

CHARTER OF THE CITY OF GATLINBURG, TENNESSEE<sup>1</sup>

CHAPTER NO. 84

Senate Bill No. 176

(By Smith)

AN ACT to incorporate the City of Gatlinburg in Sevier County, Tennessee; to create a Municipal Corporation; to define its rights, powers, duties and obligations and to provide for the government, control and general welfare thereof; to fix the boundaries of said Municipality; to provide for the election of officers, prescribe their duties; to appoint a Mayor and other Commissioners to serve as provided in said Act; to create a Charter for said City and to repeal all Acts or parts of Acts in conflict with this Act.

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<sup>1</sup>Priv. Acts 1945, ch. 84, is the current basic charter act for the City of Gatlinburg, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2019 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 and footnote cross references 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, 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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**Corporate Name and Boundaries<sup>1</sup>**

SECTION 1. Be it enacted by the General Assembly of the State of Tennessee, That the inhabitants within the corporate limits and boundaries hereinafter described in the Eleventh Civil District of Sevier County, Tennessee, shall be and continue a body politic and corporate by the name of City of Gatlinburg.

That said corporate limits of said City of Gatlinburg shall embrace the territory within the following boundary, to-wit:

In the Eleventh Civil District of Sevier County, Tennessee, beginning at the junction of Dudley Creek with the West Prong of the Little Pigeon River, thence up and with the meanders of Dudley Creek to the crossing of the Greenbrier road opposite the Maggie Ogle residence, thence in a southerly direction running with the said road to the Roaring Fork Creek, thence up and with the meanders of Roaring Fork Creek to the west line of the Richard Ogle property, thence southerly with the said line of the Richard Ogle property to the top of the ridge, a divide between Roaring Fork Creek and Baskin Creek, thence westerly along said ridge to the corner of the Pi Phi School property, also a corner of the Leander McCarter property, thence continuing westerly with the line of the Pi Phi School property to a hemlock corner of the Elder Ogle property, thence southerly with the line of the Elder Ogle property to Baskin Creek, thence crossing said Creek to the northeast corner of the N. E. Roemer property, thence in a direct line to the southeast corner of the J. C. Cole property, thence in a southerly direction to a point where the boundary line of the Great Smoky Mountain National Park crosses the dividing ridge between Turkey Creek Branch and Mill Creek, thence with the boundary line of the Great Smoky Mountain National Park to the center of the West Prong of the Little Pigeon River, thence down and with its meanders to a point opposite the southwest corner of the M. C. Monday estate, thence with said line of said estate to the line of the LeConte Hardwood Company tract, thence northeastward with said line to a hemlock tree at the corner of the O. R. Medlin property and the LeConte

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<sup>1</sup>The boundaries established by this charter have been extended by the following ordinances numbered 229, 282, 332, 333, 446, 562, 917, 920, 921, 1022, 1071, 2204, 2223, 2290, and 2337 of record in the office of the city recorder.

Hardwood Company tract on Cliff Branch, thence with the meanders of Cliff Branch to West Prong of the Little Pigeon River, thence up and with the meanders of West Prong of the Little Pigeon River to the beginning point.

### **First Commissioners Appointed**

SECTION 2. Be it further enacted, That for the purpose of carrying this Charter into effect, there is hereby appointed a Board of Commissioners, who when qualified shall have the same authority to act and do all things as provided by this Charter, as follows:

Isaac L. Maples, Mayor; Austin E. Whaley and Matt M. Whittle.

Said appointed Board of Commissioners shall serve until July 1, 1945, or until their successors are elected and qualified, as hereinafter provided.

### **Elections**

SECTION 3. Be it further enacted, That the first election held under the provisions of this Charter for Commissioners as herein provided shall be held on the third Tuesday in May, 1945, and it shall be the duty of the Election Commissioners of Sevier County to call said election by posting notice thereof, on the first Monday in May of said year and the Election Commissioners of Sevier County shall have the same authority as hereinafter provided for calling and holding elections.

At this election (1945) there shall be three Commissioners elected as follows: The candidate receiving the highest number of votes shall serve three years, the candidate receiving the next highest number of votes shall serve two years, the candidate receiving the next highest number of votes shall serve one year.

