

CHARTER OF THE CITY OF MARYVILLE, TENNESSEE¹

CHAPTER NO. 27

HOUSE BILL NO. 132

(By Huffstetler, Gamble)

SUBSTITUTED FOR: SENATE BILL NO. 104

(By Goddard)

AN ACT to amend the Charter of the City of Maryville, Tennessee, and all Acts amendatory thereto.

¹Priv. Acts 1967, ch. 27, is the current basic charter act for the City of Maryville, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2007 session of the Tennessee General Assembly. Sections of the charter which have been amended contain at the end of those sections the citation to the official act or acts constituting the amendment or amendments. No other changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the acts including the basic charter appears at the end of the charter.

Acts which did not expressly or in effect amend any particular section or part of the basic charter, but which supplemented it, (Priv. Acts 1994, ch. 125, which provides that members of the legislative body of any municipality within certain counties may serve as members of the cable television authority, if there is a cable television authority established by an intergovernmental agreement; Priv. Acts 1986, ch. 144, which provides for parking of motor vehicles in the city; and Priv. Acts 2003, ch. 55, which provides for a hotel/motel tax) have been placed after the basic charter act as "Related Acts."

Acts of a temporary nature with no general or continuing application, such as bond authorization and validation acts have not been included in this compilation.

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Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the Charter of the City of Maryville in Blount County, Tennessee, being Chapter No. 209, Private Acts of the General Assembly of the State of Tennessee of 1927, and all Acts amendatory thereto, be and is hereby amended to read as follows:

ARTICLE I

CORPORATE CAPACITY

Section 1. The City of Maryville, in the County of Blount, and the inhabitants thereof, are hereby constituted a body politic and corporate by the style and name of the "City of Maryville" and shall have perpetual succession by the corporate name; may sue and be sued, plead and be impleaded, grant, receive, purchase and hold real, mixed and personal property, and dispose of the same for the benefit of said City, and may have and use a corporate seal and change it at its pleasure.

ARTICLE II

POWERS

Section 1. The city shall have power:

(1) To assess, levy, and collect taxes for all general and special purposes on all subjects or objects of taxation, polls and privileges taxable by law for State, County or City purposes.

(2) To adopt such classifications of the subjects and objects of taxation as may not be contrary to law.

(3) To contract and be contracted with.

(4) To expend the money of the City for all lawful purposes.

(5) To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the City or State.

(6) To condemn property, real or personal or any easement, interest, or estate or use therein, either within or without the City, for present or future public use; such condemnation to be made and effected in accordance with the terms and provisions of Chapter 14 of Title 23, or in such other manner as may be provided by general law.

(7) To take and hold property within or without the City or State upon trust; and to administer trusts for the public benefit.

(8) To acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the City, its inhabitants, or any part thereof.

(9) To grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished the City and those therein. Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the City itself. Franchises may be granted for the period of twenty-five (25) years or less, but not longer. The Board of Commissioners may prescribe in each grant of a franchise, to public utilities not regulated by the Tennessee Public Service Commission, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the City at the date of the franchises, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened.

(10) To make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the City and those therein. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts; and when an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association, or corporation, but also as against the City itself. Such contracts may be entered into for the period of twenty-five (25) years or less, but not longer. The Board of Commissioners may prescribe in each such contract with public utilities not regulated by the Tennessee Public Service Commission entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the City at the date of the contract, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened.

(11) To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and compel, from time to time reasonable extensions of facilities for such services, but nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under Subsections 9 and 10 of this Section. Provided, however, nothing herein shall be construed to apply to public utilities whose construction, maintenance, equipment, operation and service, and extensions thereof are regulated by the Tennessee Public Service Commission.

(12) To establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds and squares, bridges, viaducts, subways, tunnels, sewers, and drains within or without the corporate limits, and to regulate the use thereof within the

corporate limits, and to take and appropriate property for the aforementioned uses under the provisions of Sections 6-1007--6-1011 and 23-1414, or in such other manner as may be provided by general law.

(13) To construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits.

(14) To acquire, purchase, provide for, construct, regulate, and maintain and do all things relating to all market places, public buildings, bridges, sewers and other structures, works and improvements.

(15) To collect and dispose of drainage, sewage, offal, ashes, garbage and refuse, and to impose a compulsory service charge for such, or to license and regulate such collection and disposal.

(16) To license and regulate all persons, firms, corporations, companies, and associations engaged in any business, occupation, calling, profession, or trade not forbidden by law.

(17) To impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law.

(18) To define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the City, and to exercise general police powers.

(19) To prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained.

(20) To inspect, test, measure, and weigh any article for consumption or use within the City, and to charge reasonable fees therefor; and to provide standards of weights, tests and measures.

(21) To establish, regulate, license, and inspect weights and measures.

(22) To regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent the use thereof and require any alteration or changes necessary to make them healthful, clean, or safe.

(23) To provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services.

(24) To purchase or construct, maintain, and establish a workhouse or farm colony, for the confinement and detention of any person convicted in the City Court of offenses against the laws and ordinances of the City who fails to secure the fine and costs imposed upon him, or to contract with the County to keep said persons in the workhouse of said County and to provide by said

contract and by ordinance for the commitment of such persons to the workhouse so provided, until such fine and costs shall be fully paid.

(25) To enforce any ordinance, by means of fines, forfeiture, penalties, and to impose cost as a part thereof.

(26) To establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation, to purchase or otherwise acquire land for schoolhouses, playgrounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain, and operate a complete educational system within the City.

(27) To regulate, tax, license or suppress the keeping or going at large of animals within the City; to impound the same and in default of redemption to sell or kill the same.

(28) To establish, maintain and operate Civil Service Systems, group insurance plans, and retirement systems for City employees, and to appropriate, expend and use the money of the City therefor.

(29) Under the police power, to make all necessary and proper rules and regulations regarding the use and operation of taxi cabs and contract carriers, and the operators thereof, within the corporate limits of the City of Maryville.

(30) To do all things necessary to provide the City sufficient and safe water; to provide for the regulation, construction and maintenance of water works, settling basins, pumping stations, water pipes and mains and rights-of-ways for the same, reservoirs and all appurtenances, whether within or without the corporate limits of the City; to provide for rates and assessments for water service, and to provide and fix liens or penalties and withdrawal of service for refusal or failure of the party served to pay for same.

