Mayor-Council Plan - Charters - Model

THE TENNESSEE MAYOR-ALDERMEN CHARTER

(TCA 6-101 - 6-807)

(As amended through 1976 General Assembly session)

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

in cooperation with the

Tennessee Municipal League

April 1977

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APR 28 1977

P R E F A C E

The title of this publication is somewhat misleading--it does not contain all of the laws available to a city incorporated under TCA 6-101 et seq. We have included only the chapters that are more or less limited to cities incorporated under this law (but some are applicable to all cities--for example, the annexation law in sections 6-308--6-321). The purpose is to provide a handy reference with the most commonly-consulted laws for those cities incorporated under these sections of the code.

This publication includes chapters 1 through 8 of Title 6, Municipal Corporations, Tennessee Code Annotated, as amended through the 1976 session of the General Assembly.

TITLE 6

MUNICIPAL CORPORATIONS

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6-101. Population and property requirements.—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.

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 commission, 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.

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 commission, 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. [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.]

6-102. Application for charter—Description of boundaries.—One hundred (100) legal voters, being freeholders and residing within such territory, may apply for a charter.

A description of the boundaries of the proposed corporation, and of its wards, if any, shall be attached to the application. [Acts 1875, ch. 92, § 2; 1899, ch. 312; Shan., § 1882; Code 1932, § 3293; Acts 1970 (Adj. S.), ch. 426, § 1.]

6-103. 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.]

6-104. 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.]

6-105. Filing of voters' list—Incorporation of new municipalities within specified distances of existing municipalities.—When said list has been so verified, it shall, if the town proposed to be incorporated be a county site, be deposited or filed with the clerk of the county court of the county in which it is situated; if not a county site, then with any justice of the peace residing within the proposed incorporation; and if no justice of the peace reside within the proposed incorporation, then with the nearest justice of the peace of the county in which said town is situated. If the proposed incorporation includes territory in two (2) or more counties, said list may be filed with the county court clerk of either of such counties or with a justice of the peace of either of such counties. 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 per cent (20%) of the land area or thirty-five per cent (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 (⅔) 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.

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 §§ 6-109 and 6-110. All applications for charters and lists of voters required by §§ 6-102 and 6-103 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. 295, § 2; 1971, ch. 260, § 1; 1974 (Adj. S.), ch. 776, § 1.]

6-106. Keeping list subject to inspection.—The clerk or justice 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.]

6-107. 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 official having custody of said list and demanding that the same be done. Said official 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. [Acts 1877, ch. 121, § 6; Shan., §§ 1888, 1889; Code 1932, §§ 3299, 3300.]

6-108. Delivery of voters' list to election officials.—On the day of said election and before the polls are opened, the official having custody of said list shall deliver the same to the commissioners of elections or the officer holding said election. [Acts 1877, ch. 121, § 7; impl. am. Acts 1907, ch. 436; Shan., § 1890; Code 1932, § 3301.]

6-109. 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 than 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 (1) of such counties. [Acts 1875, ch. 92, § 2; 1877, ch. 121, § 6; Shan., § 1887; mod. Code 1932, § 3298; Acts 1959, ch. 295, § 3.]

6-110. Election.—At the expiration of thirty (30) days from the date of posting the notices aforesaid, or, if published in a newspaper, thirty (30) days from the date of the first publication, the commissioners of elections of the county in which such town is situated, by duly appointed judges, clerks, and officer of election, upon the costs incident to such election being paid or secured to them, shall, after giving ten (10) days' notice, open and hold an election in said proposed incorporation, to ascertain the will of the qualified voters in regard to the incorporation of said town. If the proposed incorporation includes territory in two (2) or more counties, an election for the purpose of determining whether said territory shall be incorporated shall be called by the county commissioners of election of the counties in which said territory is situated, and all of said commissioners shall execute the certificate required by § 6-113. [Acts 1875, ch. 92, § 3; 1877, ch. 121, § 7; impl. am. Acts 1907, ch. 436; Shan., § 1891; Code 1932, § 3302; Acts 1959, ch. 295, § 4.]

6-111. 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.]

6-112. Return of elections.—The commissioners of elections shall make return of the election to the county court clerk. If the proposed incorporation includes territory in two (2) or more counties, the return of the election may be made to the county court 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.]

6-113. Certificate of election commissioners.—The certificate of the commissioners of elections shall be substantially in the following form, to wit:

"State of Tennessee,
——— County.

"We, ———, the commissioners of elections, 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.]

6-114. Certification to secretary of state.—Upon receiving such return, if at least a majority of the votes cast are for "Corporation," the clerk of the county court 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.]

6-115. Certificate of incorporation.—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."

He shall affix thereto his official name and the great seal of the state, and forward the same to the county court 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.]

6-116. Fees.—The fee of the clerk of the county court for recording petition for incorporation under § 6-105 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.]

6-117. 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.]

6-118. [Repealed.]

6-119. [Repealed.]

6-120. 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 restrictions and regulations, contained and set forth in chapters 1 to 17, inclusive, of this title. [Acts 1875, ch. 92, § 17; 1877, ch. 121, § 5; Shan., § 1901; Code 1932, § 3312.]

6-121. Disposition of list of voters.—When said corporation is organized, the commissioners of elections 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 clerk of the county court 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.]

6-122. 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 to 17, inclusive, of this title, 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 per cent (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.]

6-123. 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.]

6-124. 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 §§ 6-101—6-121. [Acts 1875, ch. 92, § 14; Shan., § 1906; Code 1932, § 3317.]

6-125. 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 §§ 6-101—6-121, 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.]

6-126. [Repealed.]

6-127. Officers of municipalities.—The officers of each municipality, unless otherwise provided, shall consist of a mayor, two (2) aldermen for each ward, one half (½) 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 § 6-110; 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.

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 (⅔) vote of the legislative body.

In the event a majority of the qualified voters of any municipality in an election for that purpose called by a petition of ten per cent (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.

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 commissioners of election shall make return of the election as provided in §§ 6-112 and 6-123.

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. [Acts 1875, ch. 92, § 8; Shan., § 1942; Code 1932, § 3360; Acts 1959, ch. 232, § 1; 1959, ch. 295, § 7; 1963, ch. 298, §§ 1, 2; 1973, ch. 275, § 1; 1976 (Adj. S.), ch. 581, § 1.]

6-128. 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 (1) 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.]

6-129. Terms of aldermen.—The term of office of every officer of such municipality, elected by the qualified voters thereof, except of one half (½) 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 § 6-131.

Provided, such municipality may by petition of ten per cent (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 non-staggered 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:

(a) 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.

(b) 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 (½) of the aldermen shall be elected for four (4) years and one half (½) 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.

(c) 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.]

6-130. 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.]

6-131. 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 occurring 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 that 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.]

6-132. 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 tem. 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.]

6-133. 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.]

6-134. 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 per cent (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.]

CHAPTER 2—POWERS OF CITIES WITH MAYOR-ALDERMANIC CHARTER

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6-201. 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.]

6-202. Corporate powers enumerated.—Every corporation formed as above shall have full power and authority:

(1) To enact such by-laws 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.

(19) To pass all by-laws 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.]

6-203. 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.]

6-204. 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.]

6-205. 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 are 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.]

6-206. 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.]

6-207. 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 (⅔) of the yearly levy; until such floating debt is absorbed, funded, or paid. [Acts 1875, ch. 92, § 21; Shan., § 1933; Code 1932, § 3349; modified.]

6-208. Maximum tax levies.—No municipality shall levy a higher tax than fifteen (15) mills on the dollar of taxable property for all purposes, without specific legislative authority, and no tax in excess of this shall be levied on the taxable property of the municipality; provided, without such authority, cities having by the last federal census, or any future federal census, five thousand (5,000) inhabitants or un-

der, shall not levy a tax of more than seven and a half (7½) mills on the dollar; twelve thousand (12,000) and under, not more than ten (10) mills on the dollar; twenty thousand (20,000) and under, not more than twelve and a half (12½) mills on the dollar. [Acts 1875, ch. 92, § 21; Shan., § 1932; mod. Code 1932, § 3348.]

6-209. 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.]

6-210. 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.]

6-211. 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.]

6-212. 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.]

6-213. Publication of ordinances—Codification.—Each ordinance shall be published once prior to its effective date, in a newspaper of general circulation in the municipality. 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.]

6-214. 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.]

6-215. Restrictions on interest of officers.—No officer in a municipality shall, directly or indirectly, be interested in any contract to which the city is a party, or speculate in its bonds or warrants or other evidences of indebtedness; nor shall extra compensation be allowed, or extra pay 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.]

6-216. 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.]

6-217. Judicial functions of recorder.—The recorder or other proper designated officer, shall be vested with concurrent jurisdiction with justices of the peace, 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.]

6-218. Powers of peace officers.—The corporate officers 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.]

6-219. Abolition of charter.—The people of any incorporated municipality, which was chartered or incorporated under the general laws providing for the organization of municipal corporations, who desire to surrender or abolish their charters, may do so in the following manner, to wit:

Whenever ten per cent (10%) or more of the registered voters of any such town or city shall petition the commissioners of elections of the county in which said town or city is located, setting forth in said petition that they desire and pray that an election be held of the qualified voters of said town or city, submitting to them the question of "charter" or "no charter," the commissioners of elections shall cause to be held an election in said town or city, in the several wards thereof, if there be such wards, to ascertain the will of the people of said town or city, as to the surrender or nonsurrender of their charter. If said municipal corporation includes territory in two (2) or more counties, such election shall be called and conducted by the county commissioners of election of the counties in which said territory is situated, and the results certified to the county court clerk of all such counties. [Acts 1901, ch. 165, § 1; Shan., § 1997a1; mod. Code 1932, § 3505; Acts 1959, ch. 295, § 8; 1968 (Adj. S.), ch. 436, § 1.]

6-220. Notice of election on abolition.—Upon the receipt of such petition, the commissioners of election shall give notice of the time of holding such election, by written or printed handbills posted at five (5) or more public places in said town or city and every ward thereof, at least twenty (20) days before the day of election, stating the object of the election, and shall also cause the same to be published for two (2) consecutive weeks in some newspaper, if there be one published in said town or city. [Acts 1901, ch. 165, § 2; Shan., § 1997a2; Code 1932, § 3506.]

6-221. Conduct of election on abolition.—On the day fixed in said notices of election and at the usual place or places of holding elections in said town or city, the commissioners of elections shall cause said elections to be held in the manner prescribed by law in cases of general election. All persons who are entitled to vote in said town or city for officers thereof, shall be entitled to vote in said election, and those who desire to surrender or abolish the charter, shall have printed or written on their tickets the words "no charter," and those opposed to the repeal or surrender of the charter shall have printed or written on their tickets the word "charter." [Acts 1901, ch. 165, § 3; Shan., §§ 1997a3, 1997a4; mod. Code 1932, §§ 3507, 3508.]

6-222. Return and canvass of election.—When said election is closed, the officers, judges, and clerks holding the same shall certify the result of said election, together with the poll list of voters and ballots, and the same shall be duly returned to the commissioners of elections of the county, who shall canvass the ballots and verify the same, as required by law, in case of general elections. [Acts 1901, ch. 165, § 4; Shan., § 1997a5; mod. Code 1932, § 3509.]

6-223. Effect of election on abolition.—When the commissioners of election have duly canvassed the vote and the returns, and ascertained the result of the election, if it should appear that "no charter" has a majority of the votes cast, they shall make a triplicate certificate of the result of said election and file one (1) with the original petition with the clerk of the county court; they shall also file one (1) of said certificates, together with a copy of the original petition, with the secretary of state, to be filed and recorded in his office, and they shall cause one (1) of said certificates to be registered (in the register's office of the county in which the town or city is situated, and when said certificates are duly filed and registered) as herein provided, said corporation shall be abolished and become extinct. If a majority of the votes cast in said election be for "charter," the commissioners of election shall make one statement and certificate of the result, which they shall file with the clerk of the county court of said county, together with the original petition; and no other election shall be held for the repeal of the charter of such town or city until after the expiration of twelve (12) months. [Acts 1901, ch. 165, § 5; Shan., § 1997a6; Code 1932, § 3510.]

6-224. Expenses of election.—In case a majority of the votes cast in said election be for "charter," the expense of said election shall be paid out of the treasury of the municipality; if a majority of the votes cast be for "no charter," then the expense shall be paid by the petitioners. [Acts 1901, ch. 165, § 6; Shan., § 1997a7; Code 1932, § 3511.]

6-225. 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.]

CHAPTER 3—CHANGE OF MUNICIPAL BOUNDARIES

SECTION.

6-301, 6-302. [Repealed.]
6-303. Special census after annexation.
6-304. Contraction of limits.
6-305. Election on contraction.
6-306. Transcript of contraction proceedings.
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6-308. Annexation of territory—Definitions.
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6-315. Rights of residents of annexed territory.
6-316. Annexation of smaller municipality by larger municipality.
6-317. Priority of larger or smaller municipalities in annexation.
6-318. Municipal property and services.
6-319. Utility services other than gas or telephone.
6-320. Electric cooperatives.
6-321. Provisions supplemental.
6-322. Adjustment of boundaries of contiguous municipalities.

6-301, 6-302. [Repealed.]

6-303. Special census after annexation.—In the event any area is annexed to any municipality, the municipality may have a special census within the annexed area taken by the federal bureau of the census or in a manner directed by and satisfactory to the Tennessee state planning commission, in which case the population of such municipality shall be changed and revised so as to include the population of the annexed area as shown by such supplemental census; the population of such municipality as so changed and revised shall be its population for the purpose of computing such municipalities' share of all funds and moneys distributed by the state of Tennessee among the municipalities of the state on a population basis, and the population of such municipality as so revised shall be used in computing the aggregate population of all municipalities of the state, effective on the first day of the next July following the certification of such supplemental census results to the commissioner of finance and administration of the state of Tennessee. [Acts 1953, ch. 121, § 1 (Williams, § 3321.1); impl. am. Acts 1959, ch. 9, § 3; impl. am. Acts 1961, ch. 97, § 3.]

6-304. Contraction of limits.—Any incorporated city or town, whether same shall have been incorporated by general or special act, may contract its limits within any given territory, provided three-fourths (¾) of the qualified voters voting in an election thereon assent thereto. [Acts 1875, ch. 92, § 15; Shan., § 1911; mod. Code 1932, § 3322; Acts 1955, ch. 61, § 1; 1955, ch. 113, § 10.]

6-305. Election on contraction.—The election shall be held under the provisions of an ordinance to be passed for that purpose; a full report of said election shall be spread upon the minutes of the board, if three-fourths (¾) of said voters assent to said contraction, and in said report the metes and bounds of the territory to be excluded must be fully set forth. [Acts 1875, ch. 92, § 15; Shan., § 1912; Code 1932, § 3323.]

