

CHARTER OF THE TOWN OF HUNTINGDON, TENNESSEE¹

CHAPTER NO. 233

HOUSE BILL NO. 2433

By Taylor

Substituted for: Senate Bill No. 2278

By Hamilton

AN ACT to enact new charter provisions for the Town of Huntingdon, Tennessee, to continue its corporate existence and to repeal Chapter 216 of the Private Acts of 1947, the same being the current corporate charter, and all subsequent amendments thereto including Chapter 316 of the Private Acts of 1949, Chapter 918 of the Private Acts of 1949, Chapter 677 of the Private Acts of 1951 and Chapter 687 of the Private Acts of 1951.

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¹Priv. Acts 1974, ch. 233, is the current basic charter act for the Town of Huntingdon, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2009 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 of a temporary nature with no general or continuing application, such as bond authorization and validation acts have not been included in this compilation.

Acts which did not expressly or in effect amend any particular section or part of the basic charter but which supplemented it, have been placed after the basic charter act as "Related Acts."

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

ARTICLE I

CHARTER, DEFINITIONS, TOWN LIMITS, AND CORPORATE POWERS

SECTION 1.01. ACT CONSTITUTES TOWN CHARTER. That this Act shall constitute the whole charter of the Town of Huntingdon, Tennessee, repealing and replacing the charter provided by Chapter 216 of the Private Acts of 1947, and subsequent amendments. The Town of Huntingdon in the County of Carroll, and the inhabitants thereof shall continue, and are hereby constituted and declared a body politic and corporate by the name and style of Huntingdon, Tennessee, and by that name shall have perpetual successions, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 1.02. DEFINITIONS. BE IT FURTHER ENACTED, That as used in this Charter the following words and terms shall have the following meanings:

- (a) "Town" shall mean the Town of Huntingdon, Tennessee.
- (b) "Council" and "Town council" shall mean the legislative body of the town, which shall be composed of the mayor and seven councilmen elected as provided in this Charter, and any incumbent aldermen until the expiration of their current terms of office.
- (c) "Councilman" and "member of council" shall mean a person elected to the office of councilman as provided in this Charter, and shall include the mayor.
- (d) "Nonpartisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization.
- (e) "At large" shall mean the entire town, as distinguished from representation by wards or other districts.
- (f) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the federal or state government, or by a trade association or other organization generally recognized as an authority in its field of activity.
- (g) "Elector" shall mean a qualified voter residing within the town or a qualified voter owning property in fee within the town limits whether residing in the town or not.

(h) The masculine shall include the feminine, and the singular shall include the plural and vice versa, except when the contrary intention is manifest. [As amended by Priv. Acts 1978, ch. 179]

SECTION 1.03. TOWN LIMITS.¹ BE IT FURTHER ENACTED, That the boundaries of the town shall be those fixed by Chapter 216, Private Acts 1947, all Acts amendatory thereof, and annexations made pursuant to general law.

¹Priv. Acts 1947, ch. 216, set the corporate limits as follows:

Beginning at a stake, the same being the southeast corner of Oak Hill Cemetery; thence south 45 degrees 45 minutes west 32 chains to a stake in Beaver Creek Drainage Canal, where the new Huntingdon and Lexington roads cross the same; thence down said canal to the bridge on the Huntingdon and Jackson Road over the same; thence leaving said canal north 6 degrees 15 minutes west 24.1 chains to the north margin of the right-of-way of the N., C. & St. L. Railway; thence north 9 degrees 30 minutes west 24.2 chains to a stake in the lot owned by Bertie Taylor, col., thence north 2 degrees 30 minutes east 18 chains to a stake in Luther Bryant's horse lot, thence north 28 degrees east crossing Highway No. 22 at 5.6 chains, in all a distance of 6.8 chains to a stake, the same being the northwest corner of the Mrs. Sikes Gilbert home lot; thence north 65 degrees 30 minutes east 23.55 chains to a stake in an old road in a southwest direction from the Rollin home; thence north 83 degrees 15 minutes east 72.5 chains to a stake in the Arthur Noles field on the east side of the Gordon Browning Highway; thence south 11 degrees 45 minutes west 10 chains to a stake in the J. Lee Taylor roadway; thence south 21 degrees and 15 minutes west 24 chains to a stake, the southeast corner of the Ebb Mebane heirs orchard and the northeast corner of the Mrs. Vonie Norden lot; thence south 1 degrees west 10.75 chains to a stake in the south boundary line of the lot formerly owned by J. W. Murphy, thence north 65 degrees east 16.2 chains in the J. Lee Taylor road; thence north 55 degrees 45 minutes east 17.2 chains to a stake in the center of a ditch; thence south 23 degrees east with said ditch, going under old U. S. Highway No. 70 to the middle of the concrete culvert under new U. S. Highway No. 70, 13.3 chains; thence south 1 degree 15 minutes west with said ditch 4.2 chains to a stake in the same, the same being the southeast corner of the McLemore Subdivision; thence south 57 degrees 15 minutes west 19 chains to a stake in the Gordon Wilder lot; thence south 43 degrees west 22.1 chains to a stake on top of the hill on the W. E. Noles' lot; thence south 65 degrees 15 minutes west 15 chains to the southeast corner of said cemetery, the point of beginning.

Annexation ordinances are of record in the office of the town recorder.

SECTION 1.04. CORPORATE POWERS. BE IT FURTHER ENACTED,
That the town shall have power:

(a) To assess property for taxation, and to levy and provide for the collection of taxes on all property subject to taxation.

(b) To levy and collect privilege taxes on businesses, privileges, which are taxable under the general law of the state, and to levy and collect any other kind of tax not prohibited to towns by the Constitution or general law. Collection fees therefor may be provided for by ordinance.

(c) To levy and collect registration fees on motor vehicles operated within the town. Such registration fees may be graduated according to the tonnage capacities, weight, or horsepower of motor vehicles.

(d) To appropriate and borrow money as authorized in this Charter, and to authorize the expenditure of money for any municipal purpose. The town shall have the power to engage in short term borrowing in anticipation of revenues for payment of current and necessary expenses, which shall be repaid in the same or following fiscal year.

(e) To acquire land, including improvements thereon, easements, or limited property rights thereto, by purchase, gift, or condemnation, for public use, for present or future use by the town, to reserve industrial sites, to provide open spaces, to encourage proper development of the community, or for the general welfare of the community. Such acquisitions may be within or outside the town.

(f) To grant franchises or make contracts for public utilities and public services, not to exceed a period of 25 years. Such franchises and contracts may provide for rates, fares, charges, regulations, and standards, and conditions of service, subject to regulation by the Tennessee Public Service Commission or other state or federal agency having jurisdiction in such matters. Provided however, this paragraph shall not affect existing contracts or franchises.

