounts as the commission may from time to time determine is advisable. (Priv. Acts 1953, Ch. 522, § 4)

Sec. 9.33. Employees.

The commission shall have authority, from time to time, to hire such personnel as shall be deemed necessary to carry out the purposes of this Act [chapter]. The commission shall have the authority to fix the wages and salaries of such personnel and determine the terms of employment and the duties of said personnel. (Priv. Acts 1953, Ch. 522, § 5)

Sec. 9.34. Acquisition, holding of property.

All property acquired by the commission under this Act [chapter] shall be held in the name of the Chattanooga and Hamilton County Historical Commission, which shall have and is hereby vested with power and authority to exercise the power of eminent domain to acquire any land or lands deemed essential by the commission to carry out the purposes of this Act [chapter]. (Priv. Acts 1953, Ch. 522, § 6)

shall be amended by deleting the language in said sections in their entirety and inserting in lieu thereof the appropriately designated section:

MUNICIPAL BOARDS AND COMMISSIONS

The legislative body of the City is authorized to create and establish municipal boards and commissions as it deems Planning Commission with authority to act pursuant to laws of the State of Tennessee and as the same may be amended, including Private Acts of the Tennessee General Assembly applicable to the City of Chattanooga, including appropriating funding and hiring of staff to perform duties of the Municipal Planning Commission.

SECTION ____. That the present Charter of the City of Chattanooga, Title 11, Chapter I,

Section 11.5, which currently state:

Sec. 11.5. Signing of ordinances, etc.; recordation in book by Clerk of the City Council.

Every ordinance and resolution upon final passage on third reading shall be signed by the council chairperson, vice-chairperson or chairperson pro tempore, and shall also be approved or vetoed by the mayor and shall then be delivered to the clerk of the city council.

shall be amended by deleting the language in said sections in their entirety and inserting in lieu thereof the appropriately designated section:

Every ordinance and resolution upon final passage shall be signed by the council chairperson, vice-chairperson or chairperson pro tempore, and shall also be approved or vetoed by the mayor and shall then be delivered to the clerk of the city council.

SECTION ____. That the present Charter of the City of Chattanooga, Title 12, entitled “Planning, Zoning and Development” in Chapters I, II and III, and all Acts and Ordinances amendatory thereof, be and is hereby further amended as follows:

(a) That Sections 12.1, 12. 2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.9 and 12. 10 which currently state:

CHAPTER I. PLANNING⁵

Sec. 12.1. Commission authorized.

The legislative body of each incorporated municipality having a population of not less than 50,000 nor more than 70,000 inhabitants by the federal census of 1920, or by any subsequent federal census, is hereby authorized and empowered to create by ordinance a city planning commission for such municipality. (Priv. Acts 1923, Ch. 397, § 1)

Sec. 12.2. Membership of commission; terms; filling vacancies; compensation.

Such city planning commission shall consist of not less than seven (7) nor more than fifteen (15) citizen members, to be appointed by the mayor, by and with the consent of the legislative body of the municipality, and six (6) members ex officio. The mayor, four (4) members of the legislative body of the municipality, to be selected by it, and the city engineer shall be *ex officio* members of said city planning commission, and in addition there shall be a secretary, likewise appointed by the mayor, who shall have custody of the books and records of the commission, but shall have no vote. The citizen members of the city planning commission first appointed shall be designated by the mayor in

groups as nearly equal in numbers as may be, the group members to serve respectively for terms of one year, two (2) years, and three (3) years. Thereafter each citizen member shall be appointed for a term of three (3) years. Vacancies shall be filled by appointment for the unexpired term only. Members of such commission, and the secretary, shall serve without compensation, but the legislative body of the municipality may make appropriation to cover the actual, necessary and reasonable expenses of said commission, said appropriation to be made after the submission to the legislative body by said commission of its budget, as provided for in Section 9 [section 12.9] hereof. (Priv. Acts 1923, Ch. 397, § 2)

Sec. 12.3. Meetings; officers; quorum; record of proceedings.