All elections for Commissioners held under this Charter shall be known as general elections, except where a special election is called and held for the purpose of filling an unexpired term of a Commissioner, and all such general elections shall be held on the third Tuesday in May of each year.

Effective July 1, 1949, the Board of Commissioners shall be composed of five (5) members elected by the qualified voters of the City, as herein provided for. Members of the Board of Commissioners shall be designated Commissioners and shall hereafter be elected for a term of two (2) years and shall serve until their successors are elected and qualified; provided, however, that in order to stagger the terms of Commissioners so that the entire Board membership will not be subject to change at the same election, at the general election to be held

in May 1949, three (3) Commissioners shall be elected for terms of three (3) years each.

No general election shall be held in 1950 but since the term of Commissioner Jim Huff expires June 30, 1950, the remaining four members of the Board of Commissioners shall, between the first and tenth days of July 1950, elect by majority vote thereof one Commissioner to serve from the date of his election and qualification until June 30, 1951. Thereafter, beginning in 1951, on the third Tuesday in May of each year a general election shall be held, and in 1951 two (2) Commissioners shall be elected for terms of two (2) years each, in 1952 three (3) Commissioners shall be elected for terms of two (2) years each, etc.

Effective the first Monday in June, 1988, the Board of Commissioners shall be composed of five (5) commissioners elected by the qualified voters of the city to serve for a term of four (4) years or until their successors are elected and qualified. However, in order to continue the staggered terms of commissioners established under the current charter, those members elected in the 1988 May election shall be elected for terms of three (3) years each and those members elected in the May 1989 election shall be elected for terms of four (4) years each. Thereafter, commissioners shall be elected for terms of four (4) years at elections held every two (2) years on the third Tuesday in May.

The candidates in said general elections, in the number of vacancies to be filled thereby, who receive the highest number of votes shall be declared elected and shall take office on the first Monday in June following the election.<sup>1</sup>

All elections provided for by this Charter, whether for the choice of Commissioners or the submission of propositions to the voters shall be conducted by the Board of Election Commissioners of Sevier County, and the provisions of the general election laws of the State shall apply to all such elections, except as otherwise provided for herein.

The said Board of Election Commissioners of Sevier County shall certify to the City of Gatlinburg for payment such expenses as shall have been properly incurred in holding any election provided for by law, and said amount shall be

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<sup>1</sup>Priv. Acts 1965, ch. 42, § 1(a), changes the date of the general elections from the third Tuesday in June to the Third Tuesday in May, but fails to make a corresponding change of date for assuming the duties of office. Priv. Acts 1977, ch. 150, changes the date from July 1st, to the first Monday in June following the election.

a charge against the City and shall be paid by it in like manner as other miscellaneous expense.

In any election, only those who are bonafide residents of the city and who conform to the residency requirements of the state statutes and who are otherwise qualified to vote for members of the General Assembly, shall be entitled to vote.

Provided, however, that non-residents of the city who shall have owned a taxable freehold in the city for a sufficient period of time to otherwise qualify under state election laws (rules and regulations and being qualified to vote for members of the General Assembly by the laws of Tennessee), may be entitled to vote in the voting precinct in which said freehold is situated; provided, however that the ownership of real property must be on an individual basis and corporate ownership of real property does not entitle one to vote in municipal elections. No more than two (2) persons shall be entitled to vote based upon the ownership of an individual tract of property regardless of the number of property owners.

The name of any eligible elector of the City, except as hereinafter provided, shall be printed upon the ballot to be used in all general and special elections for members of the Board of Commissioners when a petition in substantially the form hereinafter prescribed shall have been filed in his behalf with the Board of Election Commissioners of Sevier County, Tennessee, and such petition shall have been signed by at least twenty-five (25) of the qualified voters of the City. The signatures of such nominating petition need not all be appended to one paper. Each signer of the petition shall sign his name in ink or indelible pencil and shall place on the petition after his name his place of residence by street and number or otherwise by definite location. The petition shall be substantially in the following form:

We, the undersigned, hereby present \_\_\_\_\_, whose residence is \_\_\_\_\_, Gatlinburg, Tennessee, as a candidate for the office of Commissioner of the City of Gatlinburg to be voted upon at the election to be held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, and we individually certify that we have not signed similar petitions greater in number than the number of vacancies to be filled for this office.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

All nominating papers comprising a petition shall be assembled and filed with the election authorities as one (1) instrument prior to the election and shall follow state law and election commission rules and regulations to comply with the deadline as established by the commission.