(g) To provide for the acquisition, construction, building, operation, and maintenance of: public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment plants, airports, hospitals, water works, docks, gas works, marinas, town forests, tree and shrub nurseries, heliports, terminals, parking garages and lots, industrial sites and buildings, charitable, educational, recreational, sporting, cultural, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; and any other public improvements; inside or outside the town; and to regulate the use thereof; and for such purposes property may be either acquired or taken under Sections 6-1007 through 6-1011 and 23-1401 through 23-1541, Tennessee Code Annotated, or under the other applicable laws.

(h) To require property owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands, including removal of snow, debris or other materials.

(i) To make regulations to secure the general health of the inhabitants and to prevent, abate, and remove nuisances, including but not limited to the cutting of grass and old or dilapidated building which are so out of repair as to be unsafe, unsanitary or unsightly. The town shall have the power to abate and remove nuisances at the expense of the owner or owners, and the expense, including fines, penalties, and interest, shall be secured by lien upon the property for which the expenditure is made.

(j) To prescribe standards of health and sanitation and to provide for the enforcement of such standards.

(k) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such service which, if unpaid, shall be collectible in the same manner as taxes or other debts. Town council by ordinance may prescribe penalties and interest for delinquency.

(l) To define, regulate, and prohibit any act, practice, conduct, or use of property, that would be detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, or general welfare of inhabitants of the town.

(m) To establish minimum standards for and to regulate buildings construction and repair; electrical wiring and equipment; gas installations and equipment; fixed mechanical equipment; plumbing; housing, and fire protection and prevention for the health, sanitation, cleanliness, safety and comfort of the inhabitants of the town, and to provide for the enforcement of such standards.

(n) To provide regulations establishing standards of weights and measures and to enforce compliance with such standards.

(o) To regulate, license and prohibit the keeping or running at large of animals and fowls, and to provide for the impoundment of same in violation of any ordinance or lawful order, and to provide for their disposition by sale, gift, or humane killing when not redeemed as provided by ordinance.

(p) To regulate and license vehicles operated for hire in the town, to limit the number of such vehicles, to license the operators, thereof, to require public liability insurance on such vehicles, and to regulate and rent parking spaces in public ways for the use of such vehicles.

(q) To provide that the violation of any ordinance, rules, regulation, or order shall be punishable by fine, penalty or forfeiture not to exceed \$50 and costs.

(r) To plan for the orderly development of the community, including economic, physical, educational and cultural aspects, and to institute programs to effectuate such plans.

(s) To exercise and have all other powers, functions, rights, privileges, and immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the town and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this Charter as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this Charter shall be held to be exclusive

of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to towns by the constitution or general laws of the state.

(t) To dispatch fire equipment within and without the corporate limits, provided that the council shall prescribe by ordinance rules for dispatching and operation of fire equipment outside the corporate limits, and to establish, maintain and enforce adequate fire prevention regulations therein.

ARTICLE II

TOWN COUNCIL

SECTION 2.01. ELECTION OF MAYOR AND COUNCILMEN. BE IT ENACTED, That

(a) On the first Tuesday after the first Monday in November, 1992, the same being the November General Elections, a nonpartisan election shall be conducted by the Carroll County Commissioners of Elections, at the same hours and places for holding General Elections and under the same General Elections laws of the state, to elect a mayor and seven (7) councilmembers from the town at large. At the municipal elections of November, 1992, and for the purposes of initiating staggered terms for the councilmembers, the four (4) candidates for councilmember receiving the highest number of votes shall be elected for a term of four (4) years; the three (3) candidates for councilmember receiving the next three (3) highest votes shall be elected for a term of two (2) years. Thereafter all terms will be for four (4) years, and thereafter elections shall be held biennially in even numbered years. In those even years evenly divisible by the number four (4), i.e. 1996, 2000, 2004, etc., the electors shall elect one (1) candidate for mayor and four (4) candidates for councilmembers at large, all for four (4) year terms. In those even years not evenly divisible by the number four (4), i.e. 1994, 1998, 2002, etc. (so called "off-year" elections), the electors shall elect three (3) candidates for councilmember at large, all for four (4) year terms.

(b) Any elector who is eighteen (18) years of age or over and has been a resident of the town for at least one (1) year may be qualified as a candidate for the Town Council by a nominating petition submitted to the Carroll County Commissioners of Elections not later than the first Thursday in the second month before the election, and signed by at least twenty-five (25) electors.

(c) Any elector who is twenty-one (21) years of age or older and who has been a resident of the town for at least one (1) year may be qualified as a candidate for mayor by a nominating petition submitted to the Carroll County Commissioners of Elections not later than the first Thursday in the second month before the election, and signed by at least twenty-five (25) electors.

(d) The nominating petition shall be prepared and submitted in the form and manner as prescribed by the Carroll County Commissioners of Elections, and pursuant to the prevailing General Election laws of the state.

(e) Persons nominated may withdraw their nomination by filing a written notice with the Carroll County Commissioners of Elections not later than twelve o'clock (12:00) noon prevailing time on the seventh (7th) day after the qualifying deadline for the election, and pursuant to the prevailing General Election laws of the state.

(f) The names of candidates shall be listed alphabetically on the ballot, and the residence address of candidates having the same or substantially similar surnames shall also be printed on the ballot.

(g) Each elector shall be entitled to vote for one (1) candidate for mayor in the first election of November, 1992, and in each election for mayor held thereafter.

(h) Each elector shall be entitled to vote for seven (7) candidates for councilmember at large in the first election of November, 1992. The four (4) candidates receiving the four (4) highest number of votes (1st, 2nd, 3rd and 4th place) shall serve a term of four (4) years. The three (3) candidates receiving the next three (3) highest number of votes (5th, 6th and 7th place) shall serve a term of two (2) years. In the 1994 and subsequent elections, all candidates for councilmember at large shall be elected for four (4) year terms. Thereafter, in elections held in even years evenly divisible by the number four (4), i.e. 1996, 2000, 2004, etc., each elector shall be entitled to vote for one (1) candidate for mayor and for four (4) candidates for councilmember at large, and in elections held in even years not evenly divisible by the number four (4) i.e. 1994, 1998, 2002, etc. (so called "off-year" elections), each elector shall be entitled to vote for three (3) candidates for councilmember at large.

(i) The terms of office of the mayor and councilmembers shall begin at ten o'clock (10:00) A.M. prevailing time on the Thursday next following their election, and they shall serve until their successors have been duly elected and qualified. No informality shall invalidate such an election, providing it is conducted fairly and in substantial conformity with requirements of this Charter and the General Election laws of the state.

