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THE TENNESSEE MAYOR-ALDERMANIC CHARTER

(T.C.A. Title 6, Chapters 1--17)

(As amended through 1984)

Municipal Technical Advisory Service
Institute for Public Service
The University of Tennessee

in cooperation with the

Tennessee Municipal League

October, 1984

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MAYOR-ALDERMANIC CHARTER[1]

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

MAYOR-ALDERMANIC CHARTER

CHAPTER 1

MAYOR-ALDERMANIC CHARTER--ADOPTION AND OFFICERS

Part 1--General Provisions

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Part 1--General Provisions

6-1-101. Elections valid despite informalities. No informalities in conducting any election held under this chapter shall invalidate it if such election is conducted fairly and in substantial conformity with the requirements of this chapter. [Acts 1959, ch. 232, § 2; T.C.A., § 6-117.]

6-1-102. Inclusion of property for collecting majority of revenue prohibited without consent. No municipality shall be incorporated under the general laws of the state, so as to include within its boundaries, unless by consent, the property of any person, firm, or corporation where such property is included for the effect and purpose of collecting the majority of the revenues of the said municipality. [Acts 1957, ch. 40, § 1; T.C.A., § 6-133.]

6-1-103. Inclusion of property equivalent to 35% of assessed value prohibited for certain period. The property of no person, firm, or corporation shall be included within the boundaries of any municipality hereinafter created under the general laws of the state, or until eight (8) years thereafter, unless by consent, where the property of such person, firm, or corporation is equivalent to thirty-five percent (35%) or more of the assessed value of the property included within the boundaries of the municipality to be or so created. [Acts 1957, ch. 40, § 2; T.C.A., § 6-134.]

(Reserved For Future Use)

Part 2--Areas Not Already Within Municipalities

6-1-201. Population and property requirements. (a) Any part of a county not included within any municipality may be incorporated as herein provided; but all corporations incorporated under the provisions of this chapter shall contain not less than two hundred (200) persons, who shall be actual residents of the territory to be incorporated, and shall contain real estate included in said territory to be incorporated worth not less than five thousand dollars ($5,000). Any part of two (2) or more counties not included within any municipality may be incorporated as herein provided.

(b) No territory having fewer than two hundred (200) residents, as determined by a census taken by or under the direction of the Tennessee state planning office, may be incorporated as a city or town under any general law or by private act. This restriction shall not apply to territory annexed to an incorporated city or town.

(c) (1) No territory, any part of the boundaries of which would be within two (2) miles of any part of the boundaries of an existing incorporated city or town, and which territory has less than five hundred (500) residents as determined by a census taken by or under the direction of the Tennessee state planning office, may be incorporated as a city or town under any general law or by private act. This restriction shall not apply to territory annexed to an incorporated city or town.

(2) The adoption, heretofore accomplished, of a charter of incorporation under this chapter and chapter 2 of this title, by any territory having less than five hundred (500) residents and having boundaries not more than two (2) miles nor less than one and eight-tenths (1.8) miles from the boundaries of an existing incorporated city or town, is hereby ratified and validated in all respects notwithstanding the provisions of subdivision (c)(1) of this section or any other law to the contrary. No flaw or defect or failure to comply with any technical requirement of incorporation shall invalidate any ordiance passed pursuant to such charters. [Code 1858, § 1349; Acts 1875, ch. 92, § 1; 1877, ch. 121, §§ 1, 3; 1899, ch. 312, § 2; Shan., § 1881; Code 1932, § 3292; Acts 1955, ch. 295, §§ 1, 2; 1959, ch. 295, § 1; impl. am. Acts 1972 (Adj. S.), ch. 542, § 15; T.C.A. (orig. ed.), § 6-101; Acts 1984, ch. 743, § 1.]

6-1-202. Application for charter--Description of boundaries. (a) (1) One hundred (100) legal voters, being freeholders and residing within such territory, may apply for a charter. Any of said applicants may withdraw from said application by filing notice thereof with the official having custody of the voter's list pursuant to § 6-1-205, and if the number of names thereon falls below one hundred (100) before notice of application is given pursuant to the provisions of § 6-1-209 the application is null, void and of no effect.

(2) In counties having a population of not less than two hundred and fifty thousand (250,000) nor more than two hundred and eighty thousand (280,000) according to the 1970 federal census or any subsequent federal census, any applicant may withdraw from such application, or any voter residing within such territory may add his name to such application, by filing notice thereof with the official having custody of the voter's list pursuant to § 6-1-205. Any person who wishes to withdraw their name from said application must do so at least thirty (30) days prior to the date an incorporation election could be held as provided for in this title.

(b) A description of the boundaries of the proposed corporation, and of its wards, if any, shall be attached to the application.

(c) Following the defeat of an incorporation in an election held pursuant to § 6-1-210, no new application for a charter may be made until after the expiration of four (4) years. Provided, however, if the territory included in the boundaries of the newly proposed corporation includes less than fifty percent (50%) of the territory subject to incorporation in such previous election, and if the territory subject to incorporation in such previous election comprises less than fifty percent (50%) of the territory included in the boundaries of the newly proposed municipal corporation, the four (4) year waiting period shall not be required.