The name of any person who has been submitted for candidacy by any such petition and who fails to withdraw his name from consideration by notifying the election commissioners of Sevier County to that effect no later than the deadline for withdrawing established by the commission, shall appear on the ballots to be used therein.

The official ballots to be used in all elections shall be appropriately worded by the election authorities and the name of all candidates for the respective offices shall be alphabetically listed or grouped. The election authorities shall cause the ballots to be properly printed and distributed, the election held, the votes counted, canvassed and certified to the Board of Commissioners as required by law.

The Commissioners appointed herein shall meet and qualify on the second Monday after this Act has been approved by the majority of the legal votes cast at an election as hereinafter provided for. Should any Commissioner appointed herein fail or neglect to qualify, the other two Commissioners shall elect a Commissioner to fill the unexpired term and in the event none of the Commissioners herein named qualify, the Chairman of the County Court shall appoint Commissioners, who when so appointed and qualified shall have the same authority as delegated to the within named Commissioners.

No person shall be eligible to become a candidate for Commissioner if he holds any elective office, other than that of a Commissioner of Gatlinburg; and the election authorities charged with the responsibility of preparing the official ballots for the election of a Commissioner or Commissioners of Gatlinburg shall not place on any such official ballot the name of any candidate who is ineligible by reason of the foregoing provision. As used in this Charter, 'elective office' shall mean any city, county, state or Federal office to which a candidate is elected by popular vote of electors voting in or for any specified geographical district that includes all or any part of the area of the governmental organization for which the election is held.

Effective July 1, 2014, each commission position shall be designated as a Seat A, Seat B, Seat C, Seat D or Seat E. Any candidate for the commission shall designate, upon qualifying for election, the particular designated seat which the candidate seeks. In the regular municipal election, all voters in the city may vote for one (1) candidate for each designated seat. The candidate for each designated seat receiving the most votes shall be declared elected and shall take office on the first Monday in June following the elections. [As amended by Priv. Acts 1945, ch. 463 § 1; Priv. Acts 1949, ch. 811, § 1(a); Priv. Acts 1963, ch. 97; Priv. Acts 1965, ch. 42, § 1(a) and (b); Priv. Acts 1977, ch. 150, § 1; Priv. Acts 1988, ch. 140; and Priv. Acts 2014, ch. 56]

### Corporate Powers

SECTION 4. Be it further enacted, That the corporate body of the City of Gatlinburg shall have perpetual succession, shall sue and be sued, contract and be contracted with, implead and be impleaded in all courts of law and equity and in all actions whatsoever; may, for municipal purposes, purchase, receive and hold property -- real, personal and mixed -- within or without the limits of the City; may sell, lease or dispose of such property for the benefit of the City and do and perform all other acts touching the same as though a natural person; may have and use an official seal and change same at pleasure. Said City as incorporated under this Act shall have power by ordinance:

1. To establish administrative departments and proper divisions thereof and assign the powers and duties of such departments and divisions, within the provisions of this Act.

The City of Gatlinburg shall have the power by ordinance to assess, levy and collect a gross receipt tax of not more than two (2%) percent upon all persons, firms and corporations doing business within the corporate limits of said municipality. The privileges which may be taxed under such gross receipt tax shall include but not be limited to the following:

The privilege of selling tangible personal property at wholesale or retail; the privilege of renting or furnishing things or services; the privilege of storing tangible personal property within the limits of said municipality for sale; the privilege of renting any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist cabin, tourist court, tourist camp, motel, or any other place in which rooms, lodgings or accommodations are furnished to transients for a consideration; the privilege of operating or conducting a garage, parking lot, and other place of business for the purpose of parking or storing motor vehicles; the privilege of operating places of amusement, sports or entertainment, including billiard or pool halls, bowling alleys, amusement devices, musical devices, amusement parks, carnivals, circuses, horse shows, athletic contests, wrestling matches, prize fights, boxing and wrestling exhibitions, skating rinks, public bathing houses, public dance halls, museums, riding academies, tourist guide services, "sky-lift" services, swimming pools, shooting galleries, miniature golf courses or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged.