(j) To provide for an orderly transition from the present two (2) year terms of the mayor and councilmembers to the four (4) year terms with the terms of the councilmembers staggered, and from the separate municipal elections in March of even years to municipal elections held in conjunction with the General Elections in November of even years, the candidates for mayor and seven (7) councilmembers at large duly elected at the March, 1990, elections, whose terms would normally expire in March, 1992, shall hereby have their terms extended until the elections of November, 1992, and the qualification of such officials elected thereby. [As amended by Priv. Acts 1976, ch. 197, and replaced by Priv. Acts 1990, ch. 185, § 1]

SECTION 2.02. RESTRICTIONS ON CANDIDATES AND THEIR SUPPORTERS. BE IT FURTHER ENACTED, That giving or promising to any person or persons any office, employment, money, benefit, or anything of value, by or on behalf of any candidate, shall be deemed to be a violation of Tennessee Code Annotated, Section 2-2212, and any person convicted thereof in the ordinary sense of the word shall be ineligible to hold an office or position of employment in the town government for a period of five years.

SECTION 2.03. TOWN COUNCIL. BE IT FURTHER ENACTED, That:

(a) The mayor and seven councilmen elected under this Charter, and the incumbent councilmen, until the expiration of their current terms of office, shall compose the town council, in which is vested all corporate, legislative and other powers of the town, except as otherwise provided in the Charter.

(b) Immediately after the adoption of this charter the salary of the Mayor shall be \$300 per month, and each councilman shall receive a salary of \$25 per month. Salaries may be changed at any time by ordinance, provided however, if the salaries are raised, they shall not become effective until after the next biennial election of town's officials. The Mayor, councilmen, and employees or agents of the town shall be reimbursed for actual and necessary expenses incurred in the conduct of their official duties.

(c) The Council shall meet regularly at least once every month at the times and places prescribed by ordinance. The council may meet in special session on written notice of the mayor or any two councilmen and served on the other members of the council personally at least 12 hours in advance of the meeting, or as may otherwise be prescribed by ordinance. The council shall have the authority in public assembled session with a quorum present, either regular or special, to exercise all expressly granted or implied powers. Informal meetings of the council may be held for the purpose of receiving information, exchanging ideas, and conducting investigations; however, there shall be no official action taken by the council in such meetings. The council shall exercise its powers only in regular or special public assembled sessions. Adequate public notice shall be given of all meeting of the council, pursuant to the open meeting laws of the state.

(d) Four councilmen and the mayor shall constitute a quorum; however, during the absence of the mayor, four councilmen and the vice-mayor shall constitute a quorum. The council may by ordinance adopt rules and by-laws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The council may subpoena and examine witnesses and order the production of books and papers. [As amended by Priv. Acts 1990, ch. 185, §§ 2 and 3]

SECTION 2.04. MAYOR AS PRESIDING OFFICER. BE IT FURTHER ENACTED, That the mayor shall preside at the meetings of the council, and shall have veto power, but shall vote only in case of a tie. Ordinances and

resolutions adopted by the council shall not become effective until signed by the mayor. The mayor shall approve or disapprove the ordinance or resolution within 5 days after the final action by the council. If he withholds his signature for five days, exclusive of Sunday and holidays the ordinance or resolution becomes effective for failure to veto. The mayor shall state his reasons for vetoing any ordinance or resolution in writing and transmit it back to the council for action. At the next regular meeting thereafter, the council may pass it over his veto, or sustain the mayor. It shall require a two-thirds (2/3) vote of the councilmen present, with a minimum of four votes required, to pass a bill over the mayor's veto. The mayor shall be recognized as the ceremonial head of the town. He shall be the officer to accept process against the town, and shall perform other duties imposed by this charter and by ordinances not inconsistent with this Charter.

SECTION 2.05. VICE MAYOR. BE IT FURTHER ENACTED, That the council, at the first regular meeting after the newly elected councilmen have taken office following each biennial election, shall elect from its membership a vice-mayor for a term to run concurrently with his/her term as councilmember. The vice-mayor shall perform the duties of the mayor during his absence or inability to act, and shall fill out any unexpired term in the office of mayor, in which case a councilman shall be selected by majority vote of the council to serve the unexpired term as vice-mayor. [As amended by Priv. Acts 1990, ch. 185, § 4]

SECTION 2.06. VACANCY IN OFFICE OF MAYOR OR COUNCILMAN. BE IT FURTHER ENACTED, That a vacancy shall exist if the mayor or a councilman resigns, dies, moves his residence from the town, is convicted, in the ordinary sense of the word, of malfeasance or misfeasance in office, a felony, a violation of this charter or election laws of the state, or a crime involving moral turpitude, fails to attend any meetings of the council for a period of 90 days with no extenuating circumstances, or has been continuously disabled for a period of 90 days so as to prevent him from discharging the duties of his office. The council shall by resolution declare a vacancy to exist for any of these reasons, and such finding shall be final.

Any person convicted of malfeasance or misfeasance in office, a felony, or a crime involving moral turpitude shall be prohibited from holding office or employment with the town for a period of 10 years thereafter.

The remaining councilmen shall appoint a qualified person to fill a vacancy in the office of councilman for the remainder of the unexpired term. If the vacancy is not so filled within 15 days, the mayor shall appoint a qualified person to fill the vacancy.

At no time shall there be more than two members of council appointed to fill vacancies. If a vacancy occurs more than six months prior to a regular election and while two appointed members are on the council, a special election shall be held by the county commissioners of elections on the eighth Thursday

following occurrence of the vacancy, at which election a councilman shall be elected to serve the unexpired term of the vacant office. The provisions in this article for regular elections shall govern special elections.

SECTION 2.07. DESIGNATION OF OFFICIAL NEWSPAPER. BE IT FURTHER ENACTED, That the council by resolution may designate a newspaper of general circulation in the town as the official town newspaper for publication of official notices of the town.

SECTION 2.08. TOWN LEGISLATION. BE IT FURTHER ENACTED, That:

(a) Any action of council having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the town, or required to be done by ordinance or resolution, as the case may require, under this Charter or the general laws of the state, shall be done only by ordinance or resolution. Other actions of council may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of council in advance of the meeting at which introduced. The enacting clause of ordinances shall be "Be it ordained by the Council of the Town of Huntingdon:". No action of council shall be valid or binding unless approved by the affirmative vote of at least four members of council. Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance except an emergency ordinance must be approved on two readings not less than one week apart, and shall become effective 20 days after final approval unless its terms provide a later effective date. Every ordinance, except codes adopted by reference as provided in subsection (c) below, shall normally be read in full on the first reading; however, in the case of lengthy or complex ordinances, copies of which have been previously furnished the mayor, each councilmember and reviewed and approved by the town attorney as to legal form and content, the reading in full may be waived by the council upon motion duly made; carried and spread on the minutes of the meeting; the second reading may be by title only except that any amended provisions shall be read in full. Each resolution shall normally be read in full one time; however, in the case of lengthy or complex resolutions, copies of which have been previously furnished the mayor, each councilmember and reviewed and approved by the town attorney as to legal form and content, the reading in full may be waived by the council upon motion duly made; carried and spread on the minutes of the meeting. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two readings on separate days and become effective immediately, by the affirmative votes of four members of council, if the ordinance contains a full statement of the facts creating the emergency, but any emergency ordinance

shall be effective for only 90 days. Appropriations, revenues, franchises, levy of taxes, or special privileges shall not be passed as emergency ordinances. Borrowing money may be passed as an emergency ordinance but must be paid back the same or following fiscal year.