(31) To provide for the establishment and operation of all offices, boards, divisions and departments, not herein enumerated, which may be deemed necessary or expedient in the interest of the City.

(32) To provide for and establish a City Planning Commission and a Board of Zoning Appeals pursuant to and consistent with the general law; and to invest such bodies with all the powers conferred by general law; and to act upon the plans, plats, decisions and recommendations made by such bodies, respectively, as in the general law provided.

(33) To call, regulate, provide for and control all municipal elections not provided by general law or this Charter.

(34) To have and exercise all powers which now or hereafter it would be competent for this Charter specifically to enumerate, as fully and completely as though said powers were specifically enumerated herein.

(35) To provide for the control of the growth of grass, weeds and vegetation and the accumulation of trash, rubbish and other deleterious or noxious matter upon any property within the City other than agricultural property; to require the owner or those in possession of said property to keep the same free from the accumulation thereof; to charge such owner or those in

possession of said property with the cost of removal of same and to impress a lien upon such property to defray the costs thereof.

(36) To adopt by ordinance or resolution all requirements governing competitive bidding and purchasing involving all purchases and leases or lease-purchase agreements involving the city of Maryville or any department or agency thereof, to provide for a purchasing agent for the city, and to adopt such regulations providing procedures for implementing such regulations. The legislative body of the city shall enact such regulations and procedures, and shall provide for a purchasing agent, by ordinance or resolution as herein authorized.

(37) (A) To adopt by ordinance or resolution, by a two-thirds vote of the city council, a comprehensive program to plan and coordinate the maintenance and expansion of public infrastructure facilities. The fundamental purpose of such program shall be to ensure that all such maintenance and expansion occurs in a manner that is orderly, incremental, efficient, effective, environmentally sound, and fiscally responsible.

(B) To adopt by ordinance or resolution, by a two-thirds vote of the city council, such definitions, threshold standards, policies, and procedures as may be reasonably necessary in order to make approval of any proposed commercial, industrial, or residential development contingent upon the adequacy of public infrastructure facilities to concurrently accommodate increased demands likely to occur as a result of the proposed development. The fundamental purpose of such adequate facilities requirements shall be to ensure that all such development occurs in a manner that is consistent with the orderly, incremental, efficient, effective, environmentally sound, and fiscally responsible maintenance and expansion of public infrastructure facilities.

(C) To adopt by ordinance or resolution, by a two-thirds vote of the city council, such interim development controls as may be reasonably necessary to protect and promote the public welfare during the period required to formulate, adopt, and implement the public infrastructure facilities planning and coordination program authorized pursuant to subitem (A) and the adequate public facilities requirements authorized pursuant to subitem (B). Any such interim development controls shall cease to be effective upon actual implementation of such planning and coordination program and adequate public facilities requirements or after twenty-four (24) months, whichever shall first occur.

(D) As used in this item, the term "public infrastructure facilities" includes, but is not necessarily limited to, the following publicly supported systems, utilities, and services:

- (i) Schools;
- (ii) Libraries;
- (iii) Electricity;

- (iv) Water, sewers, and wastewater treatment;
- (v) Solid waste collection and disposal;
- (vi) Storm water drainage;
- (vii) Roadways and transportation networks;
- (viii) Law enforcement;
- (ix) Fire protection;
- (x) Emergency response; and
- (xi) Parks and recreation.

(E) Prior to the first reading of an ordinance or resolution for the adoption of the comprehensive program authorized pursuant to subitem (A), the adequate public facilities requirements authorized pursuant to subitem (B), or the interim development controls authorized pursuant to subitem (C), or any amendments or revisions to such program, requirements or development controls, the city council shall conduct three (3) public hearings on three (3) separate days at which any citizen of the city shall have the right to appear and comment on the proposal. The first public hearing shall be conducted at least three (3) weeks prior to such first reading. The city council shall publish a notice of each public hearing in a newspaper of general circulation within the City of Maryville at least five (5) days prior to each such public hearing.

[As amended by Priv. Acts 1967, ch. 472, § 1; Priv. Acts 1984, ch. 193; and Priv. Acts 2001, ch. 63]

ARTICLE III

ELECTIONS

Section 1. General city elections shall be those transitional elections held on the first Thursday in June in odd-numbered years for the transitional elections provided in Article IV, Section 1 and Article XII, Section 2 and those subsequent city elections held on the date of general state elections which fall on the first Tuesday following the first Monday in November of even-numbered years. [As replaced by Priv. Acts 1978, ch. 267, § 2; and Priv. Acts 2001, ch. 1, § 1]

Section 2. All elections shall be conducted by the Commissioners of Elections of Blount County in accordance with the general election laws and this Charter.

Section 3. All persons who are bona fide residents of the City of Maryville, who are qualified to vote for members of the General Assembly, and who have registered to vote in city elections shall be entitled to vote in city elections. Non-residents of the City of Maryville who shall have owned a taxable freehold in said City for a period of six months previous to the day of the

election, and being qualified to vote for members of the State Legislature, and who shall be registered, shall be entitled to vote in the Ward in which said freehold is situated; provided, that persons owning real estate in more than one ward shall only be entitled to vote in one ward. Every voter, in addition to the other regulations required by law and the provisions of this Charter, shall be registered as a voter before he shall be allowed to exercise the elective franchise in any City election. [As amended by Priv. Acts 2001, ch. 1, § 2]

ARTICLE IV

CITY COUNCIL

Section 1. The governing body of the city shall be a city council consisting of five (5) members, to be elected by the voters of the city at large to staggered four-year terms of office, except for the transitional terms provided herein. The two (2) members of the present city council elected to four-year terms of office in the general city election held on the first Thursday in June 1997, and whose terms expire in 2001, and the three (3) members of the present city council elected to four-year terms of office in the election held on the first Thursday in June 1999, and whose terms expire in 2003, shall complete their terms of office. On the date of the general city election held on the first Thursday in June 2001, two (2) city council members shall be elected for transitional terms which expire on the date of the first regular meeting of the council following the date of the general state election held on the first Tuesday following the first Monday in November 2004. On the date of the general city election held on the first Thursday in June 2003, three (3) council members shall be elected for transitional terms which expire on the date of the first regular meeting of the council following the date of the general state election held on the first Tuesday following the first Monday in November 2006. Thereafter, the dates of general city elections shall be the dates of the general state elections held on the first Tuesday following the first Monday in November of even-numbered years. At each and every general city election on those dates, the city council members shall be elected to four-year terms. [As amended by Priv. Acts 1978, ch. 267, § 3; and replaced by Priv. Acts 2001, ch. 1, § 3]