Said tax shall be paid by and absorbed by the person, firm or corporation carrying on any of such business or exercising any of such privileges and shall not be passed on to or paid by customers, vendees, consumers and patrons paying therefor.



Said tax may be imposed upon individuals, firms, partnerships, corporations, estates, trusts, receivers, syndicates, and other groups or combination acting as a unit. Said tax shall be paid at such times and in such manner as prescribed by ordinance of said city and rules, regulations and procedures promulgated thereunder. The local ordinances, rules and regulations promulgated by the City of Gatlinburg may contain provisions deemed necessary for the prompt and efficient imposition, collection and administration of the tax herein authorized; for the filing of periodical returns by the persons liable for such tax; for the assessment and collection of such tax; for the making of refunds; for the maintenance, retention and inspection of records deemed necessary to the prompt and efficient collection and remittance of such tax by the persons liable therefor; for the subpoena of persons and records, the administration of oaths and the requiring of the testimony of witnesses deemed necessary to the efficient collection, remittance and administration of such tax; for the enforcement of the collection and remittance of such tax by execution and sale of property; for notices and limitation of time within which acts must be performed relative to the collection, remittance, and administration of such tax; for the imposition and payment of interest and penalty in the case of delinquencies in the collection, remittance and administration of such tax; for the enforcement of all such ordinances, resolutions, rules, regulations and procedures by appropriate proceedings; and for making violations thereof misdemeanors and prescribing the punishment for such violations by fine, forfeiture, or both.

“Gross receipts” for the purpose of this section shall mean total receipts before anything is deducted.

2. To levy and collect taxes upon all property taxable by law for State purposes; but such tax levy shall not exceed the rate herein provided for; and said City shall not exempt from taxation any property not exempt from State taxes.

3. To levy and collect taxes upon all privileges taxable by the laws of the State, but not in excess of the amount fixed by the laws of the State for taxing such privileges, and to license and regulate such privileges and privileged occupations including, but not limited to, automobiles and all other vehicles.

4. To appropriate money and provide for the payment of the debts and expenses of the City within the provisions herein contained.

5. To incur debts by borrowing money or otherwise, and to give any appropriate evidence thereof, in the manner hereinafter provided.

6. To issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable interest bearing or non-interest bearing bonds, warrants, promissory notes or orders of the City, upon the credit of the City or solely upon the credit of specific property owned by the City or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the City, or solely upon the credit of the proceeds of special assessments for local improvements or upon any two or more such credits.

7. To expend the money of the City for all lawful purposes. Since the City of Gatlinburg is primarily a resort city and its citizens and residents are primarily dependent upon the tourist trade, the Board of Commissioners is hereby specifically authorized, to expend the money of the city in such amounts as it deems proper for the general purpose of advertising the City of Gatlinburg as a resort city and the points of interest, scenic, historical and other resort advantages, such as its proximity to the Great Smoky Mountains National Park and other interests and attractions, and for such other purposes as the Board of Commissioners, in its discretion, believes will increase the population, both temporarily and permanent, the value of taxable property, and the general welfare of the city.

8. 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.

9. To condemn property, real or personal or any easement, or interest, or estate or use therein, either within or without the City, for the present or future public use; such condemnation to be made and effected in accordance with the terms and provisions of Tennessee Code Annotated, Sections 23-1401, 23-1404 to 23-1424, and 23-1507 to 23-1510, or in such other manner as may be provided by law.

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

11. 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.

12. 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 against any other person, firm, association, or corporation, but also against the City itself. Franchises may be granted for the period of twenty years or less, but not longer. The Board of Commissioners may prescribe in each grant of franchise, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to 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.

13. To make contracts with any person, firm, association or corporation, for the 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 a period of twenty (20) years or less, but not longer. The Board of Commissioners may prescribe in each such contract 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 changed; and to the then existing streets, alleys, and thoroughfares and to any other street, alleys and thoroughfares thereafter may be opened.

14. To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and compel, from time to time reasonable extension 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 Sub-sections 12 and 13 of this Section.

15. 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, sewers, and drains within or without the corporate limits and to regulate the use thereof within the corporate limits, and property may be taken and appropriated therefor under the provisions of Tennessee Code Annotated, Sections 6-1007 to 6-1009, 6-1011, 6-1101 to 6-1141, and 23-1414, or in such other manner as may be provided by general law.