(d)(1) If a proposal to incorporate a territory is defeated in an election held pursuant to § 6-1-210, by a number of negative votes comprising more than sixty percent (60%) of the persons voting, no further incorporation election shall be held for a period of four (4) years from the previous election unless the conditions established in subsection (c) are met.

(2) If a proposal to incorporate a territory is defeated in an election held pursuant to § 6-1-210, by a number of negative votes comprising less than sixty percent (60%) of the persons voting, no further incorporation election shall be held for a period of two (2) years from the previous election unless the conditions established in subsection (c) are met. [Acts 1875, ch. 92, § 2; 1899, ch. 312; Shan., § 1882; Code 1932, § 3293; Acts 1970 (Adj. S.), ch. 426, § 1; T.C.A. (orig. ed.), § 6-102; Acts 1980 (Adj. S.), ch. 500, § 1; 1983, ch. 33, § 1.]

6-1-203. List of voters. Before making application, the persons shall, in a good, substantial blank book, make or cause to be made a full and correct alphabetical list of the names of all persons, who at the time of making said list, would be qualified voters in municipal elections in the proposed incorporation, were the same then incorporated, and shall leave sufficient space in said list, in no case less than thirty (30) lines, after the last name in each letter of the alphabet, for the addition of other names as hereinafter provided. [Acts 1877, ch. 121, § 6; Shan., § 1883; Code 1932, § 3294; Acts 1970 (Adj. S.), ch. 426, § 2; T.C.A. (orig. ed.), § 6-103.]

6-1-204. Verification of voters' list. When said list is completed, it shall be verified as a full, correct, and complete list by the affidavit of at least three (3) of the persons intending to apply for the charter, that they verily believe it to be such, the affidavit taken before any official authorized by law to administer oaths. [Acts 1875, ch. 92, § 2; 1877, ch. 121, § 6; Shan., § 1884; mod. Code 1932, § 3295; T.C.A. (orig. ed.), § 6-104.]

6-1-205. Filing of voters' list--Incorporation of new municipalities within specified distances of existing municipalities--Notice requirement. (a) When said list has been so verified, it shall be deposited and filed with the county election commission. If the proposed incorporation includes territory in two (2) or more counties, said list may be filed with the county election commission of the respective county. The list once so filed shall be open to the public for inspection during regular office hours.

(b) Provided, however, that if any part of unincorporated territory proposed for incorporation is within five (5) miles of an existing city of one hundred thousand (100,000) or more in population or within two (2) miles of an existing city of more than five thousand (5,000) and less than one hundred thousand (100,000) in population, according to the latest census used for distributing state-shared taxes, then all proceedings as provided in this chapter following the filing of said list of voters shall be held in abeyance for fifteen (15) months from the date of filing said list; if within this period such existing city does not annex at least twenty percent (20%) of the land area or thirty-five percent (35%) of the population of such territory proposed for incorporation, then proceedings shall be continued as provided in this chapter as though the list of voters had been filed at the conclusion of such fifteen (15) month period; if such existing city annexes at least said part of such territory within this period, then the application and list of voters shall be null and void and of no effect whatsoever. Provided, further, that whenever the governing body of any existing city affected by this section shall, by a resolution adopted by at least a two-thirds (2/3) majority vote of its governing body, indicate that it has no interest in the prior rights reserved to it by the provisions of this section, and when a certified copy of that resolution is filed with the said list of voters, then the provision herein for holding the incorporation proceedings in abeyance for a period of fifteen (15) months shall be null and void and of no effect whatsoever, and the proceedings shall be continued as provided in this chapter just as though the proposed new incorporation were not within the specified distance of such existing city.

(c) The proponents of the incorporation shall have a period of fifteen (15) months; either after the filing of the voters' list; or after the expiration of the fifteen (15) months abeyance period reserved for existing cities; or after

the filing of the resolution declaring no interest by the existing city, within which to give notice of application to hold the incorporation election as provided in §§ 6-1-209 and 6-1-210. All applications for charters and lists of voters required by §§ 6-1-202 and 6-1-203 shall be null and void unless the notice of application to hold the incorporation election is given within fifteen (15) months from the earliest date on which it could be lawfully given. [Acts 1877, ch. 121, § 6; Shan., § 1855; Code 1932, § 3296; Acts 1957, ch. 346, § 1; 1959, ch. 395, § 2; 1971, ch. 260, § 1; 1974 (Adj. S.), ch. 776, § 1; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 7, 22, 36; T.C.A. (orig. ed.), § 6-105; Acts 1980 (Adj. S.), ch. 515, § 1.]

6-1-206. Keeping list subject to inspection. The county clerk or member of the county legisltive body shall indorse on said list the date of filing the same, and keep it subject to public inspection, and for the other purposes hereinafter mentioned. [Acts 1877, ch. 121, § 6; Shan., § 1886; mod. Code 1932, § 3297; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 7, 22, 36; T.C.A. (orig. ed.), § 6-106.]