(b) The council shall have the general and continuing ordinances of the town assembled into an official code of the town, a copy of which shall be kept currently up to date by the town recorder and shall be available to the public. After adoption of the official code all ordinances shall be adopted, as additions to, deletions from, or amendments to the code.

(c) Standard codes, as defined in Section 1.02 (g), may be adopted by ordinances which contain only references to titles, dates, issuing organizations, and such changes to the standard codes as the council may deem desirable. Procedure prescribed by general law shall be followed when adopting such standard codes. Copies of the official code and any standard codes so adopted by reference shall be available to the public at prices fixed by the council.

(d) The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the town recorder. The title and brief summary of each ordinance and resolution shall be published in a local newspaper within 10 days after its final approval. [As amended by Priv. Acts 1990, ch. 185, §§ 5, 6, and 7]

ARTICLE III

ORGANIZATION AND PERSONNEL

SECTION 3.01. ORGANIZATION OF TOWN GOVERNMENT. BE IT FURTHER ENACTED, That the town government shall be organized into Departments of Finance and Administration, Fire, Police, Parks and Cemeteries, Public Utility, Public Works, Planning and Industrial Development. The council shall determine by ordinance the functions and duties of all departments and offices. The council by ordinance may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the town, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the function and duties of offices, positions of employment, department, and agencies of the town; provided however, that the number of members of the council shall not be changed, the office of the mayor shall not be abolished and that the town recorder shall also be director of the department of finance. [As amended by Priv. Acts 1990, ch. 185, § 8]

SECTION 3.02. ADMINISTRATIVE DUTIES OF MAYOR. BE IT FURTHER ENACTED, That the mayor shall be the executive head of the town government, responsible for the efficient and orderly administration of the

affairs of the town. He shall be responsible for the enforcement of laws, rules and regulations, ordinances, and franchises of the town, and the town attorney shall take such legal actions as the mayor may direct for such purposes. He may conduct inquiries and investigations into the affairs of the town and shall have such other powers and duties as may be provided by ordinance not inconsistent with this Charter.

SECTION 3.02. TOWN ADMINISTRATOR.¹ BE IT FURTHER ENACTED, That the mayor may appoint, subject to the approval of the council, a chief administrative officer who shall be qualified for municipal service. He shall coordinate under the supervision of the mayor the activities of all administrative divisions or line departments, serve as special liaison between the mayor and all divisions, departments, boards, commissions and other bodies, and perform such administrative and executive duties as may from time to time be assigned to him by the mayor, and shall have such other powers and duties as may be provided by ordinance not inconsistent with this Charter.

SECTION 3.03. TOWN RECORDER. BE IT FURTHER ENACTED, That the mayor shall appoint, subject to the approval of the council, a town recorder who shall have the following powers and duties, or such other powers and duties as may be provided by ordinance not inconsistent with this Charter:

(a) To keep and preserve the town seal and all official records not required by law or ordinance to be filed elsewhere.

(b) To attend all meetings on the council and to maintain a journal showing the proceedings of all such meetings, the councilmen present and absent, each motion considered, the title of each resolution and ordinance considered, and the vote of each councilman on each question. This journal shall be open to the public during regular office hours of the town, subject to reasonable restrictions exercised by the town recorder.

(c) To prepare and certify copies of official records in his office. Fees for such services may be established by ordinance, to be deposited into the town treasury.

(d) To serve as head of the department of finance.

(e) To serve as town judge if appointed by the council.

SECTION 3.05. TOWN ATTORNEY. BE IT FURTHER ENACTED, That the council shall appoint a town attorney, and such assistant town attorneys as

¹There appears to be typographical error in Article III of this charter act inasmuch as the topics "Administrative duties of mayor" and "Town administrator" are both designated as § 3.02. The section numbering although obviously incorrect is reproduced here exactly as it appears in the published private acts.

may be authorized by ordinance, who shall serve at the will of the council. The town attorney, or an assistant town attorney designated by him, shall be responsible for representing and defending the town in all litigation in which the town is a party; prosecuting cases in the town court; attending all meetings of the council; advising the council, mayor and other officers and employees of the town concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing such other duties as may be prescribed by the council or mayor. [As amended by Priv. Acts 1990, ch. 185, § 9]

SECTION 3.06. TOWN COURT. BE IT FURTHER ENACTED, That:

(a) Town judge--appointment, term. A town judge who shall constitute the town court may be appointed by the council to serve for a term to be fixed by ordinance. He shall be not less than 25 years of age. The town recorder may serve as judge. The mayor or other person designated by the council shall serve in the absence or incapacity of the town judge. At any time the office of town judge is left unfilled by the council the mayor shall serve as town judge.

(b) Jurisdiction, powers, compensation. The jurisdiction of the town judge shall extend to the trial of all offenses against the ordinances of the town, or other jurisdiction as may be granted to the municipality by the state and costs in such trials shall be fixed by ordinance. The town judge shall have power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order including the power which justices of the peace have to fine for contempt. The sole compensation for serving as town judge shall be a salary fixed by the council, and all fees for actions or cases in his court shall belong to the town and shall be paid into the town treasury. The compensation of the mayor for serving as town judge shall be fixed by the affirmative vote of not less than four members of council.

(c) Bail. The bail of persons arrested and awaiting trial and persons appealing a decision of the town judge shall be fixed by the town judge, upon such security as in his discretion he deems necessary or as may otherwise be provided by ordinance. Cash bail of persons arrested may be accepted at such times and by officers or employees other than the town judge as provided by ordinance; such ordinance shall require that the person arrested be given a receipt for cash bail which shall explain the nature of the deposit. The receipt shall be in triplicate: original to the depositor, a copy and the money to the town recorder, and a copy to the town judge within 24 hours after the arrest.