16. To construct, improve, reconstruct and reimprove by opening, paving, graveling, macadamizing, draining, or otherwise improving any street, highways, avenues, alleys or other public places within the corporate limits, and

to assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways or alleys under and as provided by Tennessee Code Annotated, Sections 6-1101 through 6-1141 and 6-1201 through 6-1235.

17. To assess against abutting property within the corporate limits the cost of planting shade trees, removing from the sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish; street lighting, street sweeping, street sprinkling, street flushing and street oiling; the cleaning and rendering sanitary or removal, abolishing, and prohibiting of outside closets and privies, in such manner as may be provided by general law or by ordinance of the Board of City Commissioners of the City of Gatlinburg.

18. 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.

19. To collect and dispose of drainage, sewage, offal, ashes, garbage and refuse by discharging same into sewer lines or designated garbage dumps or to license and regulate such collection and disposal.

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

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

22. To define, prohibit, abate, suppress, prevent, and regulate all acts, prices, 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 of Gatlinburg and to exercise general police powers.

23. To prescribe limits within which business occupation 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.

24. 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.

25. To establish, regulate, license, and inspect weights and measures.

26. 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 conditions 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; establish aesthetic and/or environmental regulations, controls, and standards.

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

28. 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 City ordinances and laws who fail to secure the fine and costs imposed upon him, or to contract with the County to keep said person 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.

29. To enforce any ordinance, rule, or regulations, by means of fines, forfeitures, penalties, and imprisonment or by action or proceedings in any court of competent jurisdiction or by any one or more of such means and to impose cost as a part thereof, but no fine, forfeiture, or penalty shall exceed five hundred dollars (\$500.00), and no imprisonment shall exceed thirty (30) days.

30. To establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation, to purchase or otherwise acquire land for school houses, play grounds 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 of Gatlinburg.

31. 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.

32. To call and take all steps necessary to provide for the holding of all special municipal elections, as hereinbefore provided.

33. 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. The enumerations of particular powers in this Charter is not exclusive of others, nor restricted of general words or phrases granting powers, nor shall a grant or failure to grant

powers in this article impair a power granted in any other part of this Charter and whether powers, objects, or purposes are expressed, conjunctively or disjunctively, they shall be construed so as to permit the City to exercise freely any one or more such powers as to any one or more such objects for any one or more such purposes.

34. To regulate, prevent, or prohibit the use of neon signs when the same is determined essential to the public welfare and public safety by the Board of Commissioners; to authorize, regulate, provide for and restrict or prevent the use of lighted signs when the same is determined essential to the public welfare and public safety by the Board of Commissioners; to provide for and regulate the sizes and the placing of lighted signs when the same is determined essential to the public welfare and public safety by the Board of Commissioners; to do such other acts in the regulation, prevention or prohibition of outdoor signs when the same is determined essential to the public welfare and public safety by the Board of Commissioners.

(35)

(A) To authorize the City to have and operate a program of inspection of overnight tourist accommodations including but not limited to chalets and cabins which are not otherwise inspected by the state of Tennessee for safety issues such as compliance with fire codes and other life safety issues. The City is authorized to impose a tourist residency fee upon the owners of such accommodations to defer the cost of the program of inspection which shall be established by ordinance.

(B) The fee imposed pursuant to subdivision (A) by the City shall be in addition to all other taxes levied or fees imposed or authorized to be levied or imposed whether in the form of excise, license, or privilege taxes. [As amended by Priv. Acts 1949, ch. 811, § 1(b), (c), (d); Priv. Acts 1951, ch. 612, § 1(a); Priv. Acts 1955, ch. 21, § 1(b); Priv. Acts 1955, ch. 328, § 1; Priv. Acts 1961, ch. 50, § 1; Priv. Acts 1977, ch. 150, § 2; Priv. Acts 1989, ch. 19; Priv. Acts 1992, ch. 232, § 1; and Priv. Acts 2004, ch. 132]

### **Board of Commissioners**

SECTION 5. Be it further enacted, That the Commissioners, at the first regular meeting of the month of June, shall elect one of their number Mayor for a term of one year, and thus organized the body shall be known as the Board of Commissioners of the City of Gatlinburg. The Board of Commissioners, on behalf of the City, is hereby authorized to enter into a contract for the services of a city manager for any duration they deem advisable.