6-1-207. Addition of names to voters' list. At any time after said list has been so filed, and before the day of the election hereinafter provided for, any person who would, were said town then incorporated, be a qualified voter in municipal elections therein, and whose name has been omitted from or incorrectly written on said list, may have his name entered or corrected under the proper letter on said list by applying to the county election commission having custody of said list and demanding that the same be done. Said county election commission shall enter or correct such name, but, if not satisfied as to the right of the persons applying, he may cause them to make oath that they are so entitled, and they shall be liable to be prosecuted for perjury if they willfully swear falsely. Provided, if a name of a person appears legally on said list, such person shall be eligible to vote in the election on the question of incorporation. [Acts 1877, ch. 121, § 6; Shan., §§ 1888, 1889; Code 1932, §§ 3299, 3300; T.C.A. (orig. ed.), § 6-107; Acts 1980 (Adj. S.), ch. 515, § 2]

6-1-208. Absentee voting. Voting by absentee ballot shall be permitted in the election relative to the adoption of a mayor-aldermanic charter. [Acts 1877, ch. 121, § 7; impl. am. Acts 1907, ch. 436; Shan., § 1890; Code 1932, § 3301; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; T.C.A. (orig. ed.), § 6-108; Acts 1980 (Adj. S.), ch. 515, § 3]

6-1-209. Notice of application. Written or printed notice, to which the names of at least five (5) of the persons intending to apply for the charter shall be attached, setting

forth the name and boundaries of the proposed incorporation, the time of filing said list, the place where the same may be found, and the name of the official having custody thereof, shall be conspicuously posted at not less then three (3) public places within the limits of the proposed incorporation, for thirty (30) days, and if there be a newspaper published in said town, or if not, and there be one (1) published in the county, such notice shall also be published therein, once a week for four (4) successive weeks. If the proposed incorporation includes territory in two (2) or more counties, such publication may be made in a newspaper published in any one of such counties. [Acts 1875, ch. 92, § 2; 1877, ch. 121, § 6; Shan., § 1887; mod. Code 1932, § 3298; Acts 1959, ch. 295, § 3; T.C.A. (orig. ed.), § 6-109.]

6-1-210. Election. After not less than thirty (30) days have elapsed since the date of posting of notice or of the first publication in a newspaper as required by § 6-1-209, the county election commission of the county in which such territory is located, by duly appointed judges, clerks, and officers of election, upon the costs incident to such election being paid or secured to them shall after giving ten (10) days notice include the question of the proposed incorporation on the ballot in the next election, as defined in § 2-1-104(6). If the proposed incorporation includes territory in two (2) or more counties, the county election commissions of the counties in which the territory is situated shall also include the question of the proposed incorporation on the ballot in the next election, as defined in § 2-1-104(6) and all of the commissions shall execute the certificate required by § 6-1-213. [Acts 1875, ch. 92, § 3; 1877, ch. 121, § 7; impl. am. Acts 1907, ch. 436; Shan § 1981; Code 1932, § 3302; Acts 1959, ch. 295, § 4; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; T.C.A. (orig. ed.), § 6-110; Acts 1983, ch. 33, § 2.]

6-1-211. Method of balloting. The qualified voters participating in the election shall be given the options of voting for "corporation" or "no corporation." [Code 1858, § 1353; Acts 1877, ch. 121, § 7; Shan., § 1892; Code 1932, § 3303; Acts 1970 (Adj. S.), ch. 426, § 3; T.C.A. (orig. ed.), § 6-111.]

6-1-212. Return of elections. The county election commission shall make return of the election to the county clerk. If the proposed incorporation includes territory in two (2) or more counties, the return of the election may be made to the county clerk of any of such counties. [Acts 1875, ch. 92, § 3; 1877, ch. 121, § 3; impl. am. Acts 1907, ch. 436; Shan., § 1893; Code 1932, § 3304; Acts 1959, ch. 295, § 5; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 6-112.]

6-1-213. Certificate of election commission. The certificate of the county election commission shall be substantially in the following form, to wit:

"State of Tennessee,
_____ County.

"We, _____, the county election commission, of said county, certify that, in accordance with the provisions of law applicable to such cases, an election was opened and held in the proposed incorporated town of _____, on the _____ day of _____, in the year _____. The list of qualified voters of said town furnished us on the day of said election shows the number of such qualified voters to be [here insert the number both in words and figures]. At said election there were cast for 'Corporation,' _____ [here insert the number both in words and figures] votes, and for 'No Corporation,' [here insert the number both in words and figures] _____ votes. This the _____ day of _____, 19____." [To be signed by the commissioners of elections.] [Acts 1877, ch. 121, § 8; impl. am. Acts 1907, ch. 436; Shan., § 1894; Code 1932, § 3305; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; T.C.A. (orig. ed.), § 6-113.]

6-1-214. Certification to secretary of state. Upon receiving such return, if at least a majority of the votes cast are for "Corporation," the county clerk shall certify to the secretary of state that notice was duly given, and application in due form of law made, the description of boundaries, the entire number of votes cast, the number of votes cast for "Corporation," the number of votes cast for "No Corporation," and the corporate name of said municipality. [Acts 1875, ch. 92, § 4; 1877, ch. 121, §§ 3, 9; Shan., § 1895; Code 1932, § 3306; Acts 1959, ch. 232, § 1; 1970 (Adj. S.), ch. 426, §§ 4, 5; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 6-114.]

6-1-215. Certificate of incorporation. (a) It shall be the duty of the secretary of state, upon the receipt of said certificate, to file the same in his office, and thereupon issue a certificate of incorporation in these words:

"State of Tennessee,
Charter of Incorporation.