The city planning commission shall meet at least once a month. The commission by majority vote shall select one member as chairman and another as vice-chairman, each of whom shall serve for one year and until a successor has been elected. Special meetings may be called at any time by the chairman. A majority of the commission shall constitute a quorum for the transaction of business. The commission shall constitute a quorum for the transaction of business. The commission shall cause a proper record to be kept of its proceedings. (Priv. Acts 1923, Ch. 397, § 3)

Sec. 12.4. Duties generally.

It shall be a duty of the city planning commission to collect data and to keep itself informed as to the best practices, and the advancement made generally, in the art of city planning to the end that it may be qualified to act on matters that affect the present and future movement of traffic, the convenience and the safety of persons and property, the health, the recreation and the general welfare and amenities and all other needs of the municipality which are dependent upon the city plan. (Priv. Acts 1923, Ch. 397, § 4)

Sec. 12.5. Plans and recommendations required.

With a view to the systematic planning of such city, the city planning commission shall have power and it shall be its duty to make plans and maps of the whole or any portion of said municipality and of any land outside which, in the opinion of the city planning commission, bears relation to or affects its future growth and expansion, and to make changes in such plans or maps when advisable. Such plans or maps shall show the commission's recommendations for new streets, alleys, ways, viaducts, subways, parkways, parks, playgrounds, or any other public grounds or public improvements; and for the removal, relocation, widening, or extension of such public grounds or works then existing. Such plans and maps with the commission's recommendation shall be submitted to the mayor and legislative body of such municipality from time to time, but said commission shall in any event transmit to the mayor and legislative body thereof at least once every twelve (12) months, an annual report of its activities, with maps and plans and its specific recommendations concerning the location and development of streets, transportation and communication facilities and other public improvements and future projects to be undertaken.

The commission shall have authority to recommend provisions for the preservation and care of historical landmarks, for the control of the design and location of statuary, and other works of art which are, or may become the

property of the municipality, and for the removal, relocation, and alteration of such works belonging to the municipality, and for the design and location of harbors, bridges, viaducts, street fixtures and other public structures and appurtenances. (Priv. Acts 1923, Ch. 397, § 5)

Sec. 12.6. Repealed. (Ord. No. 11309, §1, 08-22-02)

Editor's note-The repealed section dealt with approval of public buildings, improvements, facilities.

Sec. 12.7. Approval of plans, plots, dedications, utilities.

All plans, plots, or replots of land hereafter made, that shall be laid out in building lots, and streets, alleys, or other portions of the same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto, located within the city limits or for a distance of three (3) miles outside thereof, shall be submitted to the city planning commission for approval; provided, however, that in case of its disapproval, the city planning commission shall communicate its reasons for disapproval to the legislative body of the municipality, and thereupon by majority vote of such legislative body it shall have the power of overruling such disapproval. The disapproval of any such plans by the said mayor and legislative body shall be deemed a refusal of the proposed dedication shown thereupon; its approval shall be deemed an acceptance of the proposed dedication, but shall not impose any duty upon the city as to the maintenance or improvement of such dedicated parts until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement.

Such municipality shall lay no sewer, water, or gas main or pipes, or make any other improvement within such an area for the use of purchasers or owners, nor shall any permit for connection with or other use of any such improvement already existing be given to any such purchasers or owners until such plan has been approved as aforesaid, or until the lapse of sixty (60) days after said plan shall have been submitted for approval without action either approving or disapproving the same.

Where the jurisdictional limit of three (3) miles outside the city limits, as provided in this section, may conflict with a zone of similar character connected with another city, the jurisdiction of said commission shall extend only to the point equidistant between the city limits and the limits of such adjacent municipality. (Priv. Acts 1923, Ch. 397, § 7)

Sec. 12.8. Preparation of zoning plan.

The city council, for the purpose of promoting the public health, safety, morals, or the general welfare of said city, may authorize the city planning commission to prepare a plan for regulating and restricting the height, number of stories, and size of the buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes, and to give it such authority as it may be authorized to do by law. (Priv. Acts 1923, Ch. 397, § 8)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 12.9. Employment of professional clerical assistance.