Section 2. The terms of the newly-elected council members begin on the date of the first regular meeting of the city council following their election. The city council shall at the first regular meeting of the council following each general city election elect one of their number Mayor for a term that shall expire on the date of the first regular meeting of the council occurring after the next general city election. [As replaced by Priv. Acts 1978, ch. 267, § 4; and Priv. Acts 2001, ch. 1, § 4]

Section 3. Councilmen shall be qualified electors of the City and shall hold no other public office except as a member of any board, commission, authority or body over which the Council or Mayor has the power of appointment or election of some or all of the members, or as a Notary Public or member of the National Guard or Naval or Military Reserve. No person shall be eligible to the office of councilman unless he shall have been for at least one year next preceding his election a citizen and bona fide freeholder in the City of Maryville. If a councilman shall cease to possess any of these qualifications, or shall be convicted of any crime involving moral turpitude, his office shall immediately become vacant. No person shall become a councilman who has been convicted of malfeasance in office, bribery or other corrupt practice or crime. [As amended by Priv. Acts 1994, ch. 129, § 1]

Section 4. The salary of the Mayor shall be \$50.00 per month, and that of the Councilmen \$25.00 per month.

The Mayor and each Council member shall be reimbursed for their actual and reasonable business and travel expenses incurred in the performance of their duties as Mayor and Council members. [As amended by Priv. Acts 1993, ch. 24, § 1]

Section 5. The Council shall by ordinance fix the time and place at which the regular meetings of the Council shall be held. Until otherwise provided by ordinance the regular meeting of the Council shall be held at 7:30 o'clock P.M. on the first Tuesday of each month. When such day falls on a legal holiday the meeting shall be on the next following day.

Whenever in the opinion of the Mayor and City Manager or of any three (3) councilmen, the welfare of the City demands it, the Mayor or the Recorder shall call a special meeting of the Council.

Section 6. The Mayor shall preside at all meetings of the Council at which he is present, and in his absence the Vice-Mayor shall preside, and in the absence of the Mayor and Vice-Mayor the Council may designate one of their number to preside.

Section 7. Any vacancy in the office of council member shall be filled by the appointment of a person meeting the qualifications of council member under this charter, by the remaining members of the council. The appointee shall hold office until the date of the first meeting of the council following the next general city election occurring after the appointment. The remainder of the vacating council member's term, if any, extending past the date of the first regular meeting of the council following the general city election shall be filled at that election; however, in the event the vacancy occurs within one hundred eighty (180) days of the next general election, the appointee shall hold office for the

entirety of the vacating council member's term. [As replaced by Priv. Acts 2001, ch. 1, § 5]

Section 8. At the first regular meeting of the city council following each general city election, the council shall elect from its membership a vice-mayor, who shall act as Mayor during the absence or disability of the Mayor. If the office of the Mayor becomes vacant the vice-mayor shall become the Mayor and shall hold office for the entirety of the unexpired term of the vacating Mayor. The city council shall then appoint from its membership another vice-mayor. [As amended by Priv. Acts 1978, ch. 267, § 5; and replaced by Priv. Acts 2001, ch. 1, § 6]

Section 9. The Mayor and other councilmen, before entering upon their duties, shall each take and subscribe and file with the Recorder an oath or affirmation that he will support the Constitution of the United States and of the State of Tennessee and the Charter and Ordinances of the City of Maryville, and that he will faithfully discharge the duties of his office.

Section 10. A majority of all the members of said Council shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of the absentees in such manner and under such penalties as the Council may provide.

A regular meeting at which a quorum is present may be adjourned by a majority vote, either from day to day or from time to time; but no such adjournment shall be taken to a date beyond the day preceding the next regular meeting; and any adjourned meeting shall continue as a regular meeting throughout said adjournment.

Section 11. Said Council may determine the rules of its proceedings, subject to this Charter. It shall have power to subpoena witnesses and order the production of books and papers relating to any subject within its jurisdiction; to call upon its own officer or the Chief of Police to execute its process; and to arrest and punish by fine any person refusing to obey such subpoena or order.

No fine for any one offense under this Section shall exceed fifty dollars.

Its presiding officer or the chairman of any committee may administer oaths to witnesses.

It shall keep a journal of its proceedings, and the yeas and nays on every question shall be entered thereon.

Section 12. All sessions of the Council shall be public and subject to change of place in case of emergency.

Section 13. The Mayor or any other councilman may be removed from office by the Council for crime or misdemeanor in office, for grave misconduct

showing unfitness for public duty or for permanent disability, all other members of the Council voting for said removal. The proceedings for such removal shall be upon specific charges in writing, which, with a notice stating the time and place of the hearing, shall be served on the accused or published at least three times on three successive days in a daily newspaper circulating in the City. The hearing shall be made public and the accused shall have the right to appear and defend in person and by counsel, and have process of the Council to compel the attendance of witnesses in his behalf. Such vote shall be determined by yeas and nays and the names of the members voting for or against such removal shall be entered in the journal.

Immediately upon the vote for removal the term of the accused shall expire and his official status, power and authority cease without further action. Any one removed hereunder shall have the right of appeal, within ten days, to the Circuit Court of Blount County. Upon any such appeal being taken, the Recorder shall make and certify to the clerk of said Circuit Court a complete transcript of the entire removal proceedings. The Judge of said Court shall hear and determine the cause solely upon the transcript record, and no additional evidence shall be introduced. The City or the accused, if either be dissatisfied with the decree of the Court, may appeal to the Supreme Court as in other cases.