"Be it known, the town or city of [here insert name, and metes and bounds] is hereby duly and legally incorporated, and, as such, is entitled to all the benefits and subject to all the responsibilities of the laws of the state applicable to municipal corporations."

(b) He shall affix thereto his official name and the great seal of the state, and forward the same to the county clerk, who shall immediately cause the same to be registered

in the county. If said municipal corporation includes territory in two (2) or more counties, said charter of incorporation shall be registered in each such county. After such registration, the legal incorporation of such municipality shall not be collaterally questioned. [Acts 1875, ch. 92, § 6; 1877, ch. 121, § 4; Shan., § 1896; Code 1932, § 3307; Acts 1959, ch. 295, § 6; 1970 (Adj. S.), ch. 426, § 6; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 6-115.]

6-1-216. Fees. The fee of the county clerk for recording petition for incorporation under § 6-1-205 shall be two dollars ($2.00) and his fee shall be three dollars ($3.00) for his other services under this chapter; and the fee to be charged by the secretary of state shall be fifty dollars ($50.00). [Code 1858, § 4562; Acts 1875, ch. 92, §§ 5, 7; impl. am. Acts 1899, ch. 2, § 1; Shan., §§ 1900, 6400; mod. Code 1932, §§ 3311, 10704; Acts 1951, ch. 166, § 1; modified; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 6-116.]

6-1-217. Corporate powers. Upon such registration, the petitioners and their successors, and all others residing within said district, shall be incorporated and be vested with all the rights incident to corporations. They shall, by the name they select, have perpetual succession, and may have a common seal, sue and be sued, plead and be impleaded, have, receive, purchase, and hold property, real or personal, and grant, sell, or dispose of the same for the use and benefit of said corporation; and shall be entitled to all the rights and powers, and be controlled by all the restrictons and regulations, contained and set forth in chapters 1, 2 and 51--57 of this title and chapters 31--37, 51, 52, 54 and 61--63 of title 7. [Acts 1875, ch. 92, § 17; 1877, ch. 121, § 5; Shan., § 1901; Code 1932, § 3312; T.C.A. (orig. ed.), § 6-120.]

6-1-218. Disposition of list of voters. When said corporation is organized, the county election commission shall deliver said list of qualified voters to the mayor of such town. If a sufficient number of votes are not cast to authorize the application for said incorporation, said list shall be deposited with the county clerk of the county in which such town is situated. [Acts 1877, ch. 121, § 9; impl. am. Acts 1907, ch. 436; Shan., § 1902; Code 1932, § 3313; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; impl. am. Acts 1978 (Adj. S.), ch. 934, §§ 22, 36; T.C.A. (orig. ed.), § 6-121.]

(Reserved For Future Use)

Part 3--Existing Municipalities

6-1-301. Adoption of charter by existing municipality. Any municipality incorporated under a general or special law or laws of this state may adopt the charter set forth in chapters 1, 2 and 51--57 of this title and chapters 31--37, 51, 52, 54 and 61--63 of title 7, provided a majority of those voting at an election to be held for such purposes shall vote in favor of such adoption. Such an election shall be held if requested by resolution of the governing body of a municipality or by a petition signed by at least twenty percent (20%) of the registered voters in the municipality. Said resolution or petition may divide the municipality into wards. [Acts 1875, ch. 92, § 14; 1877, ch. 121, § 1; Shan., § 1904; Code 1932, § 3315; Acts 1970 (Adj. S.), ch. 426, §§ 7, 8; T.C.A. (orig. ed.), § 6-122.]

6-1-302. Election on adoption. At such election the ballots of those opposed to the adoption shall contain "old charter," and those in favor of the adoption shall contain "new charter"; and the result of such election, if in favor of adoption, shall be spread on the corporation records, and a certified transcript of such record containing such election shall be filed with the secretary of state. [Acts 1875, ch. 92, § 14; Shan., § 1905; Code 1932, § 3316; T.C.A. (orig. ed.), § 6-123.]

6-1-303. Certificate of incorporation on adoption. The secretary of state shall thereupon issue a certificate of incorporation, and the same shall be registered, and have the same force and effect as provided in part 2 of this chapter. [Acts 1875, ch. 92, § 14; Shan., § 1906; Code 1932, § 3317; T.C.A. (orig. ed.), § 6-124.]

6-1-304. Substitution of new charter. When said adoption has been made, and the secretary's certificate registered, then shall such town or city have all the powers, rights, privileges, and benefits of corporations organized under part 2 of this chapter, with the new charter, and the former charter shall be deemed and held forever renounced and surrendered. [Acts 1875, ch. 92, § 14; Shan., § 1907; Code 1932, § 3318; T.C.A. (orig. ed.), § 6-125.]

(Reserved For Future Use)

Part 4--Officers

6-1-401. Officers of municipalities. (a) The officers of each municipality, unless otherwise provided, shall consist of a mayor, two (2) aldermen for each ward, one half (1/2) of the aldermen to be elected, on organization for one (1) year, and the other half for two (2) years, and their successors annually thereafter; and such officers as they may deem necessary for the proper administration of municipal affairs, to be elected by said board of mayor and aldermen. In order to avoid the expense of holding two (2) elections, the first mayor and aldermen may be elected at the election held under § 6-1-210; provided, that the mayor and aldermen so elected shall not take office unless and until the incorporation of such municipal corporation shall be approved by a majority vote as required in this chapter.