The mayor of such municipality, upon the recommendation of the city planning commission, and by and with the consent of the legislative body of such municipality, may contract for the services of architects, landscape architects and engineers, and any other professional services necessary to carry out the purposes of this Act, or any other duties entrusted to this commission by law, or to assist in carrying out the plans and projects recommended by the said commission, and said commission may be given power to appoint such clerks, draftsmen, and other subordinates as it shall deem necessary, within the amounts appropriated by the city. (Priv. Acts 1923, Ch. 397, § 9)

Sec. 12.10. Budgets of commission.

The city planning commission shall annually submit to the mayor and city council of Chattanooga, its budget for the ensuing fiscal year, itemizing the proposed expenditures and their purposes. The city council shall thereupon consider said budget and make such allowances to the city planning commission as it shall deem necessary, the expenditures for such services and employments to be within the amounts appropriated by the city. (Priv. Acts 1923, Ch. 397, § 9)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

shall be amended by deleting the language in said sections in their entirety and inserting in lieu thereof the appropriately designated section:

CHAPTER I. PLANNING

The legislative body of the City has been authorized to create and establish a Municipal Planning Commission with full authority to act on all zoning plans, plots, replots, recommendations, dedications, and utilities pursuant to laws of the State of Tennessee, pursuant to Priv. Acts 1923, Ch. 397, §§ 1 - 9 and as the same may have been amended, including other Private Acts of the Tennessee General Assembly and General Laws of the State which are applicable to the City of Chattanooga, including appropriating funding and hiring of staff to perform duties of the Municipal Planning Commission. The legislative body of the City is further authorized to enter into Interlocal Agreements pursuant to State law for the funding of a Regional Planning Commission and/or Regional Planning Agency as authorized by State law.

- (b) That Sections 12.21, 12.22, 12.25, 12.26, 12.27 which currently state:

CHAPTER II. ZONING⁶

Sec. 12.21. Use regulations authorized generally; purposes.

For the purpose of promoting the public health, safety, convenience and morals, and the general welfare of the community, the legislative body of cities having not less than 50,000 nor more than 70,000 inhabitants by the federal census of 1920, or any subsequent federal census, is hereby empowered to regulate and restrict by ordinance, the location of trades and industries and the location of buildings, designed for specific uses, and for said purposes, to divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this section.

For such districts, regulations may be imposed by ordinance designating the uses for which buildings may or may not be erected or altered and designating the trades and industries that shall be excluded or subjected to special regulations. Such regulations shall be in accordance with a plan designed to lessen congestion on the public streets, to regulate the density of population, to promote the public health, safety, convenience and general welfare, and shall be made with reasonable consideration, among other things, to the character of the district, its peculiar suitability for particular uses, the conservation of property values, and the direction of building development. (Priv. Acts 1923, Ch. 402, § 1)

Sec. 12.22. Height, area regulations authorized generally; purposes.

Such legislative body may regulate by ordinance and limit the height and the bulk of the buildings hereafter erected, or hereafter altered as provided in the fifth section [section 12.25] hereof, and regulate and determine the percentage of land area to be devoted to yards, courts, and other open spaces, and for said purposes may divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this section. Such regulations shall be uniform for each class of buildings throughout each district, but the regulations in one or more districts may differ from those in another district.

Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements, and otherwise to promote the public safety, health, convenience, and the general welfare. Such regulations shall be further made with reasonable consideration to the character of the district, the character of the buildings then existing therein, and the value of the land therein, and the peculiar suitability of the district for particular uses, and with a further view to conserving the value of the buildings, stabilizing the value of land and encouraging the most appropriate use of land throughout such municipality, all for the purpose of promoting the public health, safety, convenience, and the general welfare. (Priv. Acts 1923, Ch. 402, § 2)

Sec. 12.25. Pre-existing uses and structures.

The lawful use of premises existing at the time of the adoption of an ordinance under the provisions of this Act [article], although such use does not conform to

the provisions of such ordinance, may be continued; and the lawful use of a building existing at such time, although such use does not conform to the provisions of such ordinance, may be continued throughout the life of the building; provided, that no alteration thereof to a greater extent than fifteen per cent (15%) of the then value of such building, except those required or permitted by an ordinance adopted hereunder, are made therein; but if such nonconforming use is discontinued, any future use of said premises shall be in conformity with the provisions of ordinance and regulations adopted under the authority of this Act [article].