(d) Fines and Costs. Fines and costs may be paid by installment to be fixed and security determined as provided by ordinance. Upon failure to pay fines and costs or to furnish security, the town judge shall commit the offender to the town jail or workhouse until such fines and costs have been paid at a daily rate of commutation fixed by ordinance, but no persons shall be continuously confined in excess of 60 days. Receipts of the town court shall be accounted for

by the town court clerk and deposited with the town recorder in accordance with policy established by the town recorder, who shall make a monthly report thereof to the council.

(e) Docket. The town judge shall keep a docket of all cases handled by him.

(f) Separation of powers. The town judge shall be exclusive judge of the law and facts in every case before him, and no officer or employee of the town shall attempt to influence his decision except through pertinent facts presented in open court. [As amended by Priv. Acts. 1990, ch. 185, §§ 10 and 11]

SECTION 3.05 OFFICERS AND EMPLOYEES.¹ BE IT FURTHER ENACTED, That only the offices and positions of employment provided for in the annual budget, or as specifically approved by the council, shall be filled. Salaries for all positions shall be in accordance with a pay plan adopted by ordinance. In determining salaries, due consideration shall be given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and availability of persons having the qualifications desired.

SECTION 3.06. PERSONNEL ACTIONS. BE IT FURTHER ENACTED, That the appointment and promotion of employees of the town shall be on a basis of merit, considering technical knowledge required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications. Unless otherwise provided by this Charter, the mayor shall have authority to make appointments, promotions and transfers, and to make demotions, suspensions and removals of employees for reasonable cause, and may delegate such authority to department heads, as may be provided for by ordinance; however, the appointment of the police chief, fire chief and superintendents of the departments of parks and cemeteries, public utility, public works and/or future departments created by ordinance pursuant to this Charter, shall be approved by the council.² Before removal or suspension, an employee shall be given a written notice of intention to suspend or remove

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²Priv. Acts 1985, ch. 185, § 12, provided that the concluding phrase in this sentence, beginning with "however," was to be added after the word "ordinance" at the end of the second sentence in the "first" section numbered as 3.06 in the official charter. This was not physically possible. Apparently the section intended to be amended was the "second" section numbered as 3.06 in the official charter.

him, containing a clear statement of the grounds for such proposed action and notification that he may appeal to the town council by filing, within 10 days, with the town recorder written notice of his intention to do so. After receipt of such notice the council shall set a time and place for a public hearing on the matter, to be held within 20 days thereafter. The votes of four councilmen shall be required to override the suspension or removal, and the action of the council shall be final determination of the matter. A suspension may be with partial or entire loss of salary, but if the suspension is overruled by the council any loss of salary shall be paid to the employee. [As amended by Priv. Acts 1990, ch. 185, § 12]

SECTION 3.07. PERSONNEL RULES. BE IT FURTHER ENACTED, That the council shall by ordinance adopt supplementary rules and regulations governing employment by the town, not inconsistent with the provisions of this Charter.

SECTION 3.08. OATH OF OFFICE. BE IT FURTHER ENACTED, That before a person takes any office in the town government, he shall subscribe to the following oath or affirmation, administered by the town recorder or any justice of the peace:

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Tennessee, that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Huntingdon, and that I will faithfully discharge the duties of the office of _____."

SECTION 3.09. OFFICIAL BONDS. BE IT FURTHER ENACTED, THAT all employees of the town shall be covered by a faithful performance blanket position bond issued by a surety company authorized to do business in the state in the amount of ten thousand dollars (\$10,000) each, or other amount as may be determined by the council.

(a) The mayor and town recorder shall be covered by individual public officials bonds issued by a surety company authorized to do business in the state in the amount of fifty thousand dollars (\$50,000) each, or other amount as may be determined by the council.

(b) The cost of such bonds shall be paid by the town. [As replaced by Priv. Acts 1990, ch. 185, § 13]

SECTION 3.10. POLITICAL ACTIVITY PROHIBITED. BE IT FURTHER ENACTED, That no employee of the town shall continue in the employment of the town after election to the office of mayor or councilmember of the town. No person shall directly or indirectly give, render or pay any money, service or other valuable consideration to any person for or on account

of or in connection with employment by the town government. No person shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution from any employee of the town in connection with any town election. Any person who by himself or with others willfully or corruptly violates any provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof he shall immediately forfeit and vacate the office or position he holds and be ineligible to hold any office or position of employment in the town government for a period of five years thereafter. [As amended by Priv. Acts 1990, ch. 185, § 14]

SECTION 3.11. PERSONAL FINANCIAL INTEREST. BE IT FURTHER ENACTED, That any officer or employee of the town shall not profit personally, directly or indirectly, from any business transacted with the town government, nor shall any officer or employee accept any free or preferred service, benefits or concessions from any person, company or firm regulated by or doing business with the town, except as may conform to the provisions of current state laws. [As amended by Priv. Acts 1990, ch. 185, § 15]

ARTICLE IV

FISCAL ADMINISTRATION

SECTION 4.01. FISCAL YEAR. BE IT FURTHER ENACTED, That the fiscal year of the town government shall begin on the 1st day of July and shall end on the 30th day of June on the succeeding year, unless otherwise provided by ordinance.

SECTION 4.02. MAYOR TO SUBMIT ANNUAL BUDGET. BE IT FURTHER ENACTED, That not later than 45 days prior to the beginning of each fiscal year, the mayor shall submit to the council a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following:

- (a) revenue and expenditures during the preceding year,
- (b) estimated revenue and expenditures for the current fiscal year,
- (c) estimated revenue and recommended expenditures for the next fiscal year, not to exceed the amount of estimated revenue,
- (d) a comparative statement of the cash surplus (or deficit) at the end of the preceding year and the estimated surplus (or deficit) at the end of the current fiscal year, and
- (e) any other information and data, such as work programs and unit costs, in justification of recommended expenditures that may be considered necessary by the mayor or requested by the council. The mayor may recommend and estimate receipts from additional revenue measures, providing such

estimates are separated clearly from normal revenue estimates. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the town, the important features of the budget, explanation of major changes recommended for the next fiscal year as compared with the current fiscal year, a general summary of the budget, and such other comments and information as he may deem pertinent. A sufficient number of copies of the mayor's message shall be reproduced to furnish a copy to any person desiring one. A copy of the budget in full shall be filed with the town recorder for public inspection and a copy shall be furnished to each councilman.