(b) Any municipality may in lieu of having two (2) aldermen for each ward provide by ordinance for a particular number of aldermen for the municipality to be eligible for and elected to such office without regard to ward residence; provided, such ordinance shall continue any incumbent alderman in office for the remainder of the term for which such alderman was selected, and shall be adopted on final passage by a two thirds (2/3) vote of the legislative body.

(c) In the event a majority of the qualified voters of any municipality in an election for that purpose called by a petition of ten percent (10%) of said voters should vote in favor of eliminating staggered terms for the mayor and aldermen in order to save the expense of holding annual elections or for any other good reason, the municipal election for that year (the year in which there is a favorable vote to eliminate staggered terms) shall be postponed until the next regular municipal election at which time all members of the municipal council shall be elected at the same time.

(d) Upon the holding of an election to determine whether or not members of the board of mayor and aldermen shall be staggered as provided for above, the county election commission shall make return of the election as provided in §§ 6-1-212 and 6-1-213.

(e)(1) A municipality that consists of one (1) ward may by ordinance provide for the election of four (4) aldermen. Any incumbent shall complete his term of office. At the next election, four (4) aldermen shall be elected, two (2) of which shall be elected for a term of two (2) years and two (2) of which shall be elected for a period of four (4) years; thereafter, aldermen shall be elected for four (4) year terms. In such municipalities, the term of office of the mayor shall be the same four (4) years as it is for aldermen, such four (4) year term to commence at the next election for mayor.

(2) The adoption of any ordinance, enacted prior to enactment of the language of subdivision (e)(1) by any municipality which has a mayor-aldermanic charter issued pursuant to

general law and which consists of a single ward, providing for the election of four (4) aldermen to serve staggered four (4) year terms and remaining in force on April 7, 1982 is hereby ratified, validated, and confirmed.

Any municipality identified by this subdivision (e)(2) may by ordinance also provide for a four (4) year term of office for the mayor to commence at the first election for mayor immediately following final adoption of such ordinance. [Acts 1875, ch. 92, § 8; Shan., § 1942; Code 1932, § 3360; Acts 1959, ch. 232, § 1; 1959, ch. 295, § 7; 1963, ch. 298, §§ 1, 2; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; 1973, ch. 275, § 1; 1976 (Adj. S.), ch. 581, § 1; 1978 (Adj. S.), ch. 583, § 1; T.C.A. (orig. ed.), § 6-127; Acts 1982 (Adj. S.), ch. 715, § 1.]

6-1-402. Residence of mayor or aldermen. No person shall be eligible for the office of mayor or alderman unless he shall have resided within the municipality or ward, respectively, for at least one year next preceding the election; provided residence in a ward shall not be required for any official elected without regard to ward residence. Residence within any area annexed in a year preceding an election shall be counted in meeting this requirement. [Acts 1875, ch. 92, § 10; Shan., § 1944; Code 1932, § 3362; Acts 1970 (Adj. S.), ch. 426, § 9; 1973, ch. 275, § 2; T.C.A. (orig. ed.), § 6-128.]

6-1-403. Terms of aldermen. (a) The term of office of every officer of such municipality, elected by the qualified voters thereof, except of one half (1/2) the aldermen on organization, shall be for two (2) years, and until their successors are elected and qualified; provided, any officer removing from his ward (except where such official is elected without regard to ward residence) or municipality, during his term of office, shall be presumed to have vacated his office, and the same shall be declared vacant, and filled as provided in § 6-1-405.

(b) Provided, such municipality may by petition of ten percent (10%) of its registered voters, or upon resolution of the board of mayor and aldermen, call an election for the purpose of submitting to the voters of the municipality the question of changing the term of office of the mayor and aldermen from staggered two (2) year terms to staggered four (4) year terms, or if the municipality is operating with nonstaggered two (2) year terms, the question of changing to nonstaggered four (4) year terms or the question of changing to staggered four (4) year terms for the mayor and aldermen. Provided, no petition or resolution shall be filed with the county election commission more than one hundred and fifty (150) days nor less than one hundred and twenty (120) days before the next regular municipal election. The following provisions shall apply to effect such changes approved by the voters:

(1) If the municipality is operating with staggered two (2) year terms, and the voters approve a change to staggered four (4) year terms, the mayor and/or aldermen whose two (2) year terms are expiring shall at the next regular municipal election be elected for four (4) years; the mayor and/or aldermen whose terms are not expiring shall have their terms extended for one (1) year beyond the prior expiration date and at the expiration of that year, their successors shall be elected for four (4) years; and biennially thereafter successors to such officers whose terms are expiring shall be elected for four (4) years.

(2) If the municipality is operating with nonstaggered two (2) year terms and the voters approve a change to staggered four (4) year terms, the mayor and one half (1/2) of the aldermen shall be elected for four (4) years and one half (1/2) the aldermen for two (2) years at the next regular municipal election, and biennially thereafter successors to such officers whose terms are expiring shall be elected for four (4) years.