Section 14. All ordinances shall begin with the clause: Be it ordained by the Council of the City of Maryville, Tennessee. Every proposed ordinance shall be introduced in writing in the form required for final adoption. An ordinance may be introduced by any member of the Council or by the Manager. Upon introduction, a copy shall be distributed to each Council member, the Recorder, the Manager, and the City Attorney. The body of ordinances may be omitted from the journal, but reference therein shall be made to the ordinance by title and/or subject matter. Each ordinance enacted by the Council shall be presented to the Council and passed by a majority of the Council members present on two (2) separate days, the second presentation to be not less than fourteen (14) days following the first presentation unless a majority of the entire Council shall by recorded vote waive this time requirement. Upon the first presentation, the caption of the ordinance shall be read or its substance stated and upon request of any member of Council or upon the request of any taxpayer of the City, the ordinance shall be read in full before final passage. The second presentation of an ordinance may be included in a consent agenda and may be voted upon without formal presentation. The consent agenda may include ordinances, approvals, or other matters deemed appropriate by Council for inclusion in the consent agenda. Any Council person may request that an item be withdrawn from the consent agenda and be considered and voted upon separately. Except in the ordinance adopting the budget, no material or substantial amendment may be made on second or final passage unless such amendment is passed in the same manner as an amendment to an existing ordinance. Every ordinance shall become effective upon final passage unless by

its terms the effective date is deferred. Every ordinance upon final passage shall be signed by the Mayor or Vice-Mayor or the Mayor's other designee on Council in the Mayor's absence. Every ordinance shall immediately be taken charge of by the Recorder and numbered, copied in ordinance book, and authenticated by the signature of the Mayor and Recorder. The ordinance shall then be filed and preserved in the Recorder's office. [As amended by Priv. Acts 1980, ch. 320, and Priv. Acts 2004, ch. 106, § 12]

Section 15. Except as otherwise provided by general law or this Charter, legislative action of the Council shall be by ordinance when granting, renewing or extending public franchises; creating, abolishing or combining departments or offices; authorizing the borrowing of money; exercising the police power; levying taxes; adopting the budget; providing a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed; or amending or repealing an existing ordinance. [As amended by Priv. Acts 1990, ch. 132]

Section 16. The Council or Mayor shall have the authority to appoint or elect one of its own members to an office over which the Council or Mayor has the power of appointment or election. [As added by Priv. Acts 1994, ch. 129, § 2]

ARTICLE V

CITY MANAGER

Section 1. The Council shall appoint a City Manager to serve at the will of the Council. The Manager shall be appointed on the basis of his executive and administrative qualifications. The compensation of the Manager shall be fixed by ordinance.

Section 2. By letter filed with the City Recorder the Manager shall designate, subject to approval of the Council, a qualified City Administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. The Council may revoke such designation at any time and designate another officer of the City as acting Manager.

Section 3. The Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all the City affairs placed in his charge by or under this Charter. He shall have the following powers and duties:

(1) He shall appoint and, when he deems it necessary for the good of the City, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except the City Judge, and officers and employees under the jurisdiction and control of the Board of Education. He

may authorize any administrative officer subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the City except the City Court, and Board of Education.

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual or biennial budget and program to the Council.

(6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He shall perform such other duties as are specified in this Charter or as may be required by the Council. [As amended by Priv. Acts 1988, ch. 222, § 2; and Priv. Acts 2004, ch. 106, § 1]

Section 4. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

Section 5. Except for the purpose of inquiries and investigations under the following Section, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

ARTICLE VI

CITY ATTORNEY

Section 1. The City Attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section 2. The City Attorney shall be appointed by the City Manager and shall direct the management of all litigation in which the City is a party, including the function of prosecuting attorney in the City courts; represent the City in all legal matters and proceedings in which the City is a party or interested, or in which any of its officers is officially interested; attend all meetings of the Council; advise the Council, and committees or members thereof, the City Manager, and the heads of all departments and divisions as to all legal questions affecting the City's interest; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the City. His compensation shall be as fixed by the Council.

ARTICLE VII

FINANCE DIRECTOR AND RECORDER

Section 1. Finance Director.

(a) The Finance Director shall be appointed by the City Manager and shall be the head of the department of finance. The Finance Director, as the head of the department of finance, shall exercise a general supervision over the fiscal affairs of the City, and general accounting supervision over all the City's property, assets and claims, and the disposition thereof. The Finance Director shall be the general accountant and auditor of the City and shall have custody of all papers, records and vouchers relating to the fiscal affairs of the City. The records in the Finance Director's office shall show the financial operations and condition, property, assets, claims and liability of the City, all expenditures authorized and all contracts in which the City is interested.

(b) The Finance Director shall be the Treasurer of the City, and, as such, it shall be the Finance Director's duty to collect, receive and receipt for the taxes and all other revenues and bonds of the City and the proceeds of its bond issues, and to disburse the same.

Section 2. Recorder.

(a) The Recorder shall be appointed by the City Manager. The Recorder shall receive a salary to be fixed by the Council. The Recorder shall have a seat and a voice, but no vote, in the Council. The Recorder shall, by the Recorder's signature and the City seal, attest all instruments signed in the name of the City and all official acts of the Mayor. The Recorder shall have the power to administer oaths.

(b) It shall be the duty of the Recorder to be present at all meetings of the Council and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

(c) The Recorder shall have custody of and preserve in the Recorder's office, the City seal, the public records, original rolls of ordinances, ordinance books, minutes of the Council, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds (except the Recorder's own bond, which shall be in the custody of the Mayor), and all other bonds, oaths, affirmations and all other records, papers and documents not required by this Charter or by ordinances to be deposited elsewhere, and shall register them by numbers, dates and contents, and keep an accurate and modern index thereof.

(d) The Recorder shall provide, and when required by any officer or person, certify copies of records, papers and documents in the Recorder's office and charge therefor, for the use of the City, such fees as may be provided by ordinance, cause copies of ordinances to be printed, as may be directed by the Council, and kept in the Recorder's office for distribution.

(e) The Recorder shall also perform any other duties imposed upon him by this Charter or by ordinance.

(f) In the event of the temporary absence or disability of the Recorder, the City Manager may by an instrument in writing appoint a Recorder pro tempore who shall have and exercise all the powers of the regular Recorder. [As replaced by Priv. Acts 2000, ch. 73]

ARTICLE VIII

ADMINISTRATION

Section 1. The Council may establish City departments, offices or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this Charter. Departments, Offices and Agencies created by the Council may be abolished or combined.

Section 2. All Departments, Offices and Agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the Council, the Manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

Section 3. The Council shall by ordinance adopt personnel rules which shall include:

- (1) The classification of all City positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (2) A pay plan for all City positions;
- (3) The hours of work, attendance regulations and provisions for sick and vacation leave.

Section 4. The City Manager and every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this Charter. All such bonds and sureties shall be subject to the approval of the Council, and the Council may provide for blanket bonds. The cost of all bonds shall be an expense of the City.

Section 5. The Manager and every appointive officer shall before taking office take and subscribe to the same oath of office required of the Mayor and Councilmen.