SECTION 4.03. CAPITAL IMPROVEMENT BUDGET. BE IT FURTHER ENACTED, That a capital improvement budget may also be prepared to include a description of projects recommended for the ensuing fiscal year and the five years thereafter, the estimated cost of each project, and the recommendations of the mayor for financing the projects proposed for the ensuing year. The council may accept, reject or revise the capital improvement budget as it deems desirable. [As amended by Priv. Acts 1990, ch. 185, § 16]

SECTION 4.04. PUBLIC HEARING. BE IT FURTHER ENACTED, That after receiving the mayor's proposed budget, the council shall fix a time and place for a public hearing thereon, and shall cause a public notice thereof and an announcement of where and when the full budget may be examined to be published two times in the official town newspaper, the last such publication to be at least seven (7) days in advance of the date of the hearing. The public hearing shall be held before the council at the stated time and place, and all persons present shall be given a reasonable opportunity to be heard. [As amended by Priv. Acts 1990, ch. 185, § 17]

SECTION 4.05. ACTION BY COUNCIL ON BUDGET. BE IT FURTHER ENACTED, That after the public hearing and before the beginning of the ensuing fiscal year the council shall adopt an appropriation ordinance, based on the mayor's proposed budget with such modifications as the council considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department or agency. The council shall not make an appropriations in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the town declared by a vote of all members of council. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section. Amendment may be made to the original appropriation ordinance at any time during a current fiscal year after seven (7) days notice published in the newspaper and a public hearing before the council. Appropriations, except emergency appropriations as provided above, may be increased during the year

only after the mayor certifies in writing that a sufficient amount of unappropriated revenue will be available. Funds may be re-appropriated, re-allocated or re-obligated between departments, activities or agencies within a single fund account, i.e.: The General Fund account, The Utility Fund account, The Street Aid Fund account, etc., with the consent of the council which has been duly entered upon the minutes thereof. Transfers of funds between fund accounts, not to exceed the original total appropriations of all funds, may be made by Resolution. Any portion of an annual budget remaining unexpended and unencumbered at the close of the fiscal year shall lapse and be subject to appropriation for the following year. Any balance remaining in any fund other than the general fund at the end of the fiscal year may remain to the credit of such fund and be subject to further appropriation. At the end of each month the mayor shall submit to the council a budget report showing revenue receipts, encumbrances and expenditures for that month and for the fiscal year to the end of that month. [As amended by Priv. Acts 1990, ch. 185, § 18]

SECTION 4.06. CONTROL OF EXPENDITURES. BE IT FURTHER ENACTED, That the mayor shall be responsible for controlling expenditures of the various agencies of the town government to accomplish maximum efficiency and economy. No expenditures shall be made in excess of appropriations.

SECTION 4.07. PURCHASING AND PROCUREMENT. BE IT FURTHER ENACTED, That:

(a) All contracts, purchases or procurements, except those reserved to the council by ordinance, shall be made by the purchasing agent, or his designated representative, appointed by the mayor, or, in the absence of such appointment, by the mayor acting as purchasing agent.

(b) The council shall by action of ordinance include within the town's municipal code, such rules and regulations as deemed necessary to adequately regulate the issuance of invitations or advertisements for bids, award of contracts, purchasing and procurement procedures, to include procedures for emergency purchases and procurements, and fixed assets and equipment inventory policy and procedures.

(c) All purchases made from funds of the town shall be made within the limits of the approved budgets, when required, and within the appropriation, when required, of the department, agency or activity for which the purchase is made.

(d) Except as hereinafter provided, all purchases, leases and lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid, except as follows:

(1) Purchases consisting of less than Four Thousand Dollars (\$4,000); provided, however, this exemption shall not apply to purchases of like items which individually cost less than Four Thousand Dollars (\$4,000), but which are customarily purchased in lots of two (2) or more,

if the total purchase price of such items would exceed Four Thousand Dollars (\$4,000) during any fiscal year.

(2) Any goods or services which may not be procured by competitive means because of the existence of a single source or because of a proprietary product. The procurement of such goods or services will be with the prior approval of the mayor. A record of all such purchases shall be made by the purchasing agent which shall contain a list of the items so procured, the prices paid, the source from which procured, and the justification for the sole source procurement. The data contained in this report shall be furnished the council at its next subsequent regular meeting.

(3) Purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors; delays in transportation, and unanticipated volume of work. The emergency procurement of such items will be with the prior approval of the mayor. A record of all such purchases shall be made by the purchasing agent which shall contain a list of the items so procured, the prices paid, the source(s) from which procured, and the justification for the emergency procurement. The data contained in this report shall be furnished the council at its next subsequent regular meeting.

(4) Leases or lease-purchase agreements requiring total payments of less than Four Thousand Dollars (\$4,000) in each fiscal year the agreement is in effect, provided this exemption shall not apply to leases of like or related items which individually may be leased or leased-purchased with total payment of less than Four Thousand Dollars (\$4,000) in any fiscal year, but which are customarily leased or leased-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be Four Thousand Dollars (\$4,000) or more in any fiscal year.

(5) Purchases, leases or lease-purchases of real property.

(6) Purchases, leases or lease-purchases from any federal, state, or local governmental unit or agency of second-hand articles or equipment or other materials, supplies or commodities.

(7) Purchases of fuel, fuel products, and perishable products are exempt for the requirement of public advertising for bids; however, such purchases shall be made through invited competitive bidding wherever possible. When competitive bidding is not utilized a record of such purchases shall be made by the purchasing agent showing the items so procured, the price paid, the source from which procured, and the justification for non-competitive bidding. The data in this report shall be furnished the council at its next subsequent regular meeting.

(e) Deleted. (This subsection was deleted by Priv. Acts 1994, ch. 132)

(f) Contracts for legal services, fiscal agent, financial advisors or advisory services, educational consultants, engineer consultants, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive bids, but shall be awarded by the council on the basis of recognized competence and integrity through review of past performance and interviews with prospective contractees.

(g) Insurance for various entities of the town's government which is procured through a plan authorized and approved by any organization of governmental entities representing cities, towns and counties, such as, but not limited to, the Tennessee Municipal League Insurance Pool, may be contracted for without public advertising and competitive bidding.

(h) Insurance for various entities of the town's government which are procured through private or for-profit entities, such as commercial insurance companies, for casualty, liability, inland marine, property, life and health and accident insurances, may be obtained by public advertisement to submit proposals. Contracts for such insurance shall be awarded by the council subsequent to review of proposals and negotiation of all premiums. Such contracts shall normally be for a period of three (3) years.

(i) Purchases by the town of supplies, materials, equipment and/or services for other local governmental entities of the town may be made upon request from said entities; however, the procurement shall be made on the same terms and under the same rules and regulations as regular purchases by the town. The cost of all such purchases shall be borne by the requesting entity.

(j) Purchases by the town of supplies, materials, equipment and/or services from or through any centralized purchasing or procurement agency of any local governmental entity, or of the state or federal government shall be without public advertising or competitive bidding.