6-306. Transcript of contraction proceedings.—A transcript from the minutes, under the signature of the mayor, and corporate seal, must be transmitted to the secretary of state, who shall register the same in his office, append his certificate of registration, and affix thereto the great seal of the state. [Acts 1875, ch. 92, § 15; Shan., § 1913; Code 1932, § 3324.]

6-307. Effective date of contraction.—Upon the registration of said transcript, with certificate and facsimile of great seal, in the register's office of the county, all municipal jurisdiction shall thereafter cease in and over the territory described in said metes and bounds, except that for any debt contracted prior to the surrender of jurisdiction, authority shall remain in said incorporated town to levy and collect taxes on said property, in said excluded limits, in order to pay its proportion of any debt contracted prior to said exclusion. [Acts 1875, ch. 92, § 15; Shan., § 1914; Code 1932, § 3325.]

6-308. Annexation of territory—Definitions.—As used in §§ 6-308—6-320, (a) "municipality" or "municipalities" shall mean any incorporated city or cities, or town or towns, and shall not include any utility district, sanitary district, school district, or other public service district, whether organized under public or private acts, (b) the terms "larger" and "smaller" shall refer to population and not to area, and (c) the term "notice" shall mean publication in a newspaper of general circulation in the municipality at least seven (7) days in advance of a hearing. [Acts 1955, ch. 113, § 1.]

6-309. Annexation by ordinance.—A municipality when petitioned by a majority of the residents and property owners of the affected territory, or upon its own initiative when it appears that the prosperity of such municipality and territory will be materially retarded and the safety and welfare of the inhabitants and property thereof endangered, after notice and public hearing, by ordinance, may extend its corporate limits by annexation of such territory adjoining its existing boundaries as may be deemed necessary for the welfare of the residents and property owners of the affected territory as well as the municipality as a whole, provided said ordinance shall not become operative until thirty (30) days after final passage thereof.

Provided, however, that before any territory more than one-fourth (¼) square mile in area or having a population of more than five hundred (500) persons may be annexed under this section, the governing body of the municipality shall adopt a plan of service setting forth at a minimum the identification and projected timing of municipal services proposed to be extended into the territory proposed to be annexed. Except in counties having a population of not less than sixty-five thousand (65,000) nor more than sixty-six thousand (66,000) and counties having a population of four hundred thousand (400,000) or more according to the federal census of 1970 or any subsequent federal census and except in counties having a metropolitan form of government, the plan of services, to be identified, shall include but be not limited to: police protection, fire protection, water service, electrical service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, and the zoning services which the municipality shall enact for the territory proposed to be annexed; provided such plan may except such services which are being provided by another public agency or private company in the area to be annexed. Provided, further, that before any such plan of service shall be adopted, it must have been submitted to the local planning commission, if there be such, for study and a written report, to be rendered within ninety (90) days after such submission, unless by resolution of the governing body a longer period is allowed. Except in counties having a population of not less than sixty-five thousand (65,000) nor more than sixty-six thousand (66,000) and counties having a population of four hundred thousand (400,000) or more according to the federal census of 1970 or any subsequent federal census and except in counties having a metropolitan form of government, prior to the adoption of the plan of services, a municipality shall hold a public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality seven (7) days prior to the hearing. The notice shall include the locations of a minimum of three (3) copies of the plan of services which the municipality shall provide for public inspection during all business hours from the date of notice until the public hearing.

Anything contained in chapter 3 of title 6 to the contrary notwithstanding, a municipality in any county having a population of over sixty-six thousand (66,000) (except in those counties having a population of more than seven hundred thousand (700,000) according to the United States census of population of 1970 or any subsequent federal census; or in those counties which have the metropolitan form of government) shall have the supplemental right and authority to annex upon its own initiative by ordinance any territory without levying any municipal ad valorem taxes except for actual municipal services rendered, and that the residents of, and persons owning property in, annexed territory shall be entitled to rights and privileges of citizenship, in accordance with the provisions of the annexing municipality's charter, immediately upon annexation as though such annexed territory had always been a part of the annexing municipality; and it shall be the duty of the governing body to put into effect with respect to an annexed area any charter provisions relating to representation on the governing body. Any municipality that exercises such right to annex is here-

by authorized, required and shall levy separate ad valorem taxes for each municipal purpose and/or service within the existing limits of the city and shall levy only such taxes, if any, in any territory annexed hereunder when and if the municipal service or purpose for which such taxes have been imposed is actually being rendered; provided however, that in the case of sanitary sewers, such sewers shall be furnished within thirty-six (36) months after ad valorem taxes become due.

In counties having a population of more than seven hundred thousand (700,000), or having a population of not less than two hundred and sixty thousand (260,000) nor more than two hundred and eighty thousand (280,000) according to the United States census of population of 1970 or any subsequent federal census, or in those counties which have the metropolitan form of government, a smaller municipality may, by ordinance, extend its corporate limits by annexation of any contiguous territory, when such territory within the corporate limits of a larger municipality is less than seventy-five (75) acres in area, is not populated, is separated from the larger municipality by a limited access express highway, its access ramps or service roads, and is not the site of industrial plant development. The provisions of this chapter relative to the adoption of a plan of service and the submission of same to a local planning commission, if there be such, shall not be required of the smaller municipality for such annexation. [Acts 1955, ch. 113, § 2; 1961, ch. 320, § 1; 1969, ch. 136, § 1; 1971, ch. 420, §§ 1, 2, 3; 1972 (Adj. S.), ch. 844, § 1; 1974 (Adj. S.), ch. 753, §§ 1, 2, 8, 9.]

6-310. Quo warranto to contest annexation ordinance—Appeal.—Any aggrieved owner of property lying within territory which is the subject of an annexation ordinance prior to the operative date thereof, may file a suit in the nature of a quo warranto proceeding in accordance with §§ 6-308—6-320 and chapter 28 of title 23, to contest the validity thereof on the ground that it reasonably may not be deemed necessary for the welfare of the residents and property owners of the affected territory and the municipality as a whole and so constitutes an exercise of power not conferred by law.

Except in counties having a population of not less than sixty-five thousand (65,000) nor more than sixty-six thousand (66,000) and counties having a population of four hundred thousand (400,000) or more according to the federal census of 1970 or any subsequent federal census and except in counties having a metropolitan form of government, the municipality shall have the burden of proving that an annexation ordinance is reasonable for the overall well-being of the communities involved.

If more than one (1) suit is filed, all of them shall be consolidated and tried as one (1) in the first court of appropriate jurisdiction in which suit is filed. Suit or suits, shall be tried on an issue to be made up there, and the question shall be whether the proposed annexation be or be not unreasonable in consideration of the health, safety and welfare of the citizens and property owners of the territory sought to be annexed and the citizens and property owners of the municipality. Should the court find the ordinance to be unreasonable, an order shall be issued vacating the same. In the absence of such finding an order shall be issued sustaining the validity of such ordinance, which shall then become operative thirty-one (31) days after judgment is entered unless an abrogating appeal has been taken therefrom.

If on appeal judgment shall be against the validity of such ordinance, an order shall be entered vacating the same; otherwise, it shall become operative forthwith by court order and shall not be subject to contest or attack in legal or equitable proceeding for any cause or reason, the judgment of the appellate court being final.

Should the territory hereafter sought to be annexed be the site of substantial industrial plant development, a fact to be ascertained by the court, the municipality shall have the burden of proving that the annexation of the site of the industrial plant development is not unreasonable in consideration of the factors above mentioned, including the necessity for, or use of municipal services by the industrial plant or plants, and the present ability and intent of the municipality to benefit the said industrial plant development by rendering municipal services thereto when and as needed. The policy and purpose of this provision is to prevent annexation of industrial plants for the sole purpose of increasing municipal revenue, without the ability and intent to benefit the area annexed by rendering municipal services, when and as needed, and when such services are not used or required by the industrial plants.

During the time that any annexation ordinance is being contested as provided herein, the annexing municipality and the county governing body (and/or any affected school, sanitary or utility district) may enter into an agreement to provide for new, expanded, and/or upgraded services and facilities (including, but not limited to, equipment, land, and buildings), and capital expenditures (including sale of bonds) to finance such services and facilities, which agreement shall include an equitable division of the cost and liabilities of such capital expenditures between the annexing municipality and the county governing body (and/or affected school, sanitary, or utility district) upon final determination of such contested annexation ordinance. [Acts 1955, ch. 113, § 2; 1961, ch. 220, § 1; 1970 (Adj. S.), ch. 516, § 1; 1974 (Adj. S.), ch. 753, §§ 4, 8, 9.]

6-311. Annexation by referendum—Notice.—A municipality, when petitioned by interested persons, or upon its own initiative, by resolution, may propose extension of its corporate limits by the annexation of territory adjoining to its existing boundaries. Such resolution, describing the territory proposed for annexation, shall be published by posting copies of it in at least three (3) public places in the territory proposed for annexation and in a like number of public places in the municipality proposing such annexation, and by publishing notice of such resolution at or about the same time, in a newspaper of general circulation, if there be one, in such territory and municipality. [Acts 1955, ch. 113, § 3.]

6-312. Referendum on annexation — Mode additional. — At least thirty (30) and not more than sixty (60) days after the last of such publications, the proposed annexation of territory shall be submitted by the county election commission in an election held on the request and at the expense of the proposing municipality, for approval or disapproval of the qualified voters who reside in the territory proposed for annexation. The legislative body of the municipality affected may also at its option submit the questions involved to a referendum of the people residing within the municipality. In the election or elections to be held the questions submitted to the qualified voters shall be, "For Annexation," "Against Annexation." The county election commission shall promptly certify the results of the election or elections to the municipality. If a majority of all the qualified voters voting thereon in the territory proposed to be annexed, or in the event of two (2) elections as above stated, a majority of the voters voting thereon in the territory to be annexed and a majority of the voters voting thereon in the municipality shall approve the resolution, annexation as provided therein shall become effective thirty (30) days after the certification of said election or elections. The mode of annexation provided in this section shall be in addition to the mode provided in § 6-309. [Acts 1955, ch. 113, § 3.]

6-313. Abandonment of proceedings.—Any annexation proceeding initiated under § 6-309 or § 6-311 may be abandoned and discontinued at any time by resolution of the governing body of the municipality. [Acts 1955, ch. 113, § 4.]

6-314. Planning agency study—Report.—The governing body of a municipality shall, if its charter so provides, and otherwise may, refer any proposed annexation to the planning agency of the municipality for study of all pertinent matters relating thereto, and the planning agency expeditiously, shall make such a study and report to the governing body. [Acts 1955, ch. 113, § 5.]

6-315. Rights of residents of annexed territory.—Residents of, and persons owning property in, annexed territory shall be entitled to rights and privileges of citizenship, in accordance with the provisions of the annexing municipality's charter, immediately upon annexation as though such annexed territory had always been a part of the annexing municipality. It shall be the duty of the governing body to put into effect with respect to an annexed area any charter provisions relating to representation on the governing body.

Except in counties having a population of not less than sixty-five thousand (65,000) nor more than sixty-six thousand (66,000) and counties having a population of four hundred thousand (400,000) or more according to the federal census of 1970 or any subsequent federal census and except in counties having a metropolitan form of government upon the expiration of a year from the date any annexed area for which a plan of service has been adopted becomes a part of the annexing municipality, and annually thereafter until services have been extended according to such plan, there shall be prepared and published in a newspaper of general circulation in the municipality a report of the progress made in the preceding year toward extension of services according to such plan, and any changes proposed therein, and the governing body of the municipality shall publish notice of a public hearing on such progress reports and changes, and hold such hearing thereon. Any changes in the plan of service shall be incorporated in a resolution approved by the governing body of the municipality. Any owner of property in an annexed area to which such plan and progress report are applicable may file a suit for mandamus to compel the governing body to comply with the requirements of this paragraph. [Acts 1955, ch. 113, § 6; 1974 (Adj. S.), ch. 753, §§ 3, 8, 9.]

6-316. Annexation of smaller municipality by larger municipality.—Upon receipt of a petition in writing of twenty per cent (20%) of the qualified voters of a smaller municipality, voting at the last general election, said petition to be filed with the chief executive officer of the smaller municipality who shall promptly submit same to the chief executive officer of the larger municipality, such larger municipality may by ordinance annex such smaller municipality in existence on March 8, 1955, only after a majority of the qualified voters voting in an election in such smaller municipality vote in favor of the annexation. The county election commission shall hold such an election on the request and at the expense of the larger municipality, the results of which shall be certified to each municipality. If a majority of the qualified voters voting in such election are in favor of annexation, the corporate existence of such small municipality shall end within thirty (30) days after the adoption of said ordinance by the larger municipality, and all of the choses in action, including the right to collect all uncollected taxes, and all other assets of every kind and description of the smaller municipality shall be taken over by and become the property of the larger municipality; and all legally subsisting liabilities, including any bonded indebtedness, of the smaller municipality shall

be assumed by the larger municipality, which shall thereafter have as full jurisdiction over the territory of the smaller municipality as over that lying within the existing corporate limits of the larger municipality. [Acts 1955, ch. 113, § 7.]

6-317. Priority of larger or smaller municipalities in annexation.—Nothing in §§ 6-308—6-320 shall be construed to authorize annexation proceedings by a smaller municipality with respect to territory within the corporate limits of a larger municipality nor, except in counties having a population of not less than sixty-five thousand (65,000) nor more than sixty-six thousand (66,000) and counties having a population of four hundred thousand (400,000) or more according to the federal census of 1970 or any subsequent federal census and except in counties having a metropolitan form of government, by a larger municipality with respect to territory within the corporate limits of a smaller municipality in existence for ten (10) or more years. If two (2) municipalities shall initiate annexation proceedings with respect to the same territory, the proceedings of the municipality having the larger population shall have precedence and the smaller municipality's proceedings shall be held in abeyance pending the outcome of the proceedings of such larger municipality. Except in counties having a population of not less than sixty-five thousand (65,000) nor more than sixty-six thousand (66,000) and counties having a population of four hundred thousand (400,000) or more according to the federal census of 1970 or any subsequent federal census and except in counties having a metropolitan form of government, annexation proceedings shall be considered as initiated upon passage on first (1st) reading of an ordinance of annexation. If the ordinance of annexation of the larger municipality does not receive final approval within one hundred eighty (180) days after having passed its first reading, the proceeding shall be void and a smaller municipality shall have priority with respect to annexation of the territory; provided its annexation ordinance shall likewise be adopted upon final passage within one hundred and eighty (180) days after having passed its first (1st) reading. When a larger municipality initiates annexation proceedings for a territory which could be subject to annexation by a smaller municipality, the smaller municipality shall have standing to challenge the proceedings in the chancery court of the county where the territory proposed to be annexed is located. Provided, however, that a smaller municipality may, by ordinance, extend its corporate limits by annexation of any contiguous territory, when such territory within the corporate limits of a larger municipality is less than seventy-five (75) acres in area, is not populated, is separated from the larger municipality by a limited access express highway, its access ramps or service roads, and is not the site of industrial plant development. The provisions of this chapter relative to the adoption of a plan of service and the submission of same to a local planning commission, if there be such, shall not be required of the smaller municipality for such annexation. [Acts 1955, ch. 113, § 8; 1969, ch. 136, § 2; 1974 (Adj. S.), ch. 753, §§ 5, 8, 9.]