Section 6. The Mayor shall be the ceremonial head of the City, and shall be the officer upon which process against the City may be served. He shall have no other executive or administrative powers or duties except those conferred upon him by the Council not inconsistent with this Charter.

ARTICLE IX

FINANCE

Section 1. The fiscal year of the City shall begin to run on July 1 and end June 30. By resolution, Council shall determine the budgetary period of either an annual or biennial budget prior to the beginning of each fiscal year. [As amended by Priv. Acts 2004, ch. 106, § 2]

Section 2. The adoption of an annual or biennial budget for all departments except utilities shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes. [As amended by Priv. Acts 2004, ch. 106, § 3]

Section 3. At least forty-five (45) days before the beginning of the budgetary fiscal year, the Manager shall prepare and submit to Council a budget for the ensuing fiscal year(s) and an accompanying message. The Manager's message shall explain the budget. It shall outline the proposed financial policies of the City for the ensuing fiscal year(s), describe features of the budget, indicate major changes from previous years in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, and include material the Manager deems desirable. [As amended by Priv. Acts 2004, ch. 106, § 4]

Section 4. The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year(s) except those funds that are accounted for on a proprietary basis and except as required by law or this chapter. The budget shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organizational unit, program, purpose, activity, or as otherwise deemed appropriate. The budget shall begin with a general summary of its contents. It shall show in detail all estimated income, indicate the proposed property tax levy, and set forth all proposed expenditures including debt service for the ensuing fiscal year(s). The budget shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year(s) and actual income and expenditures of the preceding fiscal year(s). The budget shall indicate in separate sections:

(1) Proposed expenditures for current operation during the ensuing fiscal year(s), detailed by offices, departments, and agencies in terms of their respective work programs and the method of financing such expenditures; and

(2) Proposed capital expenditures during the ensuing fiscal year(s) detailing by office, departments, and agencies, when practicable, the proposed method of financing each capital expenditure.

The total proposed expenditures shall not exceed the total of estimated income. [As amended by Priv. Acts 2004, ch. 106, § 5]

Section 5. The budget shall be a public record in the office of the City Recorder. A public hearing on the budget shall be held before its adoption on final passage by the Council at such time and place as the Council shall direct, and notice of such hearing shall be published ten days in advance of the date fixed. Any resident or taxpayer of the City, in person or by attorney, shall be

given a reasonable opportunity to be heard for or against any purpose or estimate in the budget.

Section 6. After the public hearing the Council may adopt the budget with or without amendment, but no amendment shall decrease expenditures required by law for debt service or for estimated cash deficit, and no amendment shall increase authorized expenditures to an amount greater than the total of estimated income. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

Section 7. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 8. Upon a declaration by the Council that there exists a public emergency affecting life, health, property, or the public peace, the Council may make emergency appropriations by ordinance. To the extent that there is no available unappropriated revenue to meet such appropriations, the Council is authorized to borrow by issuing negotiable notes to meet the emergency. Provisions shall be made in the budget for the succeeding fiscal year(s) for payment of such notes. [As amended by Priv. Acts 2004, ch. 106, § 6]

Section 9. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce appropriations.

Section 10. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one Department, Office, or Agency to another.

Section 11. Every appropriation shall lapse at the end of the annual or biennial budget period to the extent that it has not been expended or encumbered. [As amended by Priv. Acts 2004, ch. 106, § 7]

Section 12. No payment shall be made or obligation incurred against any appropriation unless the Manager or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 13. The Council for the sole purpose of meeting the necessary expenses with an appropriation is authorized to borrow money up to an amount that will not exceed ten percent (10%) of the total assessed value of the incorporated area. This cap should limit the total general obligation debt outstanding at any one time to this percentage. [As amended by Priv. Acts 2004, ch. 106, § 8]

Section 14. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the City shall be required by action of City Council and same be made after the end of each fiscal year by a certified public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the Council to have the audit made if such accountant has not been employed within one month after the end of the fiscal year.

Section 15. The Manager shall prepare and submit to Council a six (6) year capital program as part of the Manager's budgetary message that will be provided by the Manager forty-five (45) days prior to the beginning of each fiscal year. The capital program shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the six (6) years next ensuing with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing, and recommended time schedules for each improvement; and
- (4) The estimated biennial cost of operating and maintaining the facility to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition. [As amended by Priv. Acts 2004, ch. 106, § 9]

ARTICLE X

TAXATION

Section 1. All property within the City not exempt by general law shall be assessed for taxation upon the same principles established with regard to state and county taxation. Assessments made by the County Tax Assessor may be adopted by the City. [As amended by Priv. Acts 2004, ch. 106, § 10]

Section 2. Property taxes shall be payable on and after September 1 for the year in which assessed and shall become delinquent on December 1 following. The Council by ordinance shall fix penalties and interest on delinquent taxes.

Section 3. All taxes delinquent for 30 days may be collected by distress warrants and sale of personal property, and the delinquent tax list in the hands of the collector shall have the force and effect of a judgment and execution from a court of record.

Section 4. In January of each year there shall be published once a week for two consecutive weeks a notice as follows: "To Delinquent Taxpayers: You are advised that after February 1 additional penalties and costs will be imposed in consequence of suits to be filed for enforcement of the tax lien for taxes against land; until the filing of such suits, taxes may be paid at the City Hall."

Section 5. Before March 1 of the second year following the year for which assessed, the Recorder shall certify to the City Attorney the list of all real estate upon which municipal taxes remain due and unpaid, or which is liable for sale for other taxes and assessments, and said Attorney shall proceed at once to file suits in the Chancery Court for the collection of said taxes, assessments, penalties and interest and enforcement of tax liens. Upon the filing of suit an additional penalty of ten per cent shall accrue upon all delinquent taxes as attorney's fees. Suits may be filed, prosecuted and the land sold in the same manner as for the enforcement of tax liens for delinquent county taxes, or as otherwise provided by general law. [As replaced by Priv. Acts 1967, ch. 472, § 2]

Section 6. All municipal taxes on real estate in the City of Maryville, and all penalties and costs accruing thereon are hereby declared to be a lien on said real estate from and after January 1 of the year for which the same are assessed. [As added by Priv. Acts 1967, ch. 472, § 3]

ARTICLE XI

CITY COURT

Section 1. A City Judge who shall constitute the City Court shall be appointed by the Council to serve at the will of the Council or for a term to be fixed by ordinance. He shall take the same oath required of the Mayor and Councilmen. He shall receive such compensation as may be provided by ordinance. Nothing herein is to be construed as prohibiting the City Judge from also serving in administrative duties under this Charter.