Except as elsewhere herein provided, any person who is a bona fide resident of the city and has been a resident for a period of twelve (12) months prior to qualifying for election, shall be eligible for election to the office of commissioner. No person shall be eligible to be commissioner if he holds any other elective office.

No person shall become Commissioner who shall have been convicted of malfeasance in office, bribery, or other corrupt practice, or crime, or of violating any of the provisions of Tennessee Code Annotated, Section 6-2009, in reference to elections, and if any Commissioner shall be so convicted he shall forfeit his office.

The mayor and each commissioner may be compensated, if the commission so determines by ordinance.

The Legislative and all other powers except as otherwise provided by this Charter are delegated to and vested in the Board of Commissioners; and the Board of Commissioners may by ordinance or resolution not inconsistent with this Charter prescribe the manner in which any powers of the City of Gatlinburg shall be exercised, provided all means necessary or proper therefor, and do all things needful within or without the City or State to protect the rights of the City of Gatlinburg.

The Board of Commissioners of the City of Gatlinburg shall exercise its powers in session duly assembled, and no member or group of members thereof shall exercise or attempt to exercise the powers conferred upon the Board of Commissioners except through proceedings adopted at some regular or special session, at which time a record of the proceedings is duly recorded upon the minutes.

The Board of Commissioners shall by ordinance fix the time and place at which the regular meetings of said Board shall be held, and until otherwise provided by ordinance, the regular meetings of said board shall be held at seven o'clock, p.m., of each Monday.

The Board of Commissioners may hold an adjourned meeting of a regular meeting on any day and hour it may fix. At an adjourned meeting of a regular meeting said Board may transact any and all business that it might transact at a regular meeting.

Whenever, in the opinion of the Mayor or City Manager, or of any two Commissioners, the welfare of the City requires it, the Mayor or the Recorder shall call, and it shall be their respective duties to do so, special meetings of the Board of Commissioners upon at least twelve hour written notice to each

Commissioner, the City Manager and Recorder, served personally or left at his usual place of residence. Each call for a special meeting shall set forth the objective or objectives thereof and the business of such meeting shall be restricted to the objectives so stated.

The Mayor shall preside at all meetings of the Board of Commissioners.

Any vacancy in said Board shall be filled for the unexpired term by appointment by the remaining members thereof, provided, however, that no member shall be appointed under this Section at any time when said Board already has one member so appointed, but in case of any additional vacancy the said Board shall forthwith, by ordinance or resolution call an election for the purpose of filling such additional vacancy; which shall be filled for the unexpired term only. The candidate, or if more than one vacancy is to be filled by said special election, the candidates receiving the highest number of votes in such special election in the number of the vacancies to be filled thereby, shall be declared elected and shall take office on the first Tuesday following the day of the election.

At the first regular meeting of the month of June of each year, the board shall choose from its membership a member to serve as vice-mayor for a term of one (1) year to act in the absence, inability or failure to act of the mayor.

Such member shall act as Mayor during any temporary absence, inability, or failure to act of the Mayor, and whenever a vacancy occurs in the Office of Mayor such member shall become Mayor and hold office as such for the unexpired term.

A majority of all the members of said Board 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 Board may provide by ordinance.

Said Board may determine rules of its proceedings, subject to this Charter, and may arrest and punish by fine or imprisonment, or both, any member or other person guilty of disorderly or contemptuous behavior in its presence. It shall have power and may delegate it to any committee, to subpoena witnesses, and order the production of books and papers relating to any subject within its jurisdiction; to call upon its officers of the Chief of Police to execute its process, and to arrest and punish by fine or imprisonment or both any person refusing to obey subpoena or order. No fine for any one offense under this Section shall exceed five hundred dollars (\$500.00), but each day's continuance in any refusal as aforesaid shall be a separate offense. 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 all questions shall be entered thereon by the Recorder and shall be kept as official records of the City of Gatlinburg.

All sessions of the Board of Commissioners shall be public and shall be subject to change of plan in case of emergency.

The Mayor or any Commissioner may be removed by recall when a recall election is demanded by a petition signed by such number of legally qualified voters of the city as equals one-third (1/3) of the registered voters of the City of Gatlinburg, Tennessee. The petition shall contain the personal signatures of legally qualified voters of the city, which need not be appended to one (1) paper, but each signer shall add opposite his signature his place of residence. One (1) of the signers of each such paper shall make oath before an officer authorized to administer oaths that each signature contained on such paper is the genuine signature of the person whose signature it purports to be.