6-318. Municipal property and services.—Upon adoption of an annexation ordinance or upon referendum approval of an annexation resolution as hereinabove provided, an annexing municipality and any affected instrumentality of the state of Tennessee, such as, but not limited to, a utility district, sanitary district, school district, or other public service district, shall attempt to reach agreement in writing for allocation and conveyance to the annexing municipality of any or all public functions, rights, duties, property, assets and liabilities of such state instrumentality that justice and reason may require in the circumstances. Provided, however, that any and all agreements entered into before March 8, 1955 relating to annexation shall be preserved. The annexing municipality, if and to the extent that it may choose,

shall have the exclusive right to perform or provide municipal and utility functions and services in any territory which it annexes, notwithstanding § 6-2607 or any other statute, subject, however, to the provisions of this section with respect to electric cooperatives. Subject to such exclusive right, any such matters upon which the respective parties are not in agreement in writing within sixty (60) days after the operative date of such annexation shall be settled by arbitration with the laws of arbitration of the state of Tennessee effective at the time of submission to the arbitrators, and subsection (2) of § 23-501 shall not apply to any arbitration arising under §§ 6-308—6-320. The award so rendered shall be transmitted to the chancery court of the county in which the annexing municipality is situated, and thereupon shall be subject to review in accordance with §§ 23-513—23-515 and 23-518.

If the annexed territory is then being provided with a utility service by a state instrumentality which has outstanding bonds or other obligations payable from the revenues derived from the sale of such utility service, the agreement or arbitration award referred to above shall also provide (a) that the municipality will operate the utility property in such territory and account for the revenues therefrom in such manner as not to impair the obligations of contract with reference to such bonds or other obligations, or (b) that the municipality will assume the operation of the entire utility system of such state instrumentality and the payment of such bonds or other obligations in accordance with their terms. Such agreement or arbitration award shall fully preserve and protect the contract rights vested in the holders of such outstanding bonds or other obligations. [Acts 1955, ch. 113, § 9; 1957, ch. 381, § 1; 1968 (Adj. S.), ch. 413, § 1.]

6-319. Utility services other than gas or telephone.—Notwithstanding any other law, public or private, to the contrary no municipality may render utility water service to be consumed in any area outside its municipal boundaries when all of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee public service commission or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render such utility water service. If and to the extent that a municipality chooses to render utility water service to be consumed within its municipal boundaries when all or part of such area is included within the scope of a certificate or certificates of convenience and necessity or other similar orders of the Tennessee public service commission or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render such utility water service; then the municipality and such person, firm or corporation shall attempt to reach agreement in writing for allocation and conveyance to the municipality of any or all public utility functions, rights, duties, property, assets, and liabilities of such person, firm or corporation so affected that justice and reason may require. If within a reasonable time the parties cannot agree in writing on allocation and conveyance, then either party may petition the chancery court of the circuit in which such area is located for a determination of value and damages suffered by such person, firm or corporation as a result of such municipal choice.

Such proceeding shall be conducted according to the laws of eminent domain of the state, chapter 14 of title 23 of this Code, and shall include a determination of actual damages, incidental damages, and incidental benefits, as provided for therein, but in no event shall the amounts so determined exceed the replacement cost of the facilities.

The term "municipality" as used in this section shall include any agency, instrumentality, board, public corporation, or authority of the municipal government performing or authorized to perform such utility functions. The provisions of this paragraph shall not apply to municipalities having a population in excess of three hundred fifty thousand (350,000), according to the federal census of 1960, or any subsequent federal census.

Provided this section shall not apply to those counties having a population of not less than twenty-six thousand nine hundred (26,900) and not more than twenty-seven thousand (27,000) according to the federal census of 1960.

The provisions of the foregoing paragraph shall not be applicable in those counties which have adopted a metropolitan government form of government pursuant to § 6-3701 et seq.

Provided, however, that the provisions of this section shall not apply in counties having a population of not less than twenty-seven thousand six hundred (27,600) nor more than twenty-seven thousand seven hundred (27,700) according to the 1960 federal census or any subsequent federal census.

Provided, however, that the provisions of this section shall not apply in counties having a population of not less than ten thousand seven hundred (10,700) nor more than ten thousand seven hundred seventy (10,770) or not less than twelve thousand (12,000) nor more than twelve thousand one hundred (12,100) according to the 1960 federal census or any subsequent federal census.

If and to the extent that a municipality incorporated after January 1, 1972, and which has been incorporated for two (2) years or longer chooses to render any utility services (other than the furnishing of natural or artificial gas or telephone service) within its municipal boundaries, when all or any part of such area is included within the scope of (1) a certificate or certificates of convenience and necessity or other similar orders of the Tennessee public service commission or other appropriate regulatory agency outstanding in favor of any person, firm or corporation authorized to render any such utility services (other than the furnishing of natural or artificial gas or telephone service), or (2) an order issued pursuant to the provisions of chapter 26 of title 6, authorizing a utility district to furnish any such utility services (other than the furnishing of natural or artificial gas or telephone service), then the municipality and such person, firm or corporation or utility district shall attempt to reach agreement in writing for allocation and conveyance to the municipality of any or all public utility functions, including but not limited to those set out in § 6-2608, excepting the furnishing of natural or artificial gas or telephone service, and of all rights, duties, property, assets and liabilities of such person, firm or corporation or utility district so affected that justice and reason may require. If, within a reasonable time, the parties cannot agree in writing on allocation and conveyance, then either party may petition the circuit court of the circuit in which such area is located for a determination of value and damages suffered by such person, firm or corporation or utility district as a result of such municipal choice. If the court finds that it would be in the best interests of both the municipality and the person, firm or corporation or utility district furnishing utility services in the area in question, the court may, in its discretion, order the transfer to the municipality of the entire utility system, upon compensation being paid such person, firm or corporation or utility district in such amount and in such manner as may be determined by the court. Provided, that before any such municipality may initiate any negotiation or proceedings under the provisions of this paragraph for the allocation and conveyance to the municipality of any or all public utility functions, such action shall first have been approved by a majority of the qualified voters of

such municipality voting in a referendum on the question of such municipality acquiring and exercising such public utility functions. Such referendum shall be called by resolution or ordinance duly adopted by a majority of the governing body of such municipality and shall be held by the county election commission upon request of such governing body not less than forty-five (45) days after the adoption of such resolution or ordinance and publication in a newspaper of general circulation in such municipality once a week for a period of three (3) weeks preceding such referendum. The votes cast in such election shall be counted and the results certified as provided by law for municipal elections generally and the qualification of voters in such referendum shall be the same as those required for voting in municipal elections generally. The municipality shall pay the costs of holding such referendum. [Acts 1965, ch. 304, § 1; 1974 (Adj. S.), ch. 773, §§ 1-3.]

6-320. Electric cooperatives.—Notwithstanding the provisions of any other statute, if the annexing municipality owns and operates its own electric system, it shall either offer to purchase any electric distribution properties and service rights within the annexed area owned by any electric cooperative, or grant such cooperative a franchise to serve the annexed area, as hereinafter provided:

(1) The municipality shall notify the affected electric cooperative in writing of the boundaries of the annexed area and shall indicate such area on appropriate maps.

(2) Municipality shall offer to purchase the electric distribution properties of the cooperative located within the annexed area, together with all of the cooperative's rights to serve within such area, for a cash consideration which shall consist of (a) the present-day reproduction cost, new, of the facilities being acquired, less depreciation computed on a straight-line basis; plus (b) an amount equal to the cost of constructing any necessary facilities to reintegrate the system of the cooperative outside the annexed area after detaching the portion to be sold; plus (c) an annual amount, payable each year for a period of ten (10) years, equal to the sum of (i) twenty-five per centum (25%) of the revenues received from power sales to consumers of electric power within the annexed area, except consumers with large industrial power loads greater than 300 kilowatts, during the last twelve (12) months preceding the date of the notice provided for in (1) above, and (ii) fifty per centum (50%) of the net revenues (gross power sales revenues less wholesale cost of power including facilities rental charge) received from power sales to consumers with large industrial power loads greater than 300 kilowatts within the annexed area during the last twelve (12) months preceding the date of the aforesaid notice.

(3) The electric cooperative, within ninety (90) days after receipt of an offer by the annexing municipality to purchase the cooperative's electric distribution properties and service rights within the annexed area, shall signify in writing its acknowledgement of the offer, and the parties shall proceed to act. The annexing municipality shall then be obligated to buy and pay for, and the cooperative shall be obligated to sell to the municipality such properties and rights free and clear of all mortgage liens and encumbrances for the aforesaid cash consideration computed and payable as provided in subparagraph (2) of this section.

(4) The annexing municipality, if it elects not to make the offer to purchase as provided for above, shall grant to the cooperative a franchise to serve within the annexed area, for a period of not less than five (5) years, and the municipality shall thereafter renew or extend said franchise or grant new franchises for similar subsequent periods; provided, however, that upon expiration of any such franchise the municipality may elect instead to make an offer to buy the cooperative's electric distribution properties and service rights as they then exist in accordance with and subject to the provisions of subparagraphs (1)

and (2) of this section; provided, further, that, during the term of any such franchise, the annexing municipality shall be entitled to serve only such electric customers or locations within the annexed area as it served on the date when such annexation became effective.

(5) Provided further if any annexing municipality shall contract its boundaries so as to exclude from its corporate limits any territory, the cooperative may elect within sixty (60) days thereafter to purchase from such municipality and such municipality shall thereupon sell and convey to the cooperative the electric distribution properties and service rights of the municipality in any part of the excluded area which the said electric cooperative had previously served, upon the same procedures set forth in subparagraphs (1) through (4) of this section hereof for acquisitions by municipalities.

(6) Provided further nothing contained herein shall prohibit municipalities and any cooperative from buying, selling, or exchanging electric distribution properties, service rights and other rights, property, and assets by mutual agreement.

(7) Provided further the territorial areas lying outside municipal boundaries served by municipal and cooperative electric systems will remain the same as generally established by power facilities already in place or legal agreements on March 6, 1968, and new consumers locating in any unserved areas between the respective power systems shall be served by the power system whose facilities were nearest on March 6, 1968, except to the extent that territorial areas are revised in accordance with the provisions of this section.

(8) The term "electric distribution properties" as used in this section shall mean all electric lines and facilities used or useful in serving ultimate consumers, but shall not include lines and facilities which are necessary for integration and operation of portions of a cooperative's electric system which are located outside the annexed area.

The above methods of allocation and conveyance of property and property rights of any electric cooperative to any annexing municipality shall be exclusively available to such annexing municipality and to such electric cooperative notwithstanding § 6-1505 or any other title or section of the Code in conflict or conflicting herewith. [Acts 1968 (Adj. S.), ch. 413, §§ 2, 3.]

6-321. Provisions supplemental.—Except as specifically provided in §§ 6-303—6-321 the powers conferred by such sections shall be in addition and supplemental to, and the limitations imposed by said sections shall not affect the powers conferred by any other general, special or local law. [Acts 1955, ch. 113, § 12.]

6-322. Adjustment of boundaries of contiguous municipalities.—Whenever the boundaries of the corporate limits of municipalities are contiguous and such boundaries are not in line with the street and lot layout of the municipalities said municipalities may adjust such boundaries by contract between themselves so as to avoid confusion and uncertainty about the location of said contiguous boundary. [Acts 1976 (Adj. S.), ch. 834, § 1.]

CHAPTER 4

DISSOLUTION AND LIQUIDATION OF AFFAIRS

SECTION.
6-401. Tax levy to pay indebtedness existing on abolition of charter.
6-402. Collection and disposition of tax.
6-403. Right to condemnation proceeds on municipal property after dissolution of municipality.
6-404. Apportionment and distribution of condemnation proceeds.
6-405. New corporation as successor to old.
6-406. Property and debts passing to successor.
6-407. Collection of taxes and dues by successor.

6-401. Tax levy to pay indebtedness existing on abolition of charter. —The county courts are empowered to levy a special tax within the territory embraced within the limits of any incorporated town or city whose charter has been abolished and no new charter granted, or no reincorporation has taken place, or when a new charter has been granted making no provision for the indebtedness of the former corporation, for the purpose of meeting existing indebtedness due, for the purpose of meeting annual or semiannual interest charges on bonded indebtedness, for the purpose of providing any required sinking fund, and for the purpose of paying off all indebtedness when due. [Acts 1903, ch. 356, § 1; Shan., § 1997a8; mod. Code 1932, § 3512.]

6-402. Collection and disposition of tax.—The proceeds of the special tax so levied shall be collected by the county trustee and paid out upon warrant of the county chairman or judge of the county court for the purposes enumerated in § 6-401, and not otherwise. [Acts 1903, ch. 356, § 2; Shan., § 1997a9; Code 1932, § 3513.]

6-403. Right to condemnation proceeds on municipal property after dissolution of municipality.—Where any governmental agency, corporation, association, firm, partnership or individual is authorized under the laws of this state, or of the United States, to take property belonging to any of the incorporated municipalities, towns or cities within this state and such power and authority is exercised to the extent that such incorporated municipality, city or town can no longer function as such, the right to compensation for the property so taken shall vest in the taxpayers of such incorporated municipality, city or town owning real estate or personal property assessed for ad valorem taxes within such town, city or incorporated municipality; such rights shall become vested as of the date the first property or properties are acquired by such governmental agency, corporation, association, firm, partnership or individual having the right under the laws of this state or the United States to acquire such property, either by sale, condemnation proceedings or eminent domain. [Acts 1947, ch. 55, § 1; C. Supp. 1950, § 3511.1 (Williams, § 3170.1).]