(3) If the municipality is operating with nonstaggered two (2) year terms and the voters approve a change to nonstaggered four (4) year terms, the mayor and each alderman at the next regular municipal election, and their successors every four (4) years thereafter, shall be elected for four (4) years.

The mayor and each alderman shall serve for the term for which elected or until their successors are elected and qualified. [Acts 1875, ch. 92, § 9; Shan., § 1943; Code 1932, § 3361; Acts 1973, ch. 275, § 3; 1976 (Adj. S.), ch. 703, § 1; T.C.A. (orig. ed.), § 6-129.]

6-1-404. Oaths of mayor and aldermen. The mayor, upon his election, shall take the oath of office to support the constitution of the state and faithfully discharge the duties of his office, before any officer authorized to administer oaths, and thereupon such officer or the mayor shall induct the aldermen into office by administering to them an oath of office of similar import which registered charter and oaths of office shall be filed in the archives of the city. [Acts 1875, ch. 92, § 6; Shan., § 1946; Code 1932, § 3364; Acts 1970 (Adj. S), ch. 426, § 10; T.C.A. (orig. ed.), § 6-130.]

6-1-405. Vice-mayor--Vacancies in office. The board of mayor and aldermen shall elect an alderman to the office of vice-mayor, who shall serve when the mayor is absent or unable to discharge the duties of his office, and, in case of a vacancy in the office of mayor, for the unexpired term of the mayor. When there is a tie vote in the election of a mayor or alderman, the same shall be filled by immediate run-off election, according to ordinance. By affirmative vote of a majority of the remaining members, the board of mayor and aldermen shall fill a vacancy in the office of alderman for

the unexpired term. All elections by the board shall be made viva voce, on the calling of the roll.

Provided, in the case of a vacancy in the office of mayor or alderman occuring in a municipality operating with staggered terms, any portion of the unexpired term beyond the next regular municipal election shall be filled by the voters at the election if such vacancy occurs at least twenty (20) days before the latest time for filing nominating petitions for candidates in that election. [Acts 1875, ch. 92, § 11; Shan., § 1945; Code 1932, § 3363; Acts 1970 (Adj. S.), ch. 426, § 11; 1976 (Adj. S.), ch. 703, § 2; T.C.A. (orig. ed.), § 6-131.]

6-1-406. Duties of mayor. The mayor shall, by written communication, lay before the board any information needed, and recommend such measures as he may deem expedient. He shall have a general supervision of all officers of the municipality, and see that all laws and ordinances be enforced. He may make pro tempore appointments, by and with the consent and approval of the board, to supply the place of ministerial city officers in case of sickness, absence, or other temporary disability, under such restrictions as the board may direct. He may call special meetings of the board, and, when called, he shall state the reason for convening them by message, and the action of the board shall be limited to said matter submitted, and that only. He shall lay before the board statements of the financial condition of the municipality every three (3) months, which shall be published, and special statements when required by the board. He shall have power to suspend any city officer for misconduct or dereliction of duty in office, reporting such action, with his reasons therefor, in writing, to an immediate special meeting of the board. He shall have all the powers of a justice of the peace within the municipality, for the purpose of keeping the peace and trying offenses against any ordinance or the laws of the state. He shall countersign all warrants drawn upon the treasurer by the recorder or secretary, and sign all contracts to which the municipality is a party. As a member of the board of mayor and aldermen he shall have a vote on all matters coming before the board. [Acts 1875, ch. 92, § 12; Shan., § 1947; Code 1932, § 3365; Acts 1970 (Adj. S.), ch. 426, § 12; T.C.A. (orig. ed.), § 6-132.]

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CHAPTER 2

POWERS OF CITIES WITH MAYOR-ALDERMANIC CHARTER

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Part 1--General Provisions

6-2-101. Application of chapter. All municipalities organized or amending their charters, under chapter 1 of this title, shall be controlled by and subject to the limitations and restrictions of this chapter. [Acts 1875, ch. 92, § 32; Shan., § 1925; mod. Code 1932, § 3341; T.C.A. (orig. ed.), § 6-201.]

6-2-102. Publication of ordinances--Codification. (a) Each ordinance, or the caption and a complete summary of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption and summary is published.

(b) The board of mayor and aldermen shall codify all ordinances at least once every ten (10) years. [Acts 1875, ch. 92, § 16; Shan., § 1928; Code 1932, § 3344; Acts 1970 (Adj. S.), ch. 426, § 13; T.C.A. (orig. ed.), § 6-213; Acts 1984, ch. 811, § 1.]

6-2-103. Contracting parties on inquiry as to municipal powers. All persons dealing with municipal corporations, shall be put upon inquiry; and in all cases the burden of proof shall be upon them to show the law is pursued as to its powers and every act, contract, and agreement ultra vires shall be null and void. [Acts 1875, ch. 92, § 24; Shan., § 1936; Code 1932, § 3352; T.C.A. (orig. ed.), § 6-216.]

6-2-104. Ratification and confirmation of official municipal acts. The issuance of bonds, the levy of taxes and all other official acts of any municipality identified by § 6-1-401(e)(2), and the governing body of such municipality, occurring subsequent to enactment of any ordinance identified by § 6-1-401(e)(2) but before April 7, 1982 are hereby ratified and confirmed. [Acts 1982 (Adj. S.), ch. 715, § 2.]