When structural alterations greater in extent than fifteen per cent (15%) of the then value of the building are made in a building of nonconforming use, such building shall be altered in conformity with the provisions of ordinances and regulations adopted under the authority of this Act [article], for the district in which such building is located, and thereafter the use of such building shall be in accordance with ordinances adopted hereunder.

When the boundary line of any such district divides a parcel of ground in common ownership at the time of the adoption of an ordinance under the provisions of this Act [article], nothing herein shall be construed to prevent the extension of the use existing on either portion of such parcel of ground, to the entire parcel, but for a distance of not greater than twenty-five (25) feet from such boundary line.

Nothing in this Act [article] shall be taken to prevent: (a) the erection of a building for which a permit shall have been issued previous to the passage of an ordinance under the provisions of this Act [article]; (b) the restoration of a building destroyed to the extent of not more than seventy-five per cent (75%) of its reasonable value, by fire, explosion, or other casualty, or act of God, or the public enemy, nor the continued occupancy or use of such building or part thereof after restored, which existed at the time of such partial destruction; (c) the restoration of a wall declared unsafe by the building inspector. (Priv. Acts 1923, Ch. 402, § 5)

Sec. 12.26. Advisory and appeals board.

The legislative body of such municipality may create a board whose duty it shall be to advise the mayor of such municipality or other officer having control over the enforcement of the provisions of an ordinance adopted under this Act [article], with reference to the proper enforcement and application of the provisions of such ordinance. Such board may be given power to hear appeals from the action of such building commissioner or other officer aforesaid, and determine the rights of such applicant. The decision of such board, however, shall be subject to review by the city council of such municipality. The board herein provided for may consist of the city planning commission, where such commission exists in any municipality, or any portion thereof as provided for by ordinance, such portion thereof to be selected by the mayor, by and with the consent of the legislative body of the municipality. (Priv. Acts 1923, Ch. 402, § 6)

(Paragraph 4 of the Amended Plan appended to the Agreed Order, dated 1-18-90, in the case of Brown v. Board of Commissioners, U.S.D.C., No. CIV-1-87-388).

Sec. 12.27. Penalties and enforcement.

The legislative body of such municipality may fix such penalty or fine for the violation of any ordinance adopted hereunder as it may be authorized to do by charter or the general law, to be enforced and collected as provided by charter or general law; and in addition, such municipality shall have power to file a bill to restrain such threatened violation or to abate it once initiated or carried on. (Priv. Acts 1923, Ch. 402, § 7)

shall be amended by deleting the language in said sections in their entirety and inserting in lieu thereof the appropriately designated section:

CHAPTER II. ZONING

The legislative body of the City has been empowered with full authority pursuant to laws of the State of Tennessee, pursuant to Priv. Acts 1923, Ch. 402, §§ 1 - 7 and as the same may have been amended, including other Private Acts of the Tennessee General Assembly and General Laws of the State to establish zoning or land use regulations applicable to the City of Chattanooga, which regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes, and to identify areas where there are inadequate or nonexistent publicly or privately owned and maintained services and facilities which the planning commission may determine that services are necessary in order for development to occur. The legislative body of the City has further been empowered to establish Special districts or zones in those areas deemed subject to seasonal or periodic flooding, and such regulations may be applied therein as will minimize danger to life and property, and as will secure City residents eligibility for flood insurance under State and federal laws, as may be amended, or subsequent related laws or regulations promulgated thereunder. The legislative body has further been empowered provide for the protection and encouragement of access to sunlight for solar energy systems which may be considered in promulgating zoning regulations and any other appropriate land use regulations which are authorized by the General Laws of the State. The legislative body may establish a Board of Appeals as authorized by State law to hear appeals from decisions by the City on zoning and land use decisions.

- (c) That Sections 12.38 and 12.39 which currently state:

CHAPTER III. PLATS AND SUBDIVISIONS

Sec. 12.38. Submission, approval required.