6-404. Apportionment and distribution of condemnation proceeds. —Where any city, town or incorporated municipality is compelled to surrender its charter by reason of the taking of its property by any governmental agency, corporation, association, firm, partnership or individual vested with the authority to purchase or to condemn or take the properties of such city, town or incorporated municipality under the power of eminent domain, the proceeds derived from the taking of such municipal properties shall belong to, and become vested in, such taxpayers in proportion to the amount of such taxes paid or owing by such taxpayers to such incorporated municipality for the year in which the first property or properties are acquired by such governmental agency, corporation, association, firm, partnership or individual; provided, however, that where no taxes have been assessed for such year, then the next preceding tax year shall constitute the basis for distribution. Such distribution shall be made only after payment of all indebtedness owing by such city, town or municipality incorporated under the laws of this state. [Acts 1947, ch. 55, § 2; mod. C. Supp. 1950, § 3511.2 (Williams, § 3170.2).]

6-405. New corporation as successor to old.—When the charter of any municipal corporation shall have been repealed, and the same territory be reincorporated, such new corporation is declared to be successor of the old corporation for the purposes of §§ 6-405—6-407. [Acts 1903, ch. 399, § 1; Shan., § 1997a10; Code 1932, § 3514.]

6-406. Property and debts passing to successor.—Such new corporation shall be liable for the debts of such old corporation, and shall be entitled to the property and assets of such old corporation, which shall pass to and be vested in such new corporation for the same uses and purposes for which it was held and to be used by the old corporation. [Acts 1903, ch. 399, § 2; Shan., § 1997a11; Code 1932, § 3515.]

6-407. Collection of taxes and dues by successor.—Such new corporation is invested with the right to collect, receive, and receipt for all taxes and dues to the old corporation to which it succeeds, and shall be entitled to exercise all the remedies provided by law for the collection of such taxes and dues. [Acts 1903, ch. 399, § 3; Shan., § 1997a12; Code 1932, § 3516.]

CHAPTER 5—MUNICIPAL ELECTIONS

SECTION.
6-501. Notice of elections.
6-502. Qualifications of voters.
6-503, 6-504. [Repealed.]
6-505. Certificate of election.
6-506, 6-507. [Repealed.]
6-508. Breaking a tie vote.
6-509. Home rule municipalities—Elections on questions requiring local approval and amendment to charter.
6-510. Filling vacancies in certain offices in certain municipalities.
6-511. Vacancies in council.

6-501. Notice of elections.—The county election commission of each county shall hold, upon no less than sixty (60) and no more than seventy-five (75) days' notice, an election for mayor and aldermen, and other officers in any incorporated town, village, or city, according to law, who, when elected, shall have all the powers conferred on them by their respective charters of incorporation, and until their successors are elected and qualified. If said municipal corporation includes territory in two (2) or more counties, such election and all other municipal elections of such municipal corporation shall be called and conducted by the county election commission of the county in which said town seat or city hall is located.

Provided, however, that in municipalities of this state with a population of one hundred twenty-five (125) or less according to the 1960 census or any subsequent federal census, notice of municipal elections may be made by posting in five (5) public places in said municipality a proclamation of the legislative body of said town holding said municipal election, provided that said notice shall be on heavy paper or cardboard at least eight (8) inches long and five (5) inches wide, and shall be clearly legible. The notice provided for such towns may be made in lieu of all other notices required by law for municipal elections, provided said elections relate only to officers of the said municipality. [Acts 1865, ch. 13, § 2; impl. am. Acts 1907, ch. 436; Shan., § 1948; Code 1932, § 3368; mod. C. Supp. 1950, § 3368; Acts 1959, ch. 295, § 9; 1963, ch. 387, § 1; 1965, ch. 236, § 1; 1967, ch. 9, § 1; impl. am. Acts 1972 (Adj. S.), ch. 740, § 7; Acts 1973, ch. 160, § 2; 1974 (Adj. S.), ch. 540, § 1.]

6-502. Qualifications of voters.—All persons living within such corporation, and who have been residents thereof, for three (3) months previous to said election, except at first election, and who are entitled to vote for members of the general assembly, shall be entitled to vote in municipal elections; provided, however, that if and when inclusion of additional territory within such corporation becomes effective within three (3) months next preceding said election, the length of residence during such preceding three (3) months within the added territory shall be included and recognized in applying the municipal residence requirement, prescribed by this section, as a qualification of voters in

such election. [Code 1858, §§ 1352, 1369 (deriv. Acts 1849-1850, ch. 17, § 4); Acts 1875, ch. 92, § 10; integrated in Shan., § 1952; mod. Code 1932, § 3371; Acts 1947, ch. 116, § 1; mod. C. Supp. 1950, § 3371; Acts 1967, ch. 9, § 2.]

6-503, 6-504. [Repealed.]

6-505. Certificate of election.—Immediately after the election, the commissioners of elections or officers holding the election shall deliver to the persons having the highest number of votes a certificate of their election. [Code 1858, § 1368 (deriv. Acts 1849-1850, ch. 17, § 4); impl. am. Acts 1907, ch. 436; Shan., § 1951; mod. Code 1932, § 3370.]

6-506, 6-507. [Repealed.]

6-508. Breaking a tie vote.—In the event of a tie vote, the county election commission shall cast the tie breaking vote. [Acts 1969, ch. 134, § 1.]

6-509. Home rule municipalities—Elections on questions requiring local approval and amendment to charter.—In any municipality that has adopted home rule, where any question subject to local approval, under the provisions of article XI, section 9, constitution of Tennessee, has not been approved by a two-thirds (⅔) vote of the local governing body, a petition signed by the qualified voters of the municipality in a number amounting to at least ten per cent (10%) of the votes cast in the last election for mayor may be filed with the appropriate election commission officials not later than sixty (60) days prior to the day of the next regular election, or primary and the question shall be placed on the ballot of the next regular election. Provided, however, that where the total cost of conducting a special election pursuant to article XI, section 9, is defrayed completely by private financial contributions, a special election may be held for the purpose of approving or disapproving the question.

Except in counties having a metropolitan form of government and having a population of not more than 500,000 nor less than 420,000 people according to the 1970 United States census, the local governing body of any municipality that has adopted home rule may, by ordinance, propose an amendment to the charter of such municipality by a majority vote of said body and submit the same for ratification by approval of the qualified voters of said municipality, in a special election to be held for such purpose, said amendment to be limited in its substance and applicability to the establishment of a property tax rate, or the increasing or reduction thereof. When such local governing body has proposed any such amendment it shall notify the election commission who shall call and hold an election for the municipality after giving a forty-five (45) days' notice that such election will be held. The ballot shall set forth the proposed amendment as set out in the resolution adopted by the local governing body, and the voters shall vote "For the amendment" or "Against the amendment." Following the election the vote shall be canvassed by the county election commission and if a majority of those voting vote for the amendment, it shall become a part of the charter of such home rule municipality. [Acts 1972 (Adj. S.), ch. 512, § 1; 1973, ch. 225, §§ 1, 2.]

6-510. Filling vacancies in certain offices in certain municipalities.—Notwithstanding the provisions of any other law or municipal charter, whenever a vacancy occurs in the membership of any city board of education whose members are elected by vote of the people or in the office of city judge who is elected by vote of the people in any city having

a population in excess of one hundred thousand (100,000) within counties, except those counties with the metropolitan form of government, having a population in excess of two hundred thousand (200,000), each according to the United States census of population of 1970 or any subsequent United States census of population, any appointment made pursuant to law or charter provision shall be an interim appointment, valid only until the next primary or general election or referendum which is held in such city after the vacancy occurs. At such primary or general election or referendum, the vacancy shall be filled for the remainder of the unexpired term by the election of some qualified candidate. In any city to which this section applies, for those offices for which by charter or other law a special election is provided for the filling of vacancies, the provisions of such charter or other law shall be controlling, but if no special election is so provided for the filling of vacancies, the provisions of this section shall control. [Acts 1972 (Adj. S.), ch. 700, § 1.]

6-511. Vacancies in council.—Notwithstanding the provisions of any other law or charter, whenever a vacancy occurs in the membership of the city council of any city having a population in excess of one hundred thousand (100,000) within counties, except those counties with the metropolitan form of government, having a population in excess of two hundred thousand (200,000), each according to the United States census of population of 1970 or any subsequent United States census of population, any appointment made to fill such vacancy under the provisions of law or charter shall be an interim appointment, valid only until the next primary or general election or referendum which is held in such city after the vacancy occurs. At such primary or general election or referendum, the vacancy shall be filled for the remainder of the unexpired term by the election of some qualified candidate. In any city to which this section applies, for those offices for which by charter or other law a special election is provided for the filling of vacancies, the provisions of such charter or other law shall be controlling, but if no special election is so provided for the filling of vacancies, the provisions of this section shall control. [Acts 1972 (Adj. S.), ch. 694, § 1; 1974 (Adj. S.), ch. 755, § 1.]

CHAPTER 6—MUNICIPAL POWERS GENERALLY

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6-601. Division into wards.—The governing board may divide any municipal corporation into as many wards as they may deem necessary. [Code 1858, § 1384 (deriv. Acts 1849-1850, ch. 17, § 11); Shan., § 1978; mod. Code 1932, § 3393; modified.]

6-602. Redistricting into new wards.—Municipalities may redistrict into new wards whenever, for proper reasons, they deem it expedient so to do. [Acts 1875, ch. 92, § 15; Shan., § 1908; Code 1932, § 3319.]

6-603. Owning real estate outside limits.—All municipal corporations may, for corporate purposes, hold real estate beyond their limits. [Code 1858, § 1363 (deriv. Acts 1857-1858, ch. 28, § 1); Acts 1875, ch. 92, § 17; Shan., § 1922; Code 1932, § 3334.]

6-604. Extension of utility services.—Except as provided in § 6-2608, each county, utility district, municipality or other public agency conducting any utility service specifically including waterworks, water plants and water distribution systems and sewage collection and treatment systems is authorized to extend such services beyond the boundaries of such county, utility district, municipality or public agency to customers desiring such service.

Any such county, utility district, municipality or public utility agency shall establish proper charges for the services so rendered so that any such outside service be self-supporting.

No such county, utility district, municipality or public utility agency shall extend its services into sections of roads or streets already occupied by other public agencies rendering the same service so long as such other public agency continues to render such service. [Acts 1949, ch. 23, §§ 1-3; C. Supp. 1950, § 3695.47 (Williams, §§ 3695.45-3695.47); Acts 1959, ch. 166, § 3.]

6-605. Appropriations to safety councils.—Any county or municipality in this state may make appropriations from their general revenues for the purpose of aiding the work of any local county and/or city safety council, located in such county and/or city, which local council has been approved by the Tennessee safety council. [Acts 1951, ch. 221, § 1 (Williams, § 844.5).]

6-606. Municipal advertising.—Advertising the commercial, social, agricultural, industrial, scenic, recreational, historical, educational, and other advantages, the points of interest and attractions within the various municipalities of Tennessee, and tourist promotion generally are declared to be a municipal purpose. The official governing body of each municipality in this state is authorized and empowered in its discretion to appropriate from the general funds of such municipality a sum of money not to exceed thirty thousand dollars ($30,000) per annum for the purpose of advertising the commercial, social, agricultural, industrial, scenic, historical, educational, and other advantages, the points of interest and attractions therein for tourist promotion; except that, a municipality and county which has consolidated under the metropolitan form of government, or where a municipality and county government have entered into a contractual agreement, the total appropriation may be a sum of money not to exceed sixty thousand dollars ($60,000) per annum.

The governing body of any municipal corporation within this state is empowered to levy annually a special tax not to exceed two cents (2¢) on each one hundred dollars ($100) valuation of the annual tax aggregate, for the purpose of establishing and maintaining a fund for advertising the commercial, social, agricultural, industrial, scenic, historical, and educational advantages of said municipal corporations' community, and any points of interest and attraction, and for such other purposes as the aforesaid bodies, in their discretion, believe will increase the population, value of taxable property, and the general business prospects and the general welfare of their said respective municipal corporations. [Acts 1937, ch. 163, § 1; C. Supp. 1950, § 3336.1; Acts 1968 (Adj. S.), ch. 475, § 1.]

6-607. Expenditure of advertising funds.—The funds provided for in the second paragraph of § 6-606 shall be used and expended under the direction and control of the governing body of said municipal corporation or through such agency or agencies as they shall prescribe, and under such rules and regulations as said governing body of said municipal corporation deems proper. [Acts 1937, ch. 163, § 2; C. Supp. 1950, § 3336.2.]

6-608. Election on advertising tax.—Should the governing body of any municipal corporation within the state of Tennessee fail to levy such tax at the regular tax levy then, upon a petition containing the signatures of not less than five per cent (5%) of the registered voters of said municipal corporation being presented to said governing body, such governing body shall call an election to be held at the next regular municipal election, at which time it shall be determined by a majority vote whether or not such tax shall be levied and collected to be used for any one or more of such purposes. The ballots used at said election shall be the ballots used in said next and regular municipal election; said election shall be held to determine the will of the voters as to whether said tax shall be levied, collected and used as aforesaid. Said election shall be held and conducted and notice given as other elections are now required by law to be held and notice thereof given. The ballots used at said election shall contain, in substance, these words:

"For Advertising Tax Levy of_____cents"

"Against Advertising Tax Levy of_____cents"

And the voters shall signify their will by putting an X mark opposite "For Advertising Tax Levy of_____cents" or "Against Advertising Tax Levy of_____cents." At such election every voter qualified to vote in said regular municipal election shall be entitled to vote. A majority vote of the votes cast "For Advertising Tax Levy of _____cents" and "Against Advertising Tax Levy of_____cents" shall determine the will of the voters. After said election has been held and the vote determined the governing body of the munici-

pal corporation where said election was held shall carry out the will of the voters. [Acts 1937, ch. 163, § 3; C. Supp. 1950, § 3336.3.]

6-609. Extension of police authority beyond limits.—The police authority of all incorporated towns and cities shall extend to a distance of one (1) mile from the lawful corporate limits thereof, for the suppression of all disorderly acts and practices forbidden by the general laws of the state; provided that such jurisdiction of an incorporated town or city shall not be hereby extended beyond the limits of the county in which any part of such town is situated, or so as to come within one (1) mile of any other incorporated town or city. [Acts 1870, ch. 67, § 1; Shan., § 1924; Code 1932, § 3336.]

6-610. Service of warrants outside city.—Any duly and regularly appointed police officer of a municipality within the state having a duly constituted city or municipal court, shall have authority to serve warrants for the arrest of persons for municipal offenses committed within the municipal limits, at any point within the county wherein the municipality is located. [Acts 1941, ch. 11, § 1; C. Supp. 1950, § 3343.1.]