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Part 2--Municipal Authority Generally

6-2-201. Corporate powers enumerated. Every corporation formed as above shall have full power and authority:

(1) To enact such bylaws and ordinances as may be necessary and proper to preserve the health, quiet, and good order of the town;

(2) To prevent or remove nuisances;

(3) To establish night watches or patrols;

(4) To punish breaches of good order committed within its jurisdiction;

(5) To ascertain and declare, when necessary, the boundary of streets and alleys;

(6) To grant privileges in the use and enjoyment of the same, but not rights-of-way to railway companies without legislative act so empowering;

(7) To provide for the paving of streets, alleys, and sidewalks;

(8) To sell or dispose of them, if deemed expedient;

(9) To provide for the licensing, regulating, and taxing of auctions, theatrical and other shows and exhibitions;

(10) To restrain and prohibit gaming;

(11) To prohibit indecent exhibitions within its limits;

(12) To establish and regulate markets and inspections;

(13) To provide for the organization and regulation of fire companies and the sweeping of chimneys;

(14) To dig wells and erect cisterns, or provide for a water supply;

(15) To erect pumps and hydrants on the streets or public grounds;

(16) To impose and collect fines and forfeitures for breaches and violations of its ordinances. Any city having a metropolitan form of government shall be authorized to impose and collect fines and forfeitures for breaches and violations of its ordinances and to impose reasonable court costs necessary to support the maintenance and operation of the various municipal courts;

(17) To lay and collect taxes upon all property and privileges within its limits which are or shall be taxable by the laws of the state;

(18) To so tax ball, ninepin, and tenpin alleys; and

(19) To pass all bylaws and ordinances necessary and proper to enforce the powers granted, not inconsistent with the Constitution and laws of the United States or of the state of Tennessee. [Code 1858, § 1359; Shan., § 1915; mod. Code 1932, § 3326; Acts 1969, ch. 220, § 1; T.C.A. (orig. ed.), § 6-202.]

6-2-202. Exemption of property. The public property of every municipality, of every character and description, used for strictly municipal purposes, shall be exempt from seizure

by attachment, execution, or other legal process; nor shall its funds in the hands of its treasurer or depository, be subject to garnishment or other legal process, except as is elsewhere provided. There shall be no priority, by pledge of property or taxes, given to creditors. [Acts 1875, ch. 92, § 25; Shan., § 1937; Code 1932, § 3353; T.C.A. (orig. ed.), § 6-203.]

6-2-203. Interlocal cooperation--Joint building inspectors in certain municipalities. It shall be lawful for two (2) or more municipalities, none of which exceed twenty-five thousand (25,000) in population, to engage jointly one (1) building inspector, and to make an agreement specifying how such inspector shall be paid for his services and how his time or services shall be allocated to the respective municipalities. Municipalities shall have this authority regardless of any other law or charter provision to the contrary.

"Municipalities" shall be defined to mean incorporated cities and towns. [Acts 1957, ch. 229, §§ 1-3; T.C.A., § 6-225.]

6-2-204. Ordinance enforcement by sheriff--Agreement. A municipality organized under the provisions of chapter 1 of this title, located in a county with a population of not less than two hundred and seventy-five thousand (275,000) nor more than two hundred and eighty thousand (280,000) according to the 1970 federal census or any subsequent census, and itself incorporated on or after January 1, 1980, may enter into an agreement with the sheriff of the county in which such municipality is located to enforce the ordinances of such city; provided, however, the municipality has expressed by ordinance its intent to have the sheriff enforce its ordinances and provided the municipality has filed a certified copy of its ordinances with the sheriff and the general sessions court of the county. [Acts 1981, ch. 289, § 1.]

(Reserved For Future Use)

Part 3--Expenditures and Taxation

6-2-301. Restrictions on amount of expenditures. Except as otherwise permitted by law, no order or ordinance shall be made involving the expenditure of money, or involving the creation of a debt against the corporation, unless money be actually in the city treasury to pay for the same, or the same be within the amount of the current year's tax for such purposes, which shall be ascertained from the statement of the city treasurer, who shall, at every regular meeting of the governing board, report the condition of the city finances, as shown by the books; and whenever an appropriation is made, the treasurer shall retain and set apart for that specific purpose an amount sufficient to satisfy the same, and the amount so set apart shall be used for no other purpose. [Acts 1875, ch. 92, § 19; Shan., § 1930; mod. Code 1932, § 3346; modified; T.C.A. (orig. ed.), § 6-204.]

6-2-302. Restriction on purposes of expenditures. Except as otherwise permitted by law, the board is expressly forbidden from borrowing money for any purpose, and also forbidden from making any appropriation of money or credit in the way of donation for festivities, pageants, excursions, or parades; nor shall said municipality be authorized to subscribe for stock in any railroad company, or in any other corporation, or give or lend any money, aid, or credit to any person or corporation whatsoever except as otherwise permitted by law; and said municipality is hereby prohibited from employing or appropriating the moneys and taxes, in any other manner than for purposes strictly municipal, and is forbidden from issuing any bonds or scrip for any purpose except as otherwise permitted by law. [Acts 1875, ch. 92, § 20; Shan., § 1931; Code 1932, § 3347; modified; T.C.A. (orig. ed.), § 6-205.]