In all cities having a population of not less than 50,000 nor more than 70,000 by the federal census of 1920, or any subsequent federal census, all plans, plots or replots of land lying within the limits of such city, or for a distance of three (3) miles outside thereof, laid out in building lots, and streets, alleys, squares, parks, or portions of same, intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting upon any such square, park, street, alley, or boulevard, or adjacent thereto, or lying or being within the boundary of the said tract or parcel of land, and located within the limits of any such city, or for a distance of three (3) miles outside thereof, shall be submitted to the city council, or other legislative body having general charge and the supervision of the

design, construction and maintenance of city streets; and all such plans, plots, or replots shall be approved by such city council or other legislative body, before they shall be tendered for record to the county register. Said plans, plots, or replots shall be examined by such board with a view of ascertaining whether such plans, plots, or replots conform to the general laws and ordinances relating to plans, plots, or replots within the city, and that streets, alleys, boulevards, parks and public ways or places shall conform to the general plan of the city, and not conflict or interfere with rights-of-way of streets, or alleys already established. If such plans, plots, or replots shall conform to the laws of the state and ordinance of such city, and if they shall fall within the general plan for the extension of such city, as adopted by ordinance, then it shall be the duty of said board, or other legislative body, to endorse its approval upon the plan, plot, or replot submitted to it.

The disapproval of any such plans by said council, or other legislative body, shall be deemed a refusal of the proposed dedication shown thereon, but its approval shall be deemed an acceptance of the proposed dedication for public, or private use, as the case may be; but shall not impose any duty upon the city concerning the maintenance or improvement of any such dedication parts until the proper authorities of the city shall have made actual appropriation of the same by entry, use, or improvement; and owners and purchasers shall be deemed to have notice of the public plans, maps and reports of such board, or body having charge of the design, construction and maintenance of the city streets, affecting such property within the jurisdiction of the cities of the class hereinbefore set out.

Where such city has a city planning commission, said plans, plots, or replots submitted to its city council, or other legislative body, for approval shall be first submitted by said council, or other legislative body, to said city planning commission for its recommendation, before said council, or other legislative body, shall note its approval or disapproval thereon. (Priv. Acts 1923, Ch. 405, § 1)

Sec. 12.39. Recording.

If any such plan, plot, or replot of land is tendered for registration in the office of a county register of any county in which any city of the above class may be situated, it shall be the duty of such county register to examine such plan, plot, or replot to ascertain whether the endorsement of the council, or legislative body provided for in the next preceding section, shall appear thereon. If it shall, and the plan, plot, or replot otherwise conforms to the provisions of law, he shall accept same for registration. If such endorsement does not appear thereon, the register shall refuse and decline to accept same for registration. Any failure to observe the provisions of this section, on the part of any county register, shall constitute a misdemeanor in office. (Priv. Acts 1923, Ch. 405, § 2)

shall be amended by deleting the language in said sections in their entirety and inserting in lieu thereof the appropriately designated section:

CHAPTER III. PLATS AND SUBDIVISIONS

The legislative body of the City has been authorized to provide for the development of plats and subdivisions for registration in the office of the County

Register pursuant to Priv. Acts 1923, Ch. 405, §§ 1 - 2 and as the same may have been amended, including other Private Acts of the Tennessee General Assembly and General Laws of the State which are applicable to plats and subdivisions which are developed within the City of Chattanooga.

SECTION X. That Title 13 of the City's Charter regarding Police and Firemen at Chapter I, Section 13.10. which is set forth below be and the same is hereby deleted in its entirety.

Sec. 13.10. Vacation for fire department members.

Every member of the fire department shall be entitled, without deduction of pay, to at least fifteen (15) days' annual vacation which shall be enjoyed at such time or times as may be designated by the chief of the fire department. (Acts 1923, Ch. 580, § 2)

SECTION X. BE IT FURTHER ORDAINED, That Title 13 of the City's Charter regarding Police and Firemen at Chapter I, Section 13.16. is hereby amended as follows:

Sec. 13.16. Political activities of members of the fire and police departments.