6-611. Regulation of electrical work.—All incorporated cities, towns, and villages, however formed, are empowered to regulate the business of electricians and electrical work in such cities, towns, or villages, and to enforce efficiency of same, and to that end to pass all ordinances necessary to carry out and enforce the powers delegated. [Acts 1925, ch. 83, § 1; Shan. Supp., § 1915a1; mod. Code 1932, § 3327; modified.]

6-612. Regulation of sale of commodities.—All corporate towns may pass laws to require articles usually sold by dry or heaped measure, to be sold by weight, within their corporate limits. [Code 1858, § 1364 (deriv. Acts 1857-1858, ch. 55, § 10); Shan., § 1923; Code 1932, § 3335.]

6-613. Regulation of powder magazines.—The governing body of any incorporated municipality may authorize the building of powder magazines at any safe and prudent distance from the limits of the corporation. When they give such authority, it shall be by order upon their records, designating and appointing the places within their county where such magazines may be erected, in which it shall be lawful to deposit and keep gunpowder. Said corporate authorities shall adopt such regulations in regard to the construction of said magazines as may, in their opinion, best secure the community from danger. [Code 1858, §§ 1395-1397 (deriv. Acts 1851-1852, ch. 169, §§ 1, 2); Shan., §§ 1992-1994; mod. Code 1932, §§ 3494-3496.]

6-614. Enforcement of laws for protection of public morals.—It shall be the duty of the mayors, commissioners, councilmen, aldermen, chiefs of police, recorders, municipal judges, marshals, and policemen of each municipal corporation, to faithfully maintain and enforce, within the corporate limits of their respective municipalities, the statute laws relating to lewdness, drunkenness, gaming, and the sale and manufacture of intoxicating liquors, by having arrested and arraigned for trial all persons violating such laws with their knowledge, and by taking such other proceedings against such violators as may be authorized and provided by the ordinances of such municipalities. [Acts 1915, ch. 37, § 1; Shan., § 1996a1; Code 1932, § 3499.]

6-615. Failure to enforce laws.—The willful failure or neglect of any of the said officers or policemen to perform the duties prescribed by § 6-614, shall be a misdemeanor in office, and the offender shall be fined not more than fifty dollars ($50.00) and imprisoned not more than sixty (60) days, and dismissed from office. [Acts 1915, ch. 37, § 2; Shan., § 1996a2; Code 1932, § 3500.]

6-616. Recovery of fines imposed by ordinance.—All fines and forfeitures imposed by the ordinances of such corporation may be recovered by action of debt in the name of the corporation. [Code 1858, § 1379 (deriv. Acts 1849-1850, ch. 17, § 3); Shan., § 1968; mod. Code 1932, § 3375.]

6-617. Execution for fines and costs.—Mayors, recorders, and other chief officers of municipalities, charged with the trial of criminal cases, are empowered to issue executions for the collection of unpaid fines and costs due their respective municipalities, in the same manner as justices of the peace are now empowered. [Acts 1891, ch. 110, § 1; Shan., § 1969; mod. Code 1932, § 3376.]

6-618. Collection of fines for nonmoving traffic violations—Service by mail.—Any municipality or metropolitan government having a city or metropolitan court is empowered to permit by ordinance service of process through the use of registered mail or certified mail, addressee only, return receipt requested, in lieu of personal service of process in an action of debt involving nonpayment of any ticket or citation issued for any nonmoving traffic violation. Provided further, however, this section shall only apply to municipalities having a population of fifty thousand (50,000) or more according to the United States census of population of 1970 or any subsequent federal census of population. [Acts 1973, ch. 61, § 1.]

6-619. Penalty for violation of home rule municipal ordinances.—All home rule municipalities are empowered to set maximum penalties of thirty (30) days imprisonment or fifty dollars ($50.00) fine or both for violation of municipal ordinances. [Acts 1974 (Adj. S.), ch. 592, § 1.]

6-620. Ordinances incorporating by reference — Definitions. — As used in the text of §§ 6-620—6-625, the following terms shall have the meanings indicated as follows, unless the context otherwise requires:

(a) "Municipality" shall mean and include any city or town organized and operating under the general or special laws of the state of Tennessee.

(b) "Code" shall mean and include any published compilation of rules and regulations which have been prepared by various technical trade associations and shall include specifically, but shall not be limited to, building codes; plumbing codes; electrical wiring codes; codes for the slaughtering, processing, selling of meats and meat products for human consumption; codes for the production, pasteurizing and sale of milk and milk products, together with any other code which embraces rules and regulations pertinent to a subject which is a proper municipal legislative matter;

(c) "Public record" shall mean and include any municipal, state, or federal statute, rule, or regulation adopted prior to the exercise by any municipality of the authority to incorporate by reference herein granted; provided, however, that this definition shall not include the municipal ordinances, rules, or regulations of any municipality except those of the municipality which is exercising the right to incorporate by reference, nor shall this definition include the state laws, rules or regulations of any state other than the state of Tennessee.

(d) "Published" shall mean printed, lithographed, multigraphed, or otherwise reproduced. [Acts 1951, ch. 216, § 1 (Williams, § 3336.6).]

6-621. Adoption of codes and public records by reference—Building code amendments.—Any municipality is hereby authorized to adopt by reference the provisions of any code or portions of any code as herein defined, without setting forth the provisions of such codes in full, pro-

vided that at least three (3) copies of such code which is incorporated or adopted by reference are filed in the office of the clerk or recorder of the municipality and are kept available for public use, inspection and examination. Any municipality is likewise authorized and empowered to adopt by reference the provisions of any public records, provided, likewise, that three (3) copies of such public record are kept on file in the office of the clerk of the municipality as provided above for codes. The filing requirement herein prescribed shall not be deemed to be complied with unless the required copies of such code or public record are filed with the clerk of such municipality for a period of fifteen (15) days prior to adoption of the ordinance which incorporates such code or public record by reference.

In those municipalities that have adopted building codes by reference pursuant to the first paragraph of this section, except when a municipal governing body by a vote of at least two-thirds (⅔) of its total membership elects not to incorporate by reference any specific change or amendment, the municipal governing body shall incorporate by reference all such subsequent changes and amendments thereof, properly identified as to date and source, as may be adopted by the agency or association which promulgated the code.

In those municipalities that have adopted building codes by reference pursuant to the first paragraph of this section, the requirements of the second paragraph of this section may be satisfied by having the appropriate municipal code administrative official adopt administrative regulations which incorporate by reference such subsequent changes and amendments thereof, properly identified as to date and source, as may be adopted by the agency or association which promulgated the code.

Any administrative regulations which incorporate building code amendments by reference shall become effective upon the expiration of ninety (90) calendar days or after the second official meeting of the municipal governing body following the publication of the regulations whichever is later, unless within that period of time a resolution disapproving such administrative regulation shall have been adopted by the municipal governing body.

In addition to complying with all requirements for the issuance of administrative regulations by the appropriate municipal code administrative official, the filing requirement of the first paragraph of this section and the publication requirement of § 6-624 shall be complied with in adopting amendments to building codes by administrative regulation. [Acts 1951, ch. 216, § 2 (Williams, § 3336.7); Acts 1972 (Adj. S.), ch. 691, § 1.]

6-622. Adoption of amendments by reference. — Any amendment which may be made to any code or public record incorporated by reference by a municipality hereunder, may be likewise adopted by reference provided that the required number of amended or corrected copies are filed with the clerk or recorder of such municipality for inspection, use, and examination by the public. Ordinances adopting amendments by reference shall be required to be published as any other ordinances of the municipality and the requirements as to prior filing before passage shall apply likewise to amendments. [Acts 1951, ch. 216, § 5 (Williams, § 3336.10).]

6-623. Penalty clauses set out in full.—Nothing contained in §§ 6-620—6-625 shall be deemed to permit the adoption of the penalty clauses by reference which may be established in the code or public record which is being incorporated by reference, and such penalty clauses shall be set forth in full in the adopting ordinances and be published along with and in the same manner as the adopting ordinance is required to be published. [Acts 1951, ch. 216, § 4 (Williams, § 3336.9).]

6-624. Publication of ordinances in full.—Nothing contained in §§ 6-620—6-625 shall be deemed to relieve any municipality from any requirement of an existing act of publishing the ordinance in full which adopts such code or public record by reference, and all provisions applicable to such publication shall be fully and completely carried out as if no code or public record was incorporated therein. [Acts 1951, ch. 216, § 3 (Williams, § 3336.8).]

6-625. Validation of ordinances prior to 1951.—Any municipality which has before March 16, 1951 enacted a code or public record by reference thereto shall not be required to reenact such code or public record by reason of §§ 6-620—6-625, and all previous incorporations by reference which would have been valid if said sections had then been in effect, are hereby ratified and declared effective, provided, however, that the requisite number of copies were forthwith filed with the clerk or recorder of such municipality, if they had not already been so filed. [Acts 1951, ch. 216, § 6 (Williams, § 3336.11); modified.]

6-626. Contracts with officers prohibited.—No person holding office under any municipal corporation shall, during the time for which he was elected or appointed, be capable of contracting with such corporation for the performance of any work which is to be paid for out of the treasury. Nor shall such person be capable of holding or having any interest in such contract, either by himself or by another, directly or indirectly. [Code 1858, § 1398 (deriv. Acts 1857-1858, ch. 7, § 1); Shan., § 1995; Code 1932, § 3497.]

6-627. Liability of officer contracting.—Every officer of such corporation who shall be concerned in making such contract, or who shall pay money upon the same to or for any person declared incapable in § 6-626, shall forfeit the amount so paid; and they shall be jointly and severally liable to an action for the same, which action may be prosecuted by any citizen of the corporation in its name. [Code 1858, § 1399 (deriv. Acts 1857-1858, ch. 7, § 1); Shan., § 1996; mod. Code 1932, § 3498.]

6-628. Adoption of model traffic ordinance.—All cities, towns and municipalities in this state are hereby authorized and empowered to adopt by reference the model traffic ordinance produced by the national committee on uniform traffic laws and ordinances. [Acts 1955, ch. 55, § 1.]

6-629. Hearing on adoption of municipal code.—Hereafter no municipality, whether required by charter or otherwise, shall be required to publish its code of ordinances in a newspaper. A public hearing shall be held prior to adoption of a code of ordinances and advance notice thereof shall be published in a newspaper of general circulation in the municipality. Any code of ordinances heretofore adopted by any municipality is hereby validated with respect to any requirements for publication thereof. [Acts 1955, ch. 274, § 1.]

6-630. Notice of adoption of code.—Any municipality which hereafter adopts a code of ordinances shall publish in a newspaper of general circulation in the municipality a notice that a code of ordinances has been adopted and that a copy is available at the city recorder's office for anyone who desires to examine it. [Acts 1955, ch. 274, § 2.]

6-631. Mutual assistance in fire fighting—Contract.—Incorporated cities and towns are authorized to enter into such contract or contracts, and to carry out their contractual obligations, to furnish one another assistance in fighting fires as in the discretion of their governing bodies

will be advantageous and serve the public interest of the respective incorporated cities and towns. [Acts 1957, ch. 223, § 1.]

6-632. Mutual assistance as governmental function.—In authorizing or permitting its fire department to answer calls outside the corporate limits as authorized in §§ 6-631—6-633, and in answering such calls, the city or town and its officers and employees shall be considered as acting in a governmental capacity. [Acts 1957, ch. 223, § 2.]

6-633. Rights, duties and immunities of officers and employees.—Any officer or employee of a fire department of an incorporated city or town, while engaged in any duty or activity in connection with the provisions of §§ 6-631—6-633 or pursuant to orders or instructions from his officers or superiors, shall be entitled to all rights, privileges, exemptions and immunities as if such duty or activity were performed within the corporate limits of the incorporated city or town by which he is employed. [Acts 1957, ch. 223, § 3.]

6-634. Regulation of transfer and storage—Definitions.—The following words or terms whenever used or referred to in §§ 6-634—6-638 shall have the following respective meanings, unless different meanings clearly appear from the context:

(a) "Municipality" shall mean any incorporated city or incorporated town of this state, with a population in excess of 400,000 according to the federal census of 1960 or any subsequent federal census.

(b) "Transfer and storage regulatory board" shall mean any regulatory board created pursuant to the provisions of § 6-635.

(c) "Governing body" shall mean the official or officials authorized by law to exercise ordinance or other law-making power of a municipality.

(d) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, trustee, receiver or assignee.

(e) "Local transfer and storage business" shall mean the business of transferring and/or storing for a profit the household goods and effects of another within the confines of the territorial limits of the municipality adopting §§ 6-634—6-638. [Acts 1963, ch. 323, § 1.]

6-635. Regulatory board created.—Any municipality may, by ordinance, or by resolution, create a transfer and storage regulatory board, which shall be authorized to exercise its functions upon the appointment and qualification of the first members thereof. Upon adoption of an ordinance or resolution, whichever is applicable creating a transfer and storage regulatory board, the governing body shall, pursuant to the ordinance or resolution, appoint five (5) persons as members of the board. The members who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4) and five (5) years respectively, but thereafter each member shall be appointed for a term of five (5) years, except that vacancies occurring otherwise than by the expiration of the terms shall be filled for the unexpired term by the governing body in the same manner as the original appointments. [Acts 1963, ch. 323, § 2.]

6-636. Organization of regulatory board—Rules and regulations—Purpose.—Immediately upon the appointment the members of the regulatory board shall select from among the members a chairman and a secretary of the said board and as soon thereafter as is feasible said board shall submit to the governing body a set of rules and regulations which it deems necessary and desirable for the protection of the citizens of the municipality, to prevent irresponsible persons from engaging

in the business and to avoid the likelihood of fraud and injustice being wrought upon the citizenry. [Acts 1963, ch. 323, § 3.]

6-637. Adoption and enforcement of regulations.—The governing body may then adopt or reject the recommendations of the board by proper ordinance or resolution or make such modifications as it deems proper. When proper regulations, satisfactory to the board and governing body shall have been established, the governing body shall empower the board to regulate and enforce the regulations, adopting in said regulations such penal provisions as it deems necessary to insure the powers in the board to enforce said regulations and granting to persons feeling aggrieved by the enforcement of said regulations such appellate procedural rights as it deems proper. [Acts 1963, ch. 323, § 4.]

6-638. Compensation — Supplies and secretarial help — Charges against transfer and storage business.—The members of the regulatory board shall serve without compensation; provided, however, that the governing body may expend such sums of money as it deems necessary to provide secretarial help and office supplies to the board as might be required, and may by proper ordinance or resolution levy a nominal charge upon those parties engaged in the local transfer and storage business as may be necessary to defray the expense thereof. [Acts 1963, ch. 323, § 5.]