(k) Contracts for services or materials from non-profit corporations, such as, but not limited to, the Local Government Data Processing Corporation, whose purpose, or one of whose purposes, is to provide goods or services specifically to municipalities shall be exempt from public advertising or competitive bidding. [As replaced by Priv. Acts 1985, ch. 15, and amended by Priv. Acts 1994, ch. 132, § 3]

SECTION 4.08. UNAUTHORIZED CONTRACT OR EXPENDITURE.
BE IT FURTHER ENACTED, That any contract or agreement made in violation of the provisions of this Charter or ordinances of the town shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder, and their sureties on their official bonds, and every person who shall knowingly receive such a payment, shall be jointly and severally liable to the town for the full amount so paid or received. A violation of this section by any officer or employee shall be cause of his removal.

SECTION 4.09. SALE OF TOWN PROPERTY. BE IT FURTHER ENACTED, That the mayor may sell town property which is obsolete, surplus or unusable, after advertisement in a local newspaper, by sealed bids or at public auction; provided, however, that any sale for more than \$500 or any sale of real estate shall be subject to approval by the council. The mayor may sell any item valued at less than \$50 without taking bids, but each such sale shall be reported to the council at its next meeting.

SECTION 4.10. ANNUAL AUDIT. BE IT FURTHER ENACTED, That within 30 days after the beginning of each fiscal year the council shall employ an independent, certified public accountant to make an audit of all financial records of the town for that year. The auditor shall perform adequate sampling to determine validity of the records. Each such audit shall include determination of legality of transactions, mathematical accuracy of records, complete accountability, and application of accepted municipal accounting principles. It shall be made in accordance with generally accepted auditing standards and in conformity with generally accepted accounting principles and any applicable state and/or federal audit guidelines. The audit shall be completed and a report, including a summary for publication, shall be submitted to council within 90 days after end of the fiscal year.

SECTION 4.11. BONDS FOR PUBLIC WORKS CONTRACTS. BE IT FURTHER ENACTED, THAT

(a) Each bid on a contract for any public works or improvement of the town shall be accompanied by a cash bid bond or a bid bond issued by a surety company authorized to do business in the state and acceptable to the town in an amount equal to five percent (5%) of the bid amount; however, the council may waive this requirement for contracts under ten thousand dollars (\$10,000).

(b) Before any contract is awarded, the contractor shall give a good and solvent bond for the faithful performance of the contract issued by a surety company authorized to do business in the state and acceptable to the town in an amount equal to one hundred percent (100%) of the contract price; however, the council may waive this requirement for contracts under ten thousand dollars (\$10,000).

(c) Before any contract is awarded, the contractor shall give a good and solvent bond acceptable to the town, in lawful money of the United States, to the effect that he will pay for all the labor and materials used by the contractor, including his sub-contractors. The bond to be so given shall be for twenty-five percent (25%) of the contract price on all contracts in excess of ten thousand dollars (\$10,000), in such instruments as authorized by current state law. [As replaced by Priv. Acts 1990, ch. 185, § 19]

SECTION 4.12. PROPERTY TAXES. BE IT FURTHER ENACTED, That all property subject to taxation shall be subject to the property tax levied

by the county. The council may elect to use county assessments, or may appoint a town assessor to assess all property subject to taxation except property assessed by the State Public Service Commission. If assessments are made by the town assessor, the council by ordinance shall provide for a town board of equalization and the procedure for appeals of assessments thereto.

SECTION 4.13. OMITTED PROPERTY. BE IT FURTHER ENACTED, That if county assessments are used the town recorder shall add to the assessment rolls any taxable property that may have been omitted by the county assessor. Such property shall be appraised and assessed at the same ratio as other property of the same class located in the town.

SECTION 4.14. TAX LEVY. BE IT FURTHER ENACTED, That the council shall make a tax levy, expressed as a fixed rate per \$100 of assessed valuation, not later than 90 days prior to the tax due date. In event of council's failure to do so, the prior year's tax rate shall continue in effect.

SECTION 4.15. TAX DUE DATES. BE IT FURTHER ENACTED, That:

(a) The due dates of property taxes shall be fixed by ordinance and provisions may be made for equal semi-annual installments. The town shall send tax bills to taxpayers showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates. Failure to send tax bills shall not, however, invalidate any tax, penalty or interest thereon.

(b) Unless otherwise provided for by ordinance, the date the property taxes become due, and the date upon which they become delinquent, shall be the same dates as those established by state regulations for the property taxes of Carroll County, Tennessee. The recorder shall give adequate public notice of these dates by publishing same at least one (1) time in a local newspaper of general circulation.

(c) Effective with the date of delinquency of property taxes, penalty and interest thereon shall be applied as fixed by ordinance, or in the absence of such ordinance, in the manner and rate as that proscribed by the trustee, Carroll County, Tennessee, for delinquent county property taxes.

(d) On and after the date when such taxes become delinquent, the tax records of the town shall have the force and effect of a judgment of a court of record. [As replaced by Priv. Acts 1983, ch. 113]

SECTION 4.16. DELINQUENT TAXES. BE IT FURTHER ENACTED, That the council may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the town under the laws governing execution of such process from a justice of the peace; or by the county trustee as provided by general law; or by the town attorney acting in accordance with general laws providing for the collection of delinquent town or county taxes; by garnishment;

by suits in chancery; or by any two or more of the foregoing methods, or by the use of any other available legal processes and remedies. If not otherwise collected, the town attorney, or other attorney designated by the council, shall file suit for collection of all delinquent taxes not later than 18 months following date of delinquency.

SECTION 4.17. TAXES NOT TO BE EXCUSED. BE IT FURTHER ENACTED, That no officer or employee of the town shall have the authority to excuse taxes, penalties, interest, special assessments, or other charges due the town, but errors may be corrected when authorized by council.

SECTION 4.18. DISBURSEMENTS BY CHECKS. BE IT FURTHER ENACTED, That all disbursements, except for any agency of the town administered by a board or commission, shall be made by checks signed by the town recorder and countersigned by the mayor. The council may by resolution designate other officers to sign such checks in the absence or disability of the mayor or town recorder.

SECTION 4.19. OFFICIAL DEPOSITORY. BE IT FURTHER ENACTED, That the council shall designate an official depository or depositories for deposit and safekeeping of funds of the town, with such collateral security as may be deemed necessary by the council.

SECTION 4.20. ACCOUNTING. BE IT FURTHER ENACTED, That the financial records of the town shall be established and maintained in general conformity with the accounts and procedures recommended by the office of the Comptroller, State of Tennessee; the Municipal Finance Officers Association, or other nationally recognized authority on municipal accounting.