No officer or any member of the fire or police department(s) shall be called on for any contribution or assessment by any political organization or member or committee thereof. No officer or member of either of said departments shall be allowed to solicit any contribution, or to sell any ticket, or procure money by any device from the public while on duty or while in uniform. Any person violating any of the provisions of this Section shall, upon conviction in the City Court, be fined not exceed fifty dollars (\$50.00) and shall be subject to disciplinary action.
(Ord. No. 10743, § 1(3), 8-18-98)

SECTION X. BE IT FURTHER ORDAINED, That Title 13 of the City's Charter regarding Police and Firemen at Chapter I, Section 13.45. is hereby amended as follows:

Sec. 13.45. Maximum period of suspension.

No suspension of any such employee [fireman or policeman] shall be of a longer period than thirty (30) calendar days. (Priv. Acts 1953, Ch. 141, § 2; Ord. No. 10744, § 1(1), 8-18-98)

SECTION X. BE IT FURTHER ORDAINED, That Title 13 of the City's Charter regarding Police and Firemen at Chapter I, Section 13.82. is hereby amended as follows to change the optimal retirement benefits of the surviving spouse in subsection 1 from "\$300.00 per

month for life or until remarriage” to “\$500.00 per month for live or until remarriage,” as set forth in its entirety as follows:

Sec. 13.82. Optional retirement benefits.

1. When a member reaches the conditions for retirement benefits under Section 13.75; or qualifies to reach the conditions for retirement benefits under Section 13.75 and qualified for retirement benefits under Section 13.76; or is eligible to commence receiving retirement benefits under Section 13.79, he or she may elect to have the pension benefits under said Sections converted into an optional retirement benefit which is the actuarial equivalent of such benefit based upon mortality basis approved from time to time by the Board, and the age of the member and of the beneficiary as of the date the member becomes eligible to exercise the election.

The optional retirement benefits may take one of the forms listed below and for members who become employed after November 3, 1992 there shall be paid to the beneficiary or the option selected by such member under this Section; but for a member who was an employee on November 3, 1992, the surviving spouse shall receive the sum of \$500.00 per month for life or until remarriage, if the said member has not designated the spouse as a beneficiary under one of the option forms listed below.

OPTION A: 120 Payments Certain and Life Option

A decreased retirement benefit payable for life with the first 120 payments guaranteed. Any guaranteed payments due after the death of the retired participant shall be payable to the designated beneficiary, if any who survives the retired participant, or the estate of the retired participant if there is no surviving designated beneficiary.

OPTION B: Joint and Survivor Option

A decreased retirement benefit payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 100% of that payable to the retired participant.

OPTION C: Modified Joint and Survivor Option

A decreased retirement benefit payable to the retired participant for life which shall continue after his or her death to their surviving beneficiary at 75% of that payable to the retired participant.

OPTION D: Modified Joint and Survivor Option

A decreased retirement benefit payable to the retired participant for life which shall continue after his or her death to their surviving beneficiary at 50% of that payable to the retired participant.

OPTION E: Modification of Option B

A decreased retirement benefit, subject to an actuarial reduction, payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 100% of that payable to the retired participant provided, that if

such designated beneficiary shall predecease the retired participant, the retirement benefit payable to the participant after death of the designated beneficiary, shall be equal to the retirement benefit, which would have been payable had the member not elected an option. (Ord. No. 10463, § 1(3), 8-20-96)

OPTION F: Modification of Option C

A decreased retirement benefit, subject to an actuarial reduction, payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 75% of that payable to the retired participant provided, that if such designated beneficiary shall predecease the retired participant, the retirement benefit payable to the participant after death of the designated beneficiary, shall be equal to the retirement benefit, which would have been payable had the member not elected an option. (Ord. No. 10463, § 1(3), 8-20-96)

OPTION G: Modification of Option D

A decreased retirement benefit, subject to an actuarial reduction, payable to the retired participant for life shall continue after his or her death to their surviving beneficiary at 50% of that payable to the retired participant provided, that if such designated beneficiary shall predecease the retired participant, the retirement benefit payable to the participant after death of the designated beneficiary, shall be equal to the retirement benefit, which would have been payable had the member not elected an option. (Ord. No. 10463, § 1(3), 8-20-96)

2. Application for any optional retirement benefit shall be in writing, duly executed, and filed with the Board. Such application shall contain all information required by the Board, including such proofs of age as are deemed necessary by the Board. A retirement option selected at the time of eligibility may only be changed by written notice of the new election filed with or prior to his or her application for retirement and subject to such requirement as the Board may require.