6-639. State, municipal or other political subdivisions—Law enforcement officers and firemen—Compensation for injury or death—Certain disabilities presumed to have been suffered in course of employment.—A. The state of Tennessee, or any municipal corporation or other political subdivision thereof that maintains a regular law enforcement department manned by regular and full-time employees and has established or hereafter establishes any form of compensation to be paid to such law enforcement officers for any condition or impairment of health which shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such law enforcement officers caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed (unless the contrary be shown by competent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of his position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in line of duty. Provided, however, that such law enforcement officers shall have successfully passed a physical examination prior to such claimed disability, or upon entering his governmental employment and such examination fails to reveal any evidence of the condition of hypertension or heart disease.

B. Whenever the state of Tennessee, or any municipal corporation or other political subdivision thereof maintains a regular fire department manned by regular and full-time employees and has established or hereafter establishes any form of compensation, other than workmen's compensation, to be paid to such firemen or fire fighters for any condition or impairment of health which shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such firemen caused by disease of the lungs, hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed (unless the contrary be shown by compe-

tent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of his position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Provided, however, that such firemen shall have successfully passed a physical examination prior to such claimed disability, or upon entering upon his governmental employment and such examination fails to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any municipal corporation maintaining any permanent fire department. [Acts 1965, ch. 299, § 1; Acts 1970 (Adj. S.), ch. 593, § 1; modified.]

6-640. Indemnification for employees sued for damages in the course of their employment—Exceptions—Limits of liability.—Whenever any county sheriff and his deputies or any employee member of a fire or police department of a municipal corporation or other political subdivision of the state of Tennessee shall be sued for damages arising out of the performance of his official duties and while engaged in the course of his employment by such governmental agency, such governmental agency shall be authorized and required to provide defense counsel for such employee in such suit and to indemnify him from any judgment rendered against him in such suit; provided, however, that such indemnity shall not extend to any judgment for punitive damages or for damages arising out of any willful wrongdoing by said employee and; provided, further, that such municipal corporation or other political subdivision shall have notice of such suit.

Provided, however, that liability on behalf of any municipal corporation or political subdivision affected by §§ 6-640, 6-641 shall be limited to fifty thousand dollars ($50,000) for each person injured or property damaged from any one (1) accident and one hundred thousand dollars ($100,000) for all injuries and all property damage resulting from any one (1) accident. Provided, further, that in the event said municipal corporation or political subdivision is unable to purchase insurance to cover its obligation hereunder, except through the assigned risk pool, then the limit of liability hereunder shall be limited to ten thousand dollars ($10,000) for injuries to any one (1) person resulting from one (1) accident and twenty thousand dollars ($20,000) for all injuries resulting from one (1) accident and five thousand dollars ($5,000) for property damage resulting from any one (1) accident if said insurance is actually purchased. If insurance is not purchased through assigned risk pool then lower limits provided for herein do not apply. [Acts 1967, ch. 374, § 1; 1972 (Adj. S.), ch. 782, § 1.]

6-641. Liability insurance for employee protection.—All municipal corporations or other political subdivisions of the state of Tennessee are hereby authorized to contract at governmental expense for policies of liability insurance to protect employees in the course of their employment. [Acts 1967, ch. 374, § 2.]

6-642. "Ambulance service" defined.—For the purpose of §§ 6-642—6-645 the term "ambulance service" shall mean the use of any privately or publicly owned motor vehicle for the transportation of injured or infirm persons on an emergency or nonemergency basis. [Acts 1967, ch. 71, § 1.]

6-643. Provided by county or city as a public service.—The governing body of any county or city of the state of Tennessee may provide and maintain and do all things necessary to provide ambulance service as a public service. [Acts 1967, ch. 71, § 2.]

6-644. Provision of private or nonprofit ambulance service—Regulations.—The governing body of any county or city may license, franchise, or contract for private operators or nonprofit general welfare corporations to provide ambulance service. In order to protect the public health and welfare, any county or city may adopt and enforce reasonable regulations to control the provision of private or nonprofit ambulance service. [Acts 1967, ch. 71, § 3.]

6-645. Service outside boundaries—Approval—Joint or cooperative action.—No county may provide and maintain, license, franchise, or contract for ambulance service within the boundaries of a city or another county, and no city may provide and maintain, license, franchise, or contract for ambulance service outside its corporate boundaries, without the approval of the governing body of the area to be served. Any two (2) or more counties and municipalities may enter into agreements for joint or cooperative action to provide for ambulance service as authorized in §§ 6-642—6-645. [Acts 1967, ch. 71, § 4.]

6-646. Municipal control of franchises.—It shall not be lawful for any corporation chartered or authorized to build or operate, or operating, a street railway, whether by steam, electricity, or otherwise; nor for any corporation chartered or authorized to manufacture or furnish, or furnishing gas, electricity, or other substance for the lighting of the streets or public places of any town or city, or for the use or consumption by the inhabitants of such town or city; nor any corporation chartered or authorized to supply or supplying any town or city or the inhabitants thereof with water; to acquire the franchises or property of any similar corporation carrying on its operations with any city or town, or partly in such city or town and in the territory adjacent to same, by consolidation, purchase, lease or other mode, except only by and with the permission and consent, expressed officially in writing, of the municipal government of the city or town in which the corporation whose franchises or property are being acquired carries on its business, wholly or in part, and then only upon such terms and conditions as the said municipal government may prescribe; provided that such terms and conditions shall not violate any law. [Acts 1889, ch. 70, § 1; Shan., § 2047; Acts 1925, ch. 50, § 1; mod. Code 1932, § 4031; T.C.A. (orig. ed.), § 48-610.]

6-647. Motion picture regulatory board.—Any municipality in a county of this state having a population of not less than 200,000, according to the federal census of 1960 or any subsequent federal census, may by ordinances create and establish a regulatory board for the review and classification of commercial motion picture films which board shall have the powers herein set forth. The number of members of such board and their terms of office shall be set forth in such ordinance. [Acts 1969, ch. 306, §§ 1, 5.]

6-648. Definition of "minor."—For the purpose of §§ 6-647—6-650 the word "minor" means any person under the age of eighteen (18) years. [Acts 1969, ch. 306, § 1.]

6-649. Powers of board.—Such board may be empowered to classify commercial motion picture films prior to or after the commencement of their presentation to the public as to their suitability for viewing by minors, and to forbid the showing of commercial films to minors unless information on same has been submitted to the board for classification

of the film in accordance with reasonable or expeditious procedures and have either been classified by the board as suitable for minors or have not been classified within a reasonable time after submission. [Acts 1969, ch. 306, § 2.]

6-650. Enforcement of orders of board.—The municipality may enforce the lawful orders of the board by fine or other penalty within the power of the municipality to impose, and by obtaining an injunction in any circuit, chancery or criminal court of this state against the showing to minors of any motion picture film which has not been presented to the board for classification in accordance with such ordinance and such reasonable rules as the board may adopt, or which has been classified by the board, pursuant to its authorized procedures, as unsuitable for minors. The circuit, chancery and criminal courts have jurisdiction to enjoin the presentation to minors of any motion picture film in violation of any ordinance adopted pursuant to §§ 6-647—6-650, or in violation of any lawful classification, regulation or order of any board established pursuant hereto. In any suit for injunction to forbid the presentation to minors of a motion picture classified as not suitable for minors, the proceedings shall be in accordance with those set forth in § 39-3005 of this Code, and no municipality or board shall be required to file any injunction, cost or appeal bond. [Acts 1969, ch. 306, § 3.]

6-651. Municipal violations—Citation or complaint in lieu of arrest.— Hereafter when any person violates any traffic, or other ordinances, law or regulation of any municipal, metropolitan or city government in the presence of any police or peace officer of such government, or in the presence of any member of the fire department or building department of such government who are designated special police officers of said municipality, it shall not be necessary for said officer to arrest said offender and have a warrant issued for said offense; but, in lieu thereof, said officer may issue a citation or complaint, leaving a copy with said offender, showing the offense charged and the time and place when such offender is to appear in court. [Acts 1969, ch. 208, § 8; 1973, ch. 101, § 1.]

6-652. Agreement by offender to appear.—In order to prevent his arrest and the issuance of the warrant against him or her, said offender must sign an agreement to appear at the time and place indicated, and to waive the issuance and service of a warrant upon him or her. [Acts 1969, ch. 208, § 2.]

6-653. Duty of court having jurisdiction to try case upon citation without issuance of warrant.—When said offender has signed the agreement and waiver provided for in § 6-652, it shall be the duty of the court having jurisdiction to try said case, to try the same upon said citation or complaint, without the issuance and/or service of a warrant upon the defendant, and said citation or complaint shall in all respects be deemed and treated as though it were a warrant properly served upon the defendant. [Acts 1969, ch. 208, § 3.]

6-654. Arrest when offender refuses to sign agreement to appear.—In the event said offender refuses to sign said agreement to appear in court and to waive the issuance and service upon him of a warrant, then it shall be the duty of the officer in whose presence the offense is committed, forthwith to place said offender under arrest and take him or her before the proper authority, procure a warrant, serve the same upon the offender and book him or her as in other cases of violations, and the authority issuing the warrant shall take bail from the accused for appearance in court for trial, or in lieu thereof commit the offender to jail. [Acts 1969, ch. 208, § 4.]

6-655. Failure of offender to appear after signing agreement—Effect.—In the event that the offender signs said agreement and waiver as provided in § 6-652, and then fails to appear for trial at the time and place designated, then the court having jurisdiction of the case shall immediately issue a warrant against said offender for said offense, and an additional warrant for the offense of violating said agreement to appear provided said municipal, metropolitan or city government has made the failure so to appear an offense, or has adopted the state law creating such offense, and said warrant or warrants shall then be served upon said offender and the procedure followed as set out in § 6-654 regarding the service of warrants, booking the defendant, and taking appearance bail or committing to jail. [Acts 1969, ch. 208, § 5.]

6-656. Issuance of citation or complaint after investigation at scene of accident or place of violation.—All the procedure hereinabove enumerated as to giving citations or complaints in lieu of making arrests and taking out warrants, shall also apply when said officer as designated in § 6-651, makes a personal investigation at the scene of a traffic accident, or makes a personal investigation at the place of violation, as a result of which the officer has reasonable and probable grounds to believe that the driver of any vehicle involved in said accident has violated any traffic ordinance, law or regulation of any municipal, metropolitan or city government in this state; or in the case of violations other than traffic accidents, the officer has reasonable and probable grounds to believe that the owner or occupant of property involved in a violation, has violated any ordinance, law or regulation of any municipal, metropolitan or city government in this state. [Acts 1969, ch. 208, § 6; 1973, ch. 101, § 2.]

6-657. Driving under influence or nonresident—§§ 6-651—6-656 inapplicable.—None of the foregoing provisions of §§ 6-651—6-656 shall apply when it appears that the offending party is guilty of driving while under influence of intoxicants or drugs, or if said offender is a nonresident of the state of Tennessee. [Acts 1969, ch. 208, § 7.]

6-658. Minimum municipal fire and police retirement allowances—Definitions.—As used in §§ 6-658—6-660, unless the context otherwise requires:

(a) "Employee" means any person who on the adoption of the provisions of §§ 6-658—6-660 is a paid employee in the fire department or police department of any municipality and a member of a municipal retirement system or pension plan.

(b) "Retired employee" means any person who has been a paid employee in the fire department or police department of any municipality and who on the adoption of the provisions of §§ 6-658—6-660 is receiving from such municipality a retirement allowance based upon his service in such department.

(c) "Retirement System" or "pension plan" means an existing system or plan by which a municipality is paying or will pay the retired employees of its fire department or police department a retirement allowance after such employees have complied with certain conditions or requirements of employment or service to the municipality.

(d) "Department" means the fire department or police department of any municipality which pays wages to its employees for services rendered.

(e) "Retirement Allowance" means the monthly payment for life made to a retired employee or his survivors or beneficiaries under the provisions of a municipal employees retirement system or pension plan.

(f) "Municipality" means any municipality having its own employees retirement system or pension plan.

(g) "Survivor or beneficiary" includes any person, who is receiving, or who is entitled to receive, an allowance or survivor benefit from a retirement system that is based upon the retirement allowance of an employee or a retired employee. [Acts 1971, ch. 397, § 1.]

6-659. Ordinance to authorize minimum retirement allowances—Effect on other systems.—Notwithstanding any provision of the law to the contrary, the governing body of any municipality may by ordinance adopt the provisions of §§ 6-658—6-660 to establish and to authorize the payment of the minimum retirement allowance provided in § 6-660. The adoption of the provisions of §§ 6-658—6-660 shall not authorize a decrease in the retirement allowance presently being paid to any retired employee. The adoption of the provisions of §§ 6-658—6-660 by a municipality shall be permanent and such action may not be repealed to the detriment of any retired employee or his survivor or beneficiary.

If the department of any municipality has more than one retirement system or pension plan for its retired employees, the adoption of the provisions of §§ 6-658—6-660 by the governing body of the municipality shall not affect any provisions of such retirement system or pension plan except as is necessary to provide the minimum retirement allowance herein established.

The provisions of §§ 6-658—6-660 shall not apply to retirement allowances of municipal employees under the provisions of the Tennessee state retirement system.

The provisions of §§ 6-658—6-660 shall not apply to any retirement system, pension plan or division thereof in which the member's or beneficiary's benefits are computed in conjunction with or reduced by Social Security benefits. [Acts 1971, ch. 397, § 2.]

6-660. Computation of minimum retirement allowances—Cost of living benefits.—(a) The minimum retirement allowance for an employee, during the remainder of his life shall be computed as follows:

The retirement allowance of such employee who retires upon reaching the minimum age of fifty (50) years or older after a total of not less than twenty-five (25) separate years of service in either or both departments shall be two per cent (2%) multiplied by the number of years of service, up to a maximum of thirty (30) years of service, multiplied by his highest monthly salary during his period of service in the department. Such allowance shall not be less than fifty per cent (50%) or greater than sixty per cent (60%) of his highest monthly salary during his period of service in the department.

(b) In addition to the retirement allowance a retired employee shall be paid, a cost of living benefit each month beginning January 1 of the year following the 24th month of his retirement. Such benefit shall be adjusted annually thereafter and shall be computed by multiplying the retirement allowance by the percentage of increase or decrease in the consumer price index, as compiled by the bureau of labor statistics, United States department of labor, for the twelve (12) month period ending September 30 of each year. Such percentage shall not exceed three per cent (3%) in any year. The retirement allowance shall not be decreased below the amount provided in subsection (a) of this section. Such percentage shall be applied only to the retirement allowance and shall not be compounded from year to year.