Section 2. In the absence or disability of the City Judge the Council shall designate a qualified person to serve as City Judge.

Section 3. In the event a term of office is provided by ordinance, there shall also be provided the conditions which will create a vacancy in the office, how the vacancy shall be filled, and such other matters as the Council deems necessary.

Section 4. The City Judge shall try all persons charged with violation of the ordinances of the City, and shall have the power to levy fines, penalties and forfeitures not exceeding fifty dollars (\$50.00) for each offense, and to impose such costs as the council may by ordinance establish. The City Judge is authorized to offer persons assessed a fine or penalty and costs for the violation of a municipal ordinance the option of performing community service for the City in lieu of paying all or a portion of the fine or penalty and costs; provided that the City has first by ordinance established a community service system. Under any such community service system, the fine or penalty and costs imposed shall be worked off on an hourly basis at rate at least equal to the regular minimum wage prescribed by the Fair Labor Standards Act.

The City Judge shall also have the power to administer all necessary process, to administer oaths, and to punish for contempt in the manner prescribed by state law for municipal courts. [As replaced by Priv. Acts 1992, ch. 225]

Section 5. The bail of persons arrested and awaiting trial and persons appealing the decision of the City Judge shall be fixed by the City Judge and upon such security as in his discretion he deems necessary or as otherwise provided by ordinance. Cash bail of persons arrested may be accepted at such times and by officials other than the City Judge as provided by ordinance, but no officer shall accept cash bail unless the person arrested shall be given a receipt which shall explain the nature of the deposit. The receipt shall be in duplicate and a copy with the money deposited shall be filed with the City Judge within 24 hours of the arrest. Fines and costs may be paid by installments to

be fixed and security determined as provided by ordinance. Upon failure to pay fines and costs or to furnish security, the City Judge shall commit the offender to the jail or workhouse until such fines and costs have been paid. For each day's confinement there shall be credited not less than \$2.00 toward the fine and costs.

Section 6. The City Judge shall keep a docket. The Council may by ordinance require such other records, fix the time for holding court, and provide such other rules and regulations for the proper functioning of the court as deemed necessary.

Section 7. Whenever any person convicted of the violation of an ordinance of the City shall show to the satisfaction of the City Judge that new evidence of his innocence not available to him at the trial which evidence, if true, could result in acquittal, the City Judge may grant a rehearing if petitioned within nine days of the trial.

Section 8. The City Judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee of the City shall attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XII

EDUCATION

Section 1. Except as otherwise provided in this act and in the general law, the Department of Education and the school system of the city shall be under the direction and supervision of an elected board of education consisting of five (5) members, elected from the city at large for four-year staggered terms, at general city elections, as such elections are defined in Article III, Section 1. [As replaced by Priv. Acts 2001, ch. 1, § 7]

Section 2. The three (3) members of the present board of education elected to four-year terms of office in the general city election held on the first Thursday in June 1999, and whose terms expire in 2003, and the two (2) members of the present board of education elected to four-year terms of office in the general city election held on the first Thursday in June 1997, and whose terms expire in 2001, shall complete their terms of office. On the date of the general city election held on the first Tuesday in June 2001, two (2) members of the board of education shall be elected for transitional terms that expire on the date of the first regular meeting of the board following the general state election held on the first Tuesday following the first Monday in November 2004. On the date of the general city election held on the first Thursday in June 2003, three

(3) members of the board of education shall be elected for terms that expire on the date of the first regular meeting of the board following the general state election held on the first Tuesday following the first Monday in November 2006. Thereafter, the dates of general city elections shall be the dates of the general state elections held on the first Tuesday following the first Monday in November of even-numbered years. At each and every such general city election, the board of education shall be elected to four-year terms of office. [As replaced by Priv. Acts 2001, ch.1, § 8]

Section 3. Vacancies in the Board of Education shall be filled by election by the Council of one to serve until the next general City election, when such vacancy shall be filled for the remainder of the unexpired term by election by the qualified voters of the City. However, in the event the vacancy occurs within one hundred eighty (180) days of the next general city election, the appointee shall hold office for the entirety of the vacating member's term. [As amended by Priv. Acts 2001, ch. 1, § 9]

Section 4. Except as otherwise provided in this Act or by general law or by ordinance, the Board of Education shall have full power and control of all matters pertaining to the conduct of the public schools within the City, and shall exercise such other powers and perform such other duties with respect thereto as may be imposed upon them by law or by ordinance of the Council. Said Board shall make, establish and enforce all necessary and proper rules for the election of its officers, for the government of the Board, and for the government and progress of the schools; it shall elect, appoint and fix the duties and compensation of a Superintendent of City Schools, and the teachers and employees as it may deem necessary; and such Superintendent, teachers and other employees shall be removable at the will and pleasure of the Board of Education. The salaries of the members of the Board of Education shall be fixed and determined by the Council.

Section 5. The Board of Education shall prepare and submit a budget estimate to the City Manager either on an annual basis or on a biennial basis and shall submit this budget to the City Manager prior to the time herein fixed for the preparation of the general budget of the City. The Board of Education's submission shall include a six (6) year capital improvements plan that encompasses facilities, equipment, and other associated expenditures. The Board of Education will submit quarterly to the City Manager an itemized report showing the receipts and disbursements of school funds and show in detail the general condition of the schools. [As amended by Priv. Acts 2004, ch. 106, § 11]

Section 6. The Board of Education shall disburse and pay out the funds appropriated to the Department of Education according to the provisions of this

Act and the ordinances of the City. The drawing of warrants upon the City Treasurer by the Board of Education shall be in the form and manner as shall be prescribed by the Council by ordinance.

Section 7. All plans and specifications for the construction or alteration of school buildings shall be submitted to the City Council for final approval.

Section 8. In apportioning the State and County school funds of Blount County, the County Board of Education and Trustee of Blount County, or other apportioning and disbursing body of Blount County, shall apportion and pay over to the Treasury of the City of Maryville such portion of the State and County School Funds as by law is applicable to the schools within the limits of the City of Maryville.

Section 9. The Council shall provide by ordinance for the manner in which the State, County and City taxes apportioned to the school fund shall be paid over to the City Treasurer.