3. If an active member dies after he or she has reached the aforesaid conditions for retirement benefits, any option they may have elected, in lieu of their otherwise retirement benefit, shall be payable as though he or she had been entitled to have such optional benefit commence on their date of death. (Ord. No. 9778, § 1(9), 8-18-92)

4. In the event of a divorce of a member who retired under an optional retirement plan, where the spouse is the designated beneficiary, the beneficiary may be cancelled upon the written request of the member and proper documentation, which shall include the final decree and marital dissolution agreement of the parties; provided, that such cancellation is not in conflict with the decree or marital dissolution agreement. The retirement allowance payable to the retiree after the cancellation of the designated beneficiary shall not be affected by such cancellation. (Ord. No. 10463, § 1(4), 8-20-96)

SECTION X. That sections 15.62 through 15.65 set forth hereinbelow be and the same are hereby repealed:

Sec. 15.62. Establishment of sewer districts; bids and estimates as to cost; assessments for costs.

Whenever the city council of the City of Chattanooga deem it necessary to construct a main sewer the said council shall have the power, by resolution, to constitute a sewer district, and have the property abutting upon each side of the street in which said main sewer is constructed connected with said main sewer the connections extending from the main sewer to the line of the property abutting on said street. The said connections may be made by the contractor employed by the city to construct the main sewer. Before said connections are made the mayor shall receive bids and estimates from the contractor making said connections as to the amounts of the cost thereof. The cost of said connections shall be assessed against the abutting property for which the connections are made. When the contract shall be let for the construction of the main sewer and for the connections of the abutting property, the mayor shall proceed to make, subject to the approval of the city council, assessments against the property chargeable under the provisions of this Act [chapter] with the cost of such improvements.

The assessments shall be made for each district separately, and may be in substantially the form as provided in section 9 of Chapter 131 of the Private Acts of 1915, entitled: "An Act to amend the Charter of the City of Chattanooga, and all Acts amendatory thereof," which section 9 of said Act is adopted as a part of this Act [chapter]. (Priv. Acts 1929, Ch. 790, § 3)

Sec. 15.63. Hearing on assessments; interest on same; how assessments paid; bond.

At the time fixed in said notice, or at some time to which the council may then adjourn, the mayor shall submit said assessments, and all parties interested shall be given an opportunity to be heard, and all objections to said assessments considered. If said assessments shall be found to be correct the council shall, by resolution, approve them, and determine the number of installments into which they shall be divided. Said assessments shall bear interest at the rate of six per cent (6%) per annum, payable annually, from the date on which said assessments are approved; provided, that any assessment, or any part thereof may be paid without interest at any time within thirty (30) days from said date. The first installment and interest for one year on all installments shall fall due one year from the date of approval of the assessments by the board, and one installment and interest for one year on all unpaid installments every twelve (12) months thereafter until all have matured; provided, the balance due on any installment may be paid at any time by paying the principal and interest at the rate of six per cent (6%) per annum, up to the date of maturity of the next installment and interest on each remaining installment from that date to the date of maturity at the rate of two per cent (2%) per annum.