(c) The retirement allowance of the survivor or beneficiary of any employee or retired employee shall be computed by using the allowances in subsection (a). The cost of living benefit shall be computed in the same manner as provided in subsection (b). [Acts 1971, ch. 397, § 3.]

6-661. Oil and natural gas—Powers and duties.—Notwithstanding any other provisions of law, a municipality, its agencies or divisions thereof, may within or without the state of Tennessee engage in investigating, exploring, prospecting, drilling, and mining for and producing natural gas and oil and mineral by-products thereof, and to construct the appropriate facilities to produce, save, take care of, maintain, treat and transport natural gas and oil and mineral by-products thereof, or to contract for same with any person, federal agency, municipality or public or private corporation. No municipality, its agencies, or division thereof, is granted any additional power of eminent domain to carry out the provisions of this section. [Acts 1974 (Adj. S.), ch. 627, § 1.]

CHAPTER 7—LICENSING AND TAXING POWERS

SECTION.

6-701. [Repealed.]
6-702. Payment of taxes to treasurer.
6-703. Sale of real estate for delinquency.
6-704. Suit in chancery for taxes.
6-705. Prerequisites to suit for taxes.
6-706. Payment of taxes after suit filed.
6-707. Sale for delinquent taxes.
6-708. Fees incident to suit.
6-709. Privilege taxes.
6-710. Warrants to enforce license and privilege taxes.
6-711. Execution of distress warrants.
6-712. Sale on distress warrant.
6-713. Fees on distress warrants.
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6-741. "Automobile graveyard" defined—Scrap metal processors excluded—Regulation and licensing by resolution or ordinance—Notice of proposed ordinance—Publication of ordinance.
6-742. Nonresident motorists not charged fee or tax for privilege of using roads.
6-743. Collection of municipal motor vehicle fees by clerk of county court.

6-701. [Repealed.]

6-702. Payment of taxes to treasurer.—The collector of every municipal corporation shall collect and pay over to the treasurer, on the first Monday of January and July, each year, all taxes, fines, and forfeitures due and owing to the same; and, on failure, shall be liable for the amount of his delinquency, with costs, on motion before the circuit court. [Code 1858, § 1382 (deriv. Acts 1849-1850, ch. 17, § 7); Shan., § 1972; mod. Code 1932, § 3379; modified.]

6-703. Sale of real estate for delinquency.—If taxes assessed upon real estate in such corporation, according to its ordinances, are not paid by the owner of the property within the year for which they were assessed, and he has no personal property subject to distress, the collector shall report the facts to the recorder, or other officer, and he shall proceed to cause said real estate to be sold in the manner prescribed for sales of real estate for state and county taxes. The sheriff or county trustee shall pay the money received on such sales to the

treasurer of the corporation, and, if he fail to do so, he shall be liable to judgment on motion. [Code 1858, §§ 1380, 1381 (deriv. Acts 1849-1850, ch. 17, § 12); Shan., §§ 1970, 1971; mod. Code 1932, §§ 3377, 3378.]

6-704. Suit in chancery for taxes.—It shall be lawful for any incorporated municipality to sue in the chancery court of the county in which it is located for taxes due said municipality upon real estate, whenever said taxes are past due and unpaid. In such suit may be included as many as twenty-five (25) distinct pieces or tracts of land, the owners thereof being made defendants to the bill. Such cause shall not be subject to objection for misjoinder by reason of the distinct interests the several defendants have in the properties proceeded against. [Acts 1897, ch. 6, § 1; Shan., § 1972a1; mod. Code 1932, § 3380.]

6-705. Prerequisites to suit for taxes.—Suit shall not be so brought until the collecting officer shall have made due return to the corporate authorities of such delinquent taxes and that there is no personal property out of which to make the same; provided, that publication be made for four (4) consecutive weeks in a newspaper published in said municipality, or if no newspaper is published there, then in a newspaper published nearest thereto, which publication shall contain the name or names of delinquents and the amount due from each. [Acts 1897, ch. 6, § 3; Shan., § 1972a3; mod. Code 1932, § 3382.]

6-706. Payment of taxes after suit filed.—Should any person interested pay, after bill filed, and before sale of the land, to the attorney representing the municipality, or such other person as may be designated by the municipality to receive it, the amount of taxes sued for, and interest thereon, it shall be the duty of the attorney aforesaid to dismiss the suit as to the persons and property included in said payment; provided, the person so paying the taxes shall pay his just proportion of the costs accrued in said cause to the date of payment. [Acts 1897, ch. 6, § 2; Shan., § 1972a2; mod. Code 1932, § 3381.]

6-707. Sale for delinquent taxes.—The court may proceed to judgment or decree against all defendants who do not settle the taxes due as provided above, and enforce said judgment or decree and the lien for the taxes due by sale of the lands upon which such taxes are assessed, under the rules applicable to other chancery sales. [Acts 1897, ch. 6, § 4; Shan., § 1972a4; Code 1932, § 3383.]

6-708. Fees incident to suit.—The same fees for clerks and other officers as are allowed by law, providing for collection of delinquent state and county taxes, shall be allowed the clerk and other officers acting under §§ 6-704—6-707. [Acts 1897, ch. 6, § 5; Shan., § 1972a5; Code 1932, § 3384.]

6-709. Privilege taxes.—Each municipality is empowered to levy privilege taxes upon merchants and such other vocations, occupations, or businesses as are declared to be privileges, not exceeding in amount that levied by the state for state purposes. [Acts 1915, ch. 101, § 2; Shan., § 1916a1; Code 1932, § 3329; modified.]

6-710. Warrants to enforce license and privilege taxes.—If any person or corporation required by law to pay privilege taxes to any municipal corporation, or to obtain a license before engaging in same, presume to sell goods or exercise a privilege without first obtaining a license as required by law, such clerk, recorder, or collecting officer shall issue to the sheriff, city marshal, or any constable, a distress warrant, commanding him to levy, in case of a privilege tax, double the

highest tax imposed upon any such privilege, and in other cases double the highest tax imposed on any similar business, together with costs and charges, by distraining and selling so much of the delinquent's goods and chattels as shall be sufficient for the purpose. [Acts 1891, ch. 57, § 1; Shan., § 1918; Code 1932, § 3330.]

6-711. Execution of distress warrants.—The officer to whose hands said warrants shall come shall immediately execute the same, on pain of being held liable himself, on motion by the clerk, recorder, or collecting officer, for the double tax, cost, and charges lost by his delay, in the circuit court. [Acts 1891, ch. 57, § 2; Shan., § 1919; Code 1932, § 3331.]

6-712. Sale on distress warrant.—The officer, having seized the goods and chattels of the delinquent, shall give ten (10) days' notice of the time and place of sale, which he shall make at the time specified, unless the owner, at or before the time of sale, produce the clerk's, recorder's, or collecting officer's receipt for the tax, cost, and charges, in which case the officer shall redeliver the goods to the owner. [Acts 1891, ch. 57, § 3; Shan., § 1920; Code 1932, § 3332.]

6-713. Fees on distress warrants.—In all cases in which the penalty prescribed against breaches of the revenue laws in relation to license is recovered, double fees shall be allowed to the clerk, recorder, and collecting officer or attorney prosecuting the case. [Acts 1891, ch. 57, § 4; Shan., § 1921; Code 1932, § 3333.]

6-714. Regulation of closing out sales—Definitions.—The following terms wherever used or referred to in §§ 6-714—6-726 shall have the following meaning unless a different meaning appears from the context:

(a) The term "municipality" shall mean any incorporated city or any incorporated town.

(b) "Sales"—The sale or any offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. It shall also include any sale advertised to be a "fire sale," "adjustment sale," "creditor's sale," "trustee's sale," "liquidation sale," "reorganization sale," "insurance salvage sale," "administrator's sale," "insolvent sale," "insurance salvage sale," "mortgage sale," "assignee's sale," "adjuster's sale," "receiver's sale," "loss-of-lease sale," "wholesaler's close-out sale," "creditor's committee sale," "forced-out-of-business sale," "removal sale" and any and all sales advertised in such manner as to reasonably convey to the public that upon disposal of the stock of goods on hand, the business will cease and be discontinued.

(c) "Publish," "publishing," "advertisement," "advertising" shall include any and all means of every kind of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertising, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement and any and all means including oral, written or printed.

(d) "License"—A license issued pursuant to §§ 6-714—6-726.

(e) "Licensee"—Any person to whom a license has been issued pursuant to §§ 6-714—6-726.

(f) "Commissioner"—The commissioner or such official designated by the city ordinance, to be appointed by the municipality.

(g) "Inspector"—An inspector of the department of licenses. [Acts 1953, ch. 201, § 1 (Williams, § 3496.1).]

6-715. License required for sale.—No person, firm or corporation shall hereafter publish or conduct any sale of the type defined in § 6-714 without a license therefor. [Acts 1953, ch. 201, § 2 (Williams, § 3496.2).]

6-716. Application for license.—The commissioner is hereby authorized and empowered to supervise and regulate sales or special sales defined in § 6-714, and to issue appropriate licenses or license therefor. Such licenses or license shall be issued in the discretion of the commissioner of licenses upon the written application in a form approved by the commissioner and verified by the person who, or by an officer of the corporation which intends to conduct such sale. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, whether by lease or sublease and the effective date of the termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language content in any advertisements. Such application shall further contain, as part thereof, an itemized list of the goods, ware and merchandise to be offered for sale, the place where such stock was purchased or acquired, and if not purchased, the manner of such acquisition. Such application shall contain any additional information as the commissioner may require. [Acts 1953, ch. 201, § 3 (Williams, § 3496.3).]

6-717. Issuance of license.—Upon receipt of such application and payment of the fee hereinafter prescribed, the commissioner shall cause the same to be examined and investigated. If after such investigation the commissioner is satisfied as to the truth of the statements contained in such application and as to the form and content of the advertising to be used in connection with such sale, he may then issue a license permitting the publication and conduct of such sale. Such license shall be for a period of not exceeding thirty (30) days. [Acts 1953, ch. 201, § 3 (Williams, § 3496.3).]

6-718. Renewal license.—Upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, the commissioner may renew such license for an additional thirty (30) day period upon payment of the prescribed renewal fee. Such proof for a renewal license shall be furnished in a form to be issued by the commissioner. Said renewal application shall contain an itemized list of stock on hand and the same shall be verified by the applicant. The commissioner shall cause the same to be examined and investigated, and if satisfied as to the truth of the statements therein contained, the commissioner may issue a renewal license for a period not exceeding thirty (30) days, provided, however, that not more than three (3) such renewals shall be granted for any such sale for the same location within a period of one (1) year from date of issuance of the first license. [Acts 1953, ch. 201, § 3 (Williams, § 3496.3).]

6-719. Application fee.—Upon filing an original application or a renewal application for a license to advertise and conduct a sale or special sale, as hereinbefore defined, the applicant shall pay to the commissioner a fee in the sum of twenty-five dollars ($25.00). If any application or renewal application be disapproved, said payment shall be forfeited to the commissioner of licenses as and for the cost of investigating the statements contained in such application or renewal application. [Acts 1953, ch. 201, § 4 (Williams, § 3496.4).]

6-720. Contents of advertising.—All advertisements or advertising and the language contained therein shall be in accordance with the pur-

pose of the sale as stated in the application pursuant to which a license was issued and the wording of such advertisements shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words and no others:

"Sale held pursuant to permit No. _____ of department of licenses granted the _____ day of _____."

and in such blank spaces shall be indicated the permit number and the requisite dates. [Acts 1953, ch. 201, § 5 (Williams, § 3496.5).]

6-721. Display of license—Books and records.—Upon commencement of any sale, as hereinbefore defined, the license issued by the commissioner shall be prominently displayed near the entrance of the premises. A duplicate of the original application and stock list pursuant to which license was issued, shall at all times be available to the commissioner or to inspectors of the department of licenses and the licensee shall permit such inspectors to examine all merchandise in the premises for comparison with such stock list. Suitable books and records as prescribed by the commissioner shall be kept by the licensee and shall be at all times available to the inspectors of the department of licenses. At the close of business day the stock list attached to the application shall be revised and those items disposed of during such day shall be marked thereon. [Acts 1953, ch. 201, § 5 ((Williams, § 3496.5).]

6-722. Rules and regulations.—The commissioner is further empowered to make such rules and regulations for the conduct and advertisement of such sale or special sale as in his opinion will serve to prevent deception and to protect the public. [Acts 1953, ch. 201, § 3 (Williams, § 3496.3).]

6-723. Suspension or revocation of license.—The commissioner shall have power to suspend or revoke at any time any license granted in accordance with §§ 6-714—6-726. [Acts 1953, ch. 201, § 3 (Williams, § 3496.3).]

6-724. Violations of sales regulations.—Any person who shall violate, neglect or refuse to comply with any of the provisions of §§ 6-714—6-726, shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars ($100) or by imprisonment not exceeding sixty (60) days or both, such fine and imprisonment. [Acts 1953, ch. 201, § 7 (Williams, § 3496.7).]

6-725. Exemptions from regulation.—The provisions of §§ 6-714—6-726 shall not apply to or affect the following persons:

(a) Persons acting pursuant to an order or process of court of competent jurisdiction.

(b) Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals.

(c) Duly licensed auctioneers, selling at auction. [Acts 1953, ch. 201, § 6 (Williams, § 3496.6).]

6-726. Power of municipalities to adopt sales regulation law.—Any municipality desiring to adopt the provisions of §§ 6-714—6-726 may do so and in addition shall have the necessary power to take whatever additional steps are required to carry out the purpose of said sections. [Acts 1953, ch. 201, § 8 (Williams, § 3496.8).]

6-727. Licensing of vehicles prohibited.—The licensing as a privilege of the driving of any motor driven vehicle upon the roads, streets or other highways of the state of Tennessee is declared an exclusive

state privilege and no tax for such privilege under any guise or shape shall hereafter be assessed, levied or collected by any municipality of the state. [Acts 1937 (3rd E. S.), ch. 18, § 1; C. Supp. 1950, § 3336.4.]

6-728. Conflicting ordinances invalid—Inspection rights preserved. —All ordinances, rules or regulations heretofore passed, enacted or promulgated by any incorporated municipality of the state in conflict with the provisions of § 6-727, are declared inoperative and of no effect.

Provided that nothing in § 6-727 or this section shall prohibit municipalities to maintain and operate safety lanes, inspection bureaus or stations, nor to abridge their right to require city automobile tags. [Acts 1937 (3rd E. S.), ch. 18, § 2; mod. C. Supp. 1950, § 3336.5.]