ARTICLE XIII

MISCELLANEOUS AND TRANSITIONAL
PROVISIONS

Section 1. The corporate existence of the City of Maryville is continued. All existing ordinances, resolutions or other actions of the Board of Mayor and Commissioners not inconsistent with this amendment shall remain in full force and effect until amended or repealed in the manner herein provided. The boundaries of the City shall be as fixed by Chapter No. 209 of the Private Acts of the General Assembly of the State of Tennessee for 1927 and all Acts amendatory thereto, and any annexations or detachments of territory made pursuant to law.¹

Section 2. The Mayor and Commissioners shall continue in office as the Mayor and Councilmen until their successors are elected and qualified. Members of the Board of Education shall continue in office until their successors are elected and qualified.

¹The boundaries of the city have been amended by the following private acts and annexation ordinances passed by the city:

Private Acts

1927, ch. 445
 1941, ch. 94
 1951, ch. 567
 1953, ch. 527

Ordinances

591, 594, 700, 712, 742, 781, 797, 837, 844, 864, 893, 909, 914, 921, 944, 994, 995, 1007, 1008, 1063, 1093, 1121, 1122, 1123, 1255, 1282, 1316, 1336, 1349, 1352, 1360, 1363, 1374, 1376, 1378, 85-2, 86-18, 86-21, 87-2, 88-4, 88-9, 88-24, 88-37, 89-3, 89-12, 90-22, 90-27, 90-42, 90-43, 90-47, 91-8, 91-10, 92-3, 92-5, 92-7, 92-34, 92-38, 93-6, 93-8, 93-12, 93-21, 94-10, 94-17 (Repealed by Ord. #95-37), 94-19, 94-25, 94-27, 95-01, 95-03, 95-09, 95-17, 95-29, 95-33, 95-37, 96-01, 96-03, 96-11, 96-14, 96-18 (contracts the boundaries), 96-29, 96-30, 96-31, 96-34, 97-02, 97-03, 97-04, 97-09, 97-10, 97-11, 97-16, 97-17, 97-18, 97-19, 97-20, 97-21, 97-28, 97-29, 97-30, 97-77, 97-79, 98-01, 98-03, 98-10, 98-14, 98-17, 98-23, 98-46, 99-38, 99-40, 99-42, 2000-36, 2001-06, 2001-15, 2001-25, 2001-33, and 2001-41.

Section 3. This Act is declared to be a Public Act, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings of the City Council created by this Charter may be proven by the seal of said Corporation, attested by the Recorder, and, when printed and published by the authority of said corporation and certified by the Recorder, shall be received in evidence in all courts and places without further proof.

Section 2. Be it further enacted, That all Acts and parts of Acts in conflict with this Act be and the same are hereby repealed from and after the effective date of this Act as hereinafter provided.

Section 3. Be it further enacted, That if any Section or part of a Section of this Act shall be finally adjudged by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other Section or part of a Section of this Act, unless it clearly appears that such other Section or part of a Section is wholly or necessarily dependent for its operation upon the Section or part of a Section so held unconstitutional or invalid.

Section 4. Be it further enacted, That this Act shall have no effect unless the same shall be approved by a majority of the voters voting in an election to be held in the City of Maryville for such purpose. Within 15 days after the approval of this Act by the Governor, or after its otherwise effective date, it shall be the duty of the county board of election commissioners of Blount County to call an election for the City of Maryville to be held not less than 45 nor more than 60 days from the date of such call for the purpose of accepting or rejecting the provisions of this Act. The ballots used in such election shall have printed thereon the title of this Act and voters shall vote for or against its adoption. The votes cast at such election shall be canvassed by the county board of election commissioners upon the first Monday occurring next after the date of such election and the results shall be proclaimed by such board and certified to the Secretary of State. The qualification of voters shall be that provided by the existing Charter of the City of Maryville for participation in general elections. The cost of said election shall be paid by the City of Maryville.

Section 5. [As deleted in its entirety by Priv. Acts 2001, ch. 1, § 10]

Passed: March 14, 1967.

JAMES H. CUMMINGS,
Speaker of the House of Representatives.

FRANK C. GORRELL,
Speaker of the Senate.

Approved: March 16, 1967.

BUFORD ELLINGTON,
Governor.

This is to certify that according to the official records on file in this office, House Bill No. 132, which is Chapter No. 27 of the Private Acts of 1967, was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

JOE C. CARR,
Secretary of State.

RELATED ACTS

PAGE

Priv. Acts 1986, ch. 144,
"Parking of Motor Vehicles in City" C-30

Priv. Acts 1994, ch. 125,
"Cable Television Authority" C-32

Priv. Acts 2003, ch. 55,
"Hotel/Motel Tax" C-34

Parking of Motor Vehicles in City

CHAPTER NO. 144

HOUSE BILL NO. 2020

By Swann

Substituted for: Senate Bill No. 2017

By Koella

AN ACT relative to the parking of motor vehicles in the city of Maryville.

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

SECTION 1. It shall be unlawful for a person to park a truck tractor, a trailer or semitrailer, as defined in Tennessee Code Annotated, Sections 55-1-104 and 55-1-105, in the parking lot of a privately owned shopping mall or shopping center, or in any other privately owned parking lot which will accomodate thirty (30) or more motor vehicles, without obtaining permission to park in such a parking lot from the parking lot owner, manager or other authorized agent of the owner. It shall not be unlawful for such a truck or trailer to park for the purpose of loading or unloading.

SECTION 2. Any person violating the provisions of this Act shall be subject to a civil penalty no to exceed fifty dollars (\$50).

SECTION 3. Any police officer of the City of Maryville may enforce the provisions of this Act by issuing a citation.

SECTION 4. The General Assembly finds that parking in the manner prohibited by Section 1 is detrimental to the comfort, safety, convenience, and welfare of the inhabitants of the city of Maryville, of persons who use the parking lots, and of the owners of the parking lots.

SECTION 5. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the City of Maryville before September 1, 1986. Its approval or nonapproval shall be proclaimed by the presiding officer of the governing body of the City of Maryville and certified by him to the Secretary of State.

Cable Television Authority

CHAPTER NO. 125

SENATE BILL NO. 2542

By Koella

Substituted for: House Bill No. 2665

By Anderson, Owenby

AN ACT Relative to the cable television authority in any county having a population of not less than eighty-five thousand eight hundred (85,800) nor more than eighty-six thousand one hundred (86,100) according to the 1990 federal census or any subsequent federal census.