ARTICLE V

INTERGOVERNMENTAL COOPERATION AND CONTRACTING

SECTION 5.01. INTERGOVERNMENTAL COOPERATION AND CONTRACTS. BE IT FURTHER ENACTED, That in addition to other powers granted in this Charter, the town council shall have power to contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof; or with any duly authorized agency of the federal or state government, for the exercise of any power or function which the town is authorized to undertake by this Charter.

SECTION 5.02. EXECUTION OF SUCH POWERS. BE IT FURTHER ENACTED, That the town council may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any

such contract or cooperative action. The parties to such contract or cooperative action, or any of them, may acquire, by gift or purchase, or by power of eminent domain exercised by one or more of the parties, the lands, buildings, and other property necessary or useful for the purposes of the contract or cooperative action, either within or without the corporate limits of one or more of the contracting parties, and shall have the power to hold or acquire such property jointly. The town may provide for the financing of its share or portion of the cost or expenses of such a contract or cooperative action in the same manner as if it were acting alone and on its own behalf.

Such a contract also may provide for the establishment and selection of a joint commission, officer or officers to supervise, manage, and have charge of joint service or project, and may provide for the powers and duties, terms of office, compensation, if any, and other provisions relating to the members of such joint commission, officer or officers. Such contract may include and specify terms and provisions relative to the termination or cancellation of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be given of such termination or cancellation. Such cancellation or termination shall not relieve any party participating in such contract or cooperative action for any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such cancellation or termination.

SECTION 5.03. IMMUNITIES AND LIABILITIES OF OFFICERS. BE IT FURTHER ENACTED, That all public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article shall enjoy the same immunities and be subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

SECTION 5.04. HANDLING OF FUNDS. BE IT FURTHER ENACTED, That all money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided by law, shall be deposited and disbursed in accordance with the provisions of such contract or cooperative action.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 6.01. OTHER GENERAL LAWS MAY BE USED BY TOWN. BE IT FURTHER ENACTED, That notwithstanding any provision of this Charter, the town council may elect to operate or adopt any general law or public act available to municipalities of the state, in lieu or in addition to provisions of this Charter.

SECTION 6.02. PENALTIES. BE IT FURTHER ENACTED, That the violation of any provision of this Charter, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor, and persons guilty of such violations shall be fined not more than fifty dollars (\$50). Any person failing to pay a fine and costs shall be committed to the work house to work out the fine and costs at the rate of five dollars (\$5) per day.

SECTION 6.03. REPEAL OF ACTS. BE IT FURTHER ENACTED, That when this Act becomes applicable as the Charter of the Town of Huntingdon, Tennessee, the following Acts shall be repealed: Chapter 216 of the Private Acts of 1947; Chapter 316 of the Private Acts of 1949; Chapter 918 of the Private Acts of 1949; Chapter 677 of the Private Acts of 1951; and Chapter 687 of the Private Acts of 1951.

SECTION 6.04. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Town Council of the Town of Huntingdon before July 31, 1974. Its approval or nonapproval shall be proclaimed by the presiding officer of the Town Council and certified by him to the secretary of state.

SECTION 6.05. 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 6.04.

PASSED: March 12, 1974

Ned R. McWherter,
SPEAKER OF THE HOUSE OF REPRESENTATIVES

John S. Wilder,
SPEAKER OF THE SENATE

Approved: March 12, 1974

Winfield Dunn,
GOVERNOR

This is to certify that according to the official records in this office, House bill No. 2433, which is Chapter No. 233 of the Private Acts of 1974 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

Priv. Acts 1998, ch. 128,
"Hotel-Motel Tax" C-30

CHAPTER 128

HOUSE BILL NO. 2798

By Representative Maddox

Substituted for: Senate Bill No. 3081

By Senator Carter

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 Town of Huntingdon.

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) "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.

(2) "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.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Recorder" means the Recorder of the Town of Huntingdon.

(7) "Town of Huntingdon" or "Town" means within the corporate limits of the Town of Huntingdon, Tennessee.

(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 Town of Huntington is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (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 Town from the tax shall be retained by the Town and deposited into the general fund of the Town, to be designated and used for such purposes as specified by resolution of the Town Council.

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 in the Town of Huntington.

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 to that person, and the operator shall receive credit for the amount of such tax if previously paid or reported to the Town.

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 Town to the Recorder or such other officer as may be resolution be charged with the duty of collection thereof, 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 as may by the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the Town entitled to such tax 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 Recorder 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 recorder, or other authorized collector of the tax, shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be

filed under oath with the Recorder by the operator with such number of copies thereof as the recorder 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 Recorder and approved by the Town Council prior to use. The Recorder shall audit each operator in the Town at least once a year and shall report on the audits made on a quarterly basis to the Town Council.

The Town Council is authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, include 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 Recorder 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 of 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 Town 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 Town. The Recorder has the right to inspect such records at all reasonable times.

SECTION 10. The Recorder in administering and enforcing the provisions of this act has 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.

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 Town taxes collected by the Recorder under authority of this act shall be

refunded by the Town from the General Fund upon approval of the Town Council.

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

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the general fund of the Town of Huntingdon to be used for the purposes stated in Section 3.

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 provisions 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 Town of Huntingdon at two (2) consecutive, regularly scheduled meetings. Its approval or non-approval shall be proclaimed by the Presiding Officer of the Town Council 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: March 5, 1998

s/Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

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

APPROVED this day of 1998

DON SUNDQUIST
GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 2798 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.

CHARTER AND RELATED ACTS FOR THE TOWN OF
HUNTINGDON, TENNESSEE

YEAR	CHAPTER	SUBJECT
1974	233	Basic charter act.
1976	197	Amended § 2.01(a) with regard to ages of qualifications for candidates for mayor and town council.
1978	179	Amended § 1.02(g) with regard to qualifications of voters.
1983	113	Replaced § 4.15 with regard to tax due dates, etc.
1985	15	Replaces § 4.07 with regard to purchasing and procurement.
1990	185	Replaced § 2.01 with regard to elections of mayor and councilmembers; amended § 2.03 with regard to town council; amended § 2.05 relating to vice mayor; amended § 2.08 relating to ordinances; amended § 3.01 relating to town government; amended § 3.05 relating to town attorney; amended § 3.06 relating to town court; amended § 3.06 relating to personnel actions; replaced § 3.09 relative to official bonds; amended § 3.10 relative to political activity; amended § 3.11 relative to personal financial interest; amended § 4.03 relative to capital improvement budget; amended § 4.04 relative to public

YEAR	CHAPTER	SUBJECT
		hearing; amended § 4.05 relative to budget; and replaced § 4.11 relative to bonds for public works contracts.
1994	132	Amended §§ 4.07(d)(1), 4.07(d)(4), and 4.07(e) with regard to purchasing and procurement.
1998	128	Hotel-Motel Tax. (See the Related Acts following the charter).