6-729. Municipal tax assessor—Election—Oath and bond—Compensation.—The governing body of any municipality in the state of Tennessee is authorized to elect a tax assessor, who shall be required to make and subscribe to an oath as provided by the general laws of the state of Tennessee for county tax assessors; to prescribe the bond that he shall give; and to fix his compensation and the compensation of any and all deputies or employees. [Acts 1957, ch. 391, § 1.]

6-730. Assessments by municipal assessor.—All assessments made by a tax assessor elected pursuant to §§ 6-729—6-733 shall be made in accordance with the laws of the state of Tennessee by which such property is assessed for county purposes. [Acts 1957, ch. 391, § 2.]

6-731. Adoption of assessments of county assessor.—In the event a tax assessor is not so elected, the governing body of any municipality may adopt, by ordinance or resolution, the assessments made by the county tax assessor of property within the confines of the municipality, and have the assessments as made by the county tax assessor copied and entered on the tax books of the municipality. [Acts 1957, ch. 391, § 3.]

6-732. Correction of erroneous assessments—Equalization.—The governing body of any municipality may provide by ordinance or resolution for the correction of erroneous assessments, and for equalization of assessments made by the tax assessor. [Acts 1957, ch. 391, § 4.]

6-733. Provisions supplemental.—The provisions of §§ 6-729—6-733 shall not be construed to alter or conflict with any other method provided by law which provides for a municipal tax assessor, and/or, for equalization or correction of municipal tax assessments. [Acts 1957, ch. 391, § 5.]

6-734. Licensing of building, alteration and maintenance contractors. —The several cities, towns and counties of this state be and are hereby authorized and empowered to enact laws or ordinances to safeguard and protect the home owner or prospective home owner, commercial property owner or assembly building property owner, by requiring the licensing of the residential, commercial or assembly builders and residential, commercial and assembly maintenance and alteration contractors as defined herein in accordance with the provisions set forth in said law or ordinance. [Acts 1963, ch. 317, § 1.]

6-735. Definitions.—(a) Residential building: A house or building used or designed to be used as the abode or home of a person, family or household exclusively as a residence.

(b) Commercial building: A building used for the conduct of a business, having financial profit as the primary aim.

(c) Assembly building: A building where a number of persons congregate for amusement, civic, educational, recreational, religious or social purposes. [Acts 1963, ch. 317, § 2.]

6-736. Residential builders or contractors construed.—A residential builder and residential maintenance and alteration contractor shall be construed to mean any person, firm or corporation who, for a fixed sum, price, percentage, consideration or other compensation other than wages, contracts with another for the erection, construction, repair, replacement, alteration or addition to, subtraction from or demolition of a residential or residential-commercial combination building. [Acts 1963, ch. 317, § 2.]

6-737. Exceptions from licensing requirements.—Sections 6-734—6-740 shall not apply to:

(a) An authorized representative of the United States government, the state of Tennessee or any county, city, town or other political subdivision of this state.

(b) Owners of property with reference to structures thereon for their own use and occupancy.

(c) Officers of a court acting within the terms of their office.

(d) Any person who shall engage or be engaged solely in the business of performing work and services under contract with a builder under §§ 6-734—6-740.

(e) The sale of any products or materials or the sale or the installation of articles of merchandise which are not actually fabricated into and do not become a permanently fixed part of the structure.

(f) Any work or operation on one (1) undertaking or project or one or more contracts, the aggregate contract price for which labor, materials and all other items is less than one hundred dollars ($100), such work or operations being considered as a casual, minor or inconsequential nature. This exemption does not apply in any case wherein the work or construction is only part of a larger or major operation, whether undertaken by the same or a different residential, commercial or assembly builder and/or residential, commercial or assembly maintenance and alteration contractor, or in which a division of the operation is made in contracts of amounts of less than one hundred dollars ($100) for the purpose of evasion of §§ 6-734—6-740.

(g) Any contractor licensed and qualified under the state contractors' laws. [Acts 1963, ch. 317, § 3.]

6-738. Licensing by building department—Performance bond—Revocation or suspension—Hearing—Appeal.—Provision shall be made for licensing said residential, commercial and assembly builder and residential, commercial and assembly maintenance and alteration contractor with the building department of said town, city or county by law or ordinance, providing for the identification of said party for a license fee and renewal of same, for a performance bond in such amount as the city or county may determine, for the revocation and/or suspension of licenses after proper hearing before an appeal board of private citizens and for further appeal to the governing body of said town, city or county. [Acts 1963, ch. 317, § 4.]

6-739. Administration of licensing provisions.—The law or ordinance may provide for the administration of same under a board which may be established or under a proper officer of the governing body. [Acts 1963, ch. 317, § 5.]

6-740. Unlicensed acts—Misdemeanors—Nuisance.—Provision may be made that no person, firm, partnership or corporation shall attempt to do any of the matters set forth in §§ 6-735, 6-736 unless duly licensed

and, if not licensed, he shall be punished for violation of the law or ordinance as a misdemeanor. Continuing or aggravating violations may constitute a nuisance and be punishable as such. [Acts 1963, ch. 317, § 6.]

6-741. "Automobile graveyard" defined—Scrap metal processors excluded—Regulation and licensing by resolution or ordinance—Notice of proposed ordinance—Publication of ordinance.—For the purposes of this section "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found. The term "automobile graveyard" or "automobile junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

The governing body of each county by resolution, and the governing body of each city, town or metropolitan government by ordinance, may regulate and license the maintenance of automobile graveyards as defined above, and may prescribe fines and other punishment for violations of such resolutions or ordinances.

No such ordinance shall be adopted until after notice of intention to propose the same for adoption shall have been published prior to its adoption once a week for two (2) successive weeks in some newspaper published in such county or municipality or, if there be no newspaper published therein, then in some newspaper having general circulation in such county or municipality, and no ordinance shall become effective until it shall have been published in full for two (2) successive weeks in a like newspaper. [Acts 1965, ch. 197, §§ 1-3.]

6-742. Nonresident motorists not charged fee or tax for privilege of using roads.—Except as may be provided by general law, it is unlawful for the governing body of any county or municipality or metropolitan government to require any person who is not a resident of such county, or of the county in which such municipality is located, or of the area governed by such metropolitan government, to pay to such county or municipality or metropolitan government any license fee or tax or any regulatory license fee or tax of whatever nature for the privilege of driving a motor vehicle on the roads, streets or highways in such county or municipality or metropolitan government or for the maintenance or operation of any traffic control device or the regulation and control of motor vehicle traffic on the roads, streets, or highways in any county, municipality or metropolitan government.

The provisions of this section shall apply and shall be controlling, notwithstanding any provisions to the contrary of any private act or of any resolution or ordinance of any local governing body and regardless of the legal description or designation of any such fee or tax.

The provisions of this section shall not prohibit the collection of fees authorized for county court clerks in connection with the registration and licensing of motor vehicles under title 59 of the Code. [Acts 1969, ch. 240, §§ 1-3; 1971, ch. 17, §§ 1, 2.]

6-743. Collection of municipal motor vehicle fees by clerk of county court.—The clerk of the county court of any county and any municipality located wholly or in part in such county by resolution of its governing body may enter into an agreement with such terms as may be agreed upon, including appropriate compensation, providing for the clerk of the county court to collect for such municipality motor vehicle regulatory fees imposed by such municipality; provided such agreement shall be subject to the approval of the quarterly county court; provided further, before any collections may be made under such agreement,

the municipality shall file with the clerk of the county court a certified copy of its ordinance imposing such regulatory fee.

Nothing in this section shall affect the authority of counties, clerks of county courts, municipalities, utility districts and cooperatives to enter into agreements or contracts under the provisions of any other statute or charter. [Acts 1976 (Adj. S.), ch. 693, §§ 2, 3.]

CHAPTER 8—FISCAL AFFAIRS

SECTION.

6-801. Biennial audit required.
6-802. Responsibility of legislative body for audit.
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6-804. Audit as public record—Publication.
6-805. Investment of funds in government bonds.
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6-808. Minimum compensation of chief elected executive of certain municipalities.
6-809. Minimum salary of municipal judges in certain municipalities.
6-810. Minimum salary of councilmen in certain municipalities.
6-811. Audit of subordinate agencies — Governing body's responsibility — Comptroller's responsibility — Copies.
6-812—6-814. [Repealed.]

6-801. Biennial audit required.—It shall be the duty of the governing board of every municipal corporation to have a thorough audit of the financial affairs of the corporation, including all receipts from every source and every expenditure or disbursement of the money of the corporation, made by a disinterested person skilled in such work, as often as every two (2) years. Each audit shall cover the period extending back to the date of the last preceding audit. The cost of each audit shall be paid out of the funds of the municipality, and a sufficient sum shall be appropriated for the purpose by the board. [Acts 1917, ch. 64, § 1; Shan. Supp., § 1947a1; mod. Code 1932, § 3501.]

6-802. Responsibility of legislative body for audit.—The duties placed upon the said board in § 6-801 shall devolve upon the officers of every municipal corporation having power to provide and enact ordinances for said corporation. [Acts 1917, ch. 64, § 2; Shan. Supp., § 1947a2; mod. Code 1932, § 3502.]

6-803. Taxpayers compelling audit.—If two (2) years shall lapse without the audit provided for in §§ 6-801 and 6-802 being made, any ten (10) persons over the age of twenty-one (21) years who have paid taxes to such municipal corporation during the two (2) year period for which no audit has been made, may file a written demand for such an audit with the mayor, and if the audit be not commenced within fifteen (15) days after the filing of such demand, said ten (10) persons may file their bill in the chancery court against the corporation, and officers of the corporation charged with the duty of causing the audit to be made; and, upon proof of their failure to provide for the audit and the demand therefor by the complainants, the chancellor shall decree that the audit be made, and shall appoint an auditor who shall make the audit. The cost of the audit so made shall be adjudged against the municipality as a part of the costs of the case. [Acts 1917, ch. 64, § 3; Shan. Supp., § 1947a3; Code 1932, § 3503.]

6-804. Audit as public record—Publication.—The result of each audit above provided for shall be kept as a public record of the corporation, and shall be always subject to the inspection of each citizen or taxpayer of the corporation. A summary of the audit, prepared by the auditor, shall be published in at least one (1) issue of a newspaper of general circulation in the corporation, if there be one. [Acts 1917, ch. 64, § 4; Shan. Supp., § 1947a4; Code 1932, § 3504; Acts 1970 (Adj. S.), ch. 426, § 15.]

6-805. Investment of funds in government bonds.—In order to provide a safe temporary medium of investment of idle funds, municipalities in the state are authorized and fully empowered to invest in bonds of the United States of America not exceeding eighty per cent (80%) of any and all funds of the municipality, including sinking funds, now on hand, or which may hereafter come into the hands of said municipality, and which will not be required for the purposes for which created within six (6) months from the date of such investment. [Acts 1943, ch. 47, § 1; mod. C. Supp. 1950, § 3516.29 (Williams, § 3516.31).]

6-806. Selection of bonds for investment.—For the purpose of carrying out the provisions of § 6-805, the governing body of the municipality may appoint a committee with authority to act in the premises and, unless the governing body shall designate the specific series of bonds in which such funds shall be invested, the selection of the series for investment of such funds as will be best suited to the requirements of the municipality shall be made by said committee. No liability shall attach to any member of a committee selected for the aforesaid purpose except for misfeasance or malfeasance in the performance of the duties imposed on said committee. [Acts 1943, ch. 47, § 2; C. Supp. 1950, § 3516.30 (Williams, § 3516.32).]

6-807. Contributions to watershed development authority—Authorization.—Any municipality of this state may make financial contributions to any watershed development authority created by special act of the general assembly, where a portion or all of the watershed development administered by such authority lies within the county wherein such municipality is situated, and such municipality is participating directly or indirectly in such development. Such contributions shall only be made when authorized by the legislative body of such municipality from the general funds thereof. No special tax may be levied therefor. The amount of such contribution shall be fixed by such legislative body and sanctioned thereby as a municipal purpose, the development of which being beneficial to such municipality. [Acts 1965, ch. 343, § 1.]

6-808. Minimum compensation of chief elected executive of certain municipalities.—The minimum compensation payable to the chief elected executive of all municipalities or metropolitan governments having a population greater than one hundred seventy thousand (170,000) according to the United States census of population of 1970 or any subsequent United States census of population shall be twenty-five thousand dollars ($25,000) per annum, payable in equal monthly instalments. Any municipality or metropolitan government may provide for greater compensation for the chief elected executive. [Acts 1971, ch. 345, § 1.]

6-809. Minimum salary of municipal judges in certain municipalities—The minimum salary payable to municipal judges which have been created in all municipalities having a population greater than one hundred seventy thousand (170,000) according to the United States census of population of 1970 or any subsequent United States census of population shall be fourteen thousand five hundred dollars ($14,500) per annum, payable in equal monthly instalments. Any municipality affected by this act may provide for greater compensation for the office of municipal judge. Any salary for the office of municipal judge shall be paid by the municipality wherein the office of municipal judge is established. [Acts 1971, ch. 345, § 2.]

6-810. Minimum salary of councilmen in certain municipalities.—The minimum salary payable to city and metropolitan councilmen in all municipalities having a population greater than one hundred seventy thousand (170,000) according to the United States census of popula-

tion of 1970 or any subsequent United States census of population shall be three hundred dollars ($300) per month. [Acts 1971, ch. 345, § 3.]

6-811. Audit of subordinate agencies—Governing body's responsibility—Comptroller's responsibility—Copies.—The governing body of each municipality in this state shall cause an annual audit to be made of the accounts and records of all departments, boards, and agencies under their jurisdiction which receive and disburse funds. The audit shall include, but not be limited to, general funds, highway funds, school funds and public utilities.

The comptroller of the treasury, through the department of audit, shall be responsible for insuring that said audits are prepared in accordance with generally accepted governmental auditing standards and determining if said audits meet minimum audit standards which shall be prescribed by the comptroller. No audit may be accepted as meeting the requirements of this section until such audit has been approved by the comptroller.

Said audits may be prepared by certified public accounts, public accountants or by the department of audit. In the event the governing body of the municipality shall fail or refuse to have said audit prepared then the comptroller may appoint a certified public accountant or public accountant or direct the department of audit to prepare said audit; the cost of such audit to be paid by the municipality.

All such audits shall be completed as soon as practicable after the end of the fiscal year of the municipality. One (1) copy of each audit shall be furnished to the mayor, chief executive officer, each member of the governing body, and the comptroller of the treasury. Copies of each audit shall also be made available to the press. [Acts 1972 (Adj. S.), ch. 602, § 1.]

6-812—6-814. [Repealed.]