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

SECTION 1. Notwithstanding any provision of the law or any provision of the charter of any municipality to the contrary, in any counties having a population of not less than eighty-five thousand eight hundred (85,800) nor more than eighty-six thousand one hundred (86,100) according to the 1990 federal census or any subsequent federal census that has a cable television authority established by an intergovernmental agreement, the members of the legislative body of such county and the members of the legislative body of any municipality within such county may serve as members of the cable television authority of such county if the appointments are in accordance with the provisions of the intergovernmental agreement.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of any county or municipality to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of such legislative body and so certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

PASSED: February 23, 1994

s/John S. Wilder
JOHN S. WILDER,
SPEAKER OF THE SENATE

s/Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of March 1994.

s/Ned McWherter
NED McWHERTER, GOVERNOR

CHAPTER NO. 55

SENATE BILL NO. 2123

By Representatives McCord, Overbey

Substituted for: Senate Bill No. 2040

By Senator Clabough

AN ACT relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration in the City of Maryville.

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

SECTION 1. As used in this act unless the context otherwise requires:

- (1) "City" means the City of Maryville, Tennessee.
- (2) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.
- (3) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (4) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.
- (5) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (6) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit.

(7) "Tax collection official" means the City Recorder or other official designated by the legislative body of the City of Maryville to collect the taxes levied by this act.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of the City of Maryville is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 3. The proceeds received by the city from the tax shall be retained by the city and deposited into the general fund of the city or such other fund and for such purposes as designated by the legislative body of the City of Maryville.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the City of Maryville.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged and the operator shall receive credit for the amount of such tax if previously paid or reported to the city.

SECTION 5.

(a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the city to the tax collection official, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy, whether prior to, during or after the occupancy, as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation due to the City of Maryville shall be that of the operator.

(b) For the purpose of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the tax collection official in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The tax collection official shall be responsible for the collection of such tax and shall deposit the proceeds of such tax as provided in Section 3. A monthly tax return shall be filed under oath with the tax collection official by the operator with such number of copies thereof as the tax collection official may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the tax collection official and approved by the legislative body of the City of Maryville prior to use. The tax collection official shall audit each operator in the city at least once a year and shall report on the audits made on a quarterly basis to the legislative body of the City of Maryville.

The legislative body is authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the tax collection official on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal or an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable to the city. The tax collection official has the right to inspect such records at all reasonable times.

SECTION 10. The tax collection official in administering and enforcing the provisions of this act has as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for county clerks.

For services in administering and enforcing the provisions of this act, the tax collection official is entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The provisions of Tennessee Code Annotated, Section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of city taxes collected by the tax collection official under authority of this act shall be refunded by the tax collection official.

Notice of any tax paid under protest shall be given to the tax collection official and the resolution authorizing levy of the tax shall designate a city officer against whom suit may be brought for recovery.

SECTION 11. The privilege tax levied by this act shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes.

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the legislative body of the City of Maryville. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and shall be certified by such presiding officer to the secretary of state.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon being approved as provided in Section 14.

PASSED: May 27, 2003

s/Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

s/John S. Wilder
JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 13th day of June 2003.

s/Phil Bredesen
PHIL BREDESEN, GOVERNOR

CHARTER AND RELATED ACTS FOR THE CITY OF
MARYVILLE, TENNESSEE

YEAR	CHAPTER	SUBJECT
1967	27	Current basic charter act.
1967	472	Amended art. II, § 1, Powers; replaced art. X, § 5, Taxation; and added art. X, § 6, Tax lien.
1969	145	Amended Priv. Acts 1955, ch. 176, §§ 7(f) and 7(g), Utilities Act. (This act was abolished by Priv. Acts 1988, ch. 222, § 1.)
1975	34	Amended Priv. Acts 1955, ch. 176, § 10, Utilities Act. (This act was abolished by Priv. Acts 1988, ch. 222, §1.)
1977	90	Amended Priv. Acts 1955, ch. 176, § 13, Utilities Act. (This act was abolished by Priv. Acts 1988, ch. 222, §1.)
1978	267	Replaced art. III, § 1, Election date, and art. IV, § 2, Election of mayor; amended art. IV, § 1, City council; art. IV, § 8, Vice-mayor.
1980	320	Amended art. IV, § 14, Adopting ordinances.
1981	16	Amended Priv. Acts 1955, ch. 176, Utilities Act. (This act was abolished by Priv. Acts 1988, ch. 222, §1.)
1983	95	Amended Priv. Acts 1955, ch. 176, §§ 1(c), 1(d), 4, 6, 7(a), 7(f), 7(g), 7(h), 8(e), 10, 13, and 13(5), Utilities Act. (This act was abolished by Priv. Acts 1988, ch. 222, §1.)

YEAR	CHAPTER	SUBJECT
1984	193	Amended art. II, § 1, Powers.
1986	144	Relative to the parking of motor vehicles in the city. (See Related Acts at the end of this charter.)
1988	222	Amended art. V, §§ 3(1) and 3(2), City manager; deleted art. XIII; and renumbered art. XIV. Also repealed Priv. Acts 1955, ch. 176, Utilities Act.
1990	132	Amended art. IV, § 15, Legislative action which must be exercised by ordinance.
1992	225	Replaced art. XI, § 4, Board of Education.
1993	24	Amended art. IV, § 4, Salaries of mayor and councilmembers.
1994	125	Authority for members of the municipal legislative body to serve as members of the cable television authority. (See Related Acts at the end of this charter.)
1994	129	Amended art. IV, § 3, Qualifications for office and adds art. IV, § 16, Powers of council or mayor to appoint one of its own members to an office.
2000	73	Replaced art. VII, "Recorder" with "Finance director and recorder."

YEAR	CHAPTER	SUBJECT
2001	1	Replaced art. III, § 1, Elections; amended art. III, § 3, voter qualifications; replaced art. IV: § 1, city council; § 2, terms of office; § 7, vacancy in office; and § 8, regular meeting; replaced art XII: § 1, department of education; § 2, members of the board of education; amended art. XII, § 3, vacancies on the board of education; and deleted XIII, § 5.
2001	63	Amended art. II, § 1, Powers of the city.
2003	55	Hotel/motel tax. (See Related Acts at the end of this charter.)
2004	106	Amends art. V, § 3(5), City manager; art. IX, §§ 1, 2, 3, 4, 8, 11, 13, and 15, Finance; art. X, § 1, Taxation; art. XII, § 5, Education; and art. IV, § 14, Ordinances.