6-2-303. Liability for unlawful expenditures. The mayor and each alderman or commissioner approving or voting for a contract involving the payment of money, or for an appropriation of money beyond the levy of taxes for the current year, and cash on hand, except as herein provided, shall be individually liable to the parties in interest. [Acts 1875, ch. 92, § 31; Shan., § 1941; mod. Code 1932, § 3357; T.C.A. (orig. ed.), § 6-206.]

6-2-304. Treasury warrants of cities in debt. Municipalities containing a population by the last federal census or any future federal census of not less than six thousand (6,000) nor more than nine thousand (9,000), having an outstanding floating debt, may issue warrants upon the treasurer, receivable in payment of taxes for the current year, in pay of officers, servants, and employees, and to sustain their common schools, and to supply the city with water and gas, for strictly municipal purposes, to an extent not exceeding two-thirds (2/3) of the yearly levy; until such

floating debt is absorbed, funded, or paid. [Acts 1875, ch. 92, § 21; Shan., § 1933; Code 1932, § 3349; modified; T.C.A. (orig. ed.), § 6-207.]

6-2-305. Exemption of property from taxation--Budget controlling levies and appropriations. No municipality shall exempt or release any property from taxation not exempt by the laws of the state, and no levy of taxes shall be made by any municipality unless a budget of estimates, itemizing the amount required for each municipal purpose, is first made and reported; and no levy shall be valid unless the same is made and reported; and no appropriation of moneys or revenues shall be made for any purpose contrary to the estimates. [Acts 1875, ch. 92, §§ 26-28; Shan., § 1938; Code 1932, § 3354; T.C.A. (orig. ed.), § 6-209.]

6-2-306. Warrants showing purpose. Every warrant for the payment of money, drawn upon the treasury, shall show upon its face for what purpose it is issued. [Acts 1875, ch. 92, § 29; Shan., § 1939; Code 1932, § 3355: T.C.A. (orig. ed.), § 6-210.]

6-2-307. Treasurer's statement. The treasurer, in his report to the governing body, shall give an itemized statement of his receipts and disbursements, and shall have no head of miscellanies or sundries; and no statement of accounts presented by him shall be approved by the board in violation of the provisions hereof. [Acts 1875, ch. 92, § 30; Shan., § 1940; mod. Code 1932, § 3356; T.C.A. (orig. ed.), § 6-211.]

6-2-308. Ordinance procedure. No appropriation of money, or order involving it, or levy of taxes, shall be made unless the ordinance authorizing the same be read once on three (3) separate days, and passed on its third reading by a majority of the entire board, by calling the ayes and noes; and all other ordinances shall be read on two (2) separate days, and all ayes and noes on all ordinances shall be recorded. [Acts 1875, ch. 92, § 22; Shan., § 1934; Code 1932, § 3350; T.C.A. (orig. ed.), § 6-212.]

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Part 4--Officers

6-2-401. Compensation of officers. The compensation of all officers shall be fixed by ordinance before their election, and not increased nor diminished during the term for which any officer may be elected or appointed. [Acts 1875, ch. 92, § 18; Shan., § 1929; Code 1932, § 3345; Acts 1970 (Adj. S.), ch. 426, § 14; T.C.A. (orig. ed.), § 6-214.]

6-2-402. Restrictions on interest of officers. (a) No officer in a municipality shall be directly interested in any contract to which the city is a party. "Directly interested" means any contract with the official himself or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. "Controlling interest" shall include the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.

(b) No officer in a municipality shall be indirectly interested in any contract to which the municipality is a party unless the officer publicly acknowledges his interest and recuses himself from any of his duties which include the consideration of, voting on, or overseeing the particular contract. "Indirectly interested" means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality.

(c) No municipal officer shall speculate in the municipality's bonds or warrants or other evidence of indebtedness; nor shall extra pay be granted to any officer, agent, or servant of a municipality, or allowances made for discharge of extra duties. [Acts 1875, ch. 92, § 23; Shan., § 1935; Code 1932, § 3351; T.C.A. (orig. ed.), § 6-215; Acts 1983, ch. 388, §§ 1,6.]

6-2-403. Judicial functions of recorder. The recorder or other proper designated officer, shall be vested with concurrent jurisdiction with judges of the court of general sessions, in all cases of violation of the criminal laws of the state, or of the ordinances of the municipality, within the limits of said municipality, but shall only receive the compensation fixed by ordinance, and pay all fees of office otherwise in the city treasury. [Acts 1875, ch. 92, § 16; Shan., § 1926; Code 1932, § 3342; impl. am. Acts 1979, ch. 68, § 8; T.C.A. (orig. ed.), § 6-217.]

6-2-404. Powers of peace officers. The corporate officer charged with the execution of process, civil or criminal, shall have power within said municipality to execute state warrants and other process, as constables have under the laws of the state. [Acts 1875, ch. 92, § 16; Shan., § 1927; Code 1932, § 3343; T.C.A. (orig. ed.), § 6-218.]

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CHAPTERS 3--17

[Reserved.]