At the same time the city council shall authorize the mayor to issue bonds in the name of the City of Chattanooga, Tennessee, to an amount equal to the aggregate amount of all assessments which shall not be paid within said thirty

(30) days. Said bonds shall bear a date not less than thirty (30) days after the date of the approval of the assessments and an amount of them equal to the amount of each installment of the assessments shall mature not less than thirty (30) days after the maturity of such installment. They shall be known as Sewer Bonds of the City of Chattanooga for Sewer District No. _____ and shall bear interest at the rate of six per cent (6%) per annum, payable annually. They shall be in the usual form of municipal coupon bonds, and in addition shall show on their faces that assessments made on the ____ day of _____, 19__, upon property abutting upon Sewer District No. _____ in said city are especially pledged for their payment, but they shall be primary and direct obligations on said city without regard to whether said assessments are collected or not. They shall be signed by the mayor and counter-signed by the city finance officer under the corporate seal of said city. The coupons attached to said bonds may bear the printed or lithographed facsimile signatures of the mayor and city finance officer. When said bonds shall have been authorized the mayor shall advertise for sealed for them, and if they can be sold at or above par he shall sell them. Otherwise, they shall be applied at par to the payment of the contract price for the work, and every contract for work under this Act [chapter] shall reserve the right of the city to pay said contractor for said connections in bonds in the event of a failure on the part of the city to sell the same. The action of the city council shall be by resolution. (Priv. Acts 1929, Ch. 790, § 4)

Sec. 15.64. Applicability of prior Acts to assessments.

Sections 15, 16, 17, 18, 19, 20 and 24 of Chapter 149 of the Private Acts of the General Assembly of 1907 entitled: "An Act to amend the Charter of the City of Chattanooga and all Acts heretofore passed amendatory thereof," shall apply to assessments made under the provisions of this Act [chapter] in the same manner that they now apply to assessments made for street paving purposes. (Priv. Acts 1929, Ch. 790, § 5)

Sec. 15.65. City may enforce assessments by suits in circuit or chancery courts of county.

In addition to all other remedies, the City of Chattanooga shall have the right to enforce the collection of any assessment made hereunder or any installment thereof by suit in either the circuit or chancery court of Hamilton County, Tennessee. (Priv. Acts 1929, Ch. 790, § 6)

SECTION X. That Section 18 is hereby repealed.

FOR THE AMENDMENT { }

AGAINST THE AMENDMENT { }

SECTION 2. BE IT FURTHER ORDAINED, That all laws constituting the present Charter of the City of Chattanooga, not in conflict with this amendatory home rule ordinance, be

and the same are continued in full force and effect, and all laws or parts of laws in conflict therewith are hereby repealed.

SECTION 3. BE IT FURTHER ORDAINED, That if any clause, sentence, paragraph, section, or part of this ordinance shall be held to be unconstitutional or void, it shall not affect the remaining parts of this Ordinance, it being hereby declared to be the legislative intent to have passed the remainder of this Ordinance notwithstanding such part, if any, as may be held to be invalid.

SECTION 4. BE IT FURTHER ORDAINED, That this Ordinance shall be published in full by the Clerk of the City Council in the daily newspaper in the City of Chattanooga after the passage thereof on second and final reading.

SECTION 5. BE IT FURTHER ORDAINED, That the Clerk of the City Council shall certify the passage of this Ordinance to the Hamilton County Election Commission and request that the proposed amendment to the home rule Charter of the City of Chattanooga, Tennessee, be placed on the ballot to be used in the general state election to be held on or about November 6, 2012.

SECTION 6. BE IT FURTHER ORDAINED, That the City Finance Officer is authorized and directed to pay the *pro rata* cost of this special City election.

SECTION 7. BE IT FURTHER ORDAINED, That the Hamilton County Election Commission shall certify to the Clerk of the City Council of the City of Chattanooga, Tennessee, the result of said election, and the said Clerk shall cause said certification to be made a part of the minutes of the City Council.

SECTION 8. BE IT FURTHER ORDAINED, That Section 1 of this Ordinance shall take effect sixty (60) days after its approval by a majority of the qualified voters of the City

voting thereon, as provided by Article XI, Section 9, Constitution of Tennessee, the public welfare requiring it.

SECTION 9. BE IT FURTHER ORDAINED, That this Ordinance shall take effect, except for Section 1, immediately upon its passage.

PASSED on Second and Final Reading

_____, 2012 _____
CHAIRPERSON

APPROVED: _____ DISAPPROVED: _____

DATE: _____, 2012

S/ _____
MAYOR

/mms