When presented with such a petition for recall, the Board of Commissioners shall cause it to be certified as meeting the requirements hereof by the Board of Election Commissioners of Sevier County and shall set a date for the election no sooner than forty-five (45) days and no later than sixty (60) days from the date of its receipt. The question may be placed on the ballot of any other previously scheduled or called regular, general or special election which falls within this time frame. A majority of the votes being cast for recall shall cause immediate removal and all power, status and authority shall cease without further action. The vacancy shall be filled as provided for elsewhere herein.

The Mayor or any Commissioner or any employee may be removed from office by the Board of Commissioners for crime or misdemeanor in office, for grave misconduct showing unfitness for public duty or for permanent disability, by a majority vote of the other members of the Board of Commissioners voting for 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. The hearing shall be public and the accused shall have the right to appear and defend in person or by counsel and have process of the Board to compel the attendance of witnesses in his behalf. Such vote shall be determined by the yeas and nays, and the names of the members voting for or against such removal shall be entered in the journal by the Recorder. Immediately upon the vote for removal the term of the accused shall expire and his official status, power and authority shall cease without further action. Anyone removed under the provisions of this paragraph shall have the right to have said removal reviewed by writ of statutory certiorari in accordance with the provisions of Tennessee Code Annotated, Sections 27-901 to 27-902 and

27-904 to 27-913. [As amended by Priv. Acts 1949, ch. 811, § 1(e), (f), (g), (h), (i), (j); Priv. Acts 1965, ch. 42, § 1(c); Priv. Acts 1977, ch. 150, § 3; Priv. Acts 1984, ch. 245; Priv. Acts 1990, ch. 131, §§ 1, 3, 4, and 5; Priv. Acts 1991, ch. 86, §§ 1 and 2; and Priv. Acts 1992, ch. 232, § 2]

### Ordinances

SECTION 6. Be it further enacted, That the affirmative vote of a majority of members elected to the Board of Commissioners shall be necessary to adopt any ordinance or resolution. The vote upon the passage of all ordinances and for the adoption of such resolutions as the Board by its rules shall prescribe, shall be taken by yeas and nays and entered upon the minutes. Each and every ordinance or resolution passed by the Board shall be signed by the presiding officer or two members and filed with the Recorder who shall also sign same and record same in a book to be kept for that purpose.

Each proposed ordinance or resolution shall be introduced in written or printed form and shall not contain more than one subject, which shall be clearly stated in the title; but the general appropriation ordinance may contain the various subjects and accounts for which money is to be appropriated. The enacting clause of all ordinances passed by the Board shall be: 'Be It Ordained by the City of Gatlinburg'. All ordinances shall conclude with the provision that 'This ordinance shall take effect fifteen days from and after its passage, the public welfare requiring it'; provided that the closing of an emergency ordinance shall read: 'This ordinance shall take effect from and after its passage, the public welfare requiring it.'

No ordinance, unless it be an emergency measure, shall be passed until it has been read at two (2) regular meetings not less than two (2) weeks apart; provided, however, that if any ordinance is amended on the second reading, a third reading of that ordinance shall be required prior to adoption and final passage.

All ordinances passed by the Board shall be in effect from and after fifteen days from the date of final passage, except that the Board may, by an affirmative vote of four of its members, pass, upon one reading, emergency ordinances to take effect at the time of passage.

To meet a public emergency affecting life, health, public peace or property, the Board may adopt one or more emergency ordinances. An emergency ordinance may not be enacted to make a grant, to levy taxes, renew or extend a franchise or regulate the rates to be charged by any public utility. An emergency ordinance may be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an

emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance shall become effective immediately upon its adoption or at such other time as designated within the ordinance itself. Every emergency ordinance shall automatically stand repealed as of the sixty-first day following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the form of a regular ordinance; however emergency ordinances which appropriate emergency or supplemental appropriations, or transfer of funds shall not be repealed but shall continue in full force and effect unless specifically repealed by an additional ordinance.

Every ordinance of a general or permanent nature shall be published once within ten days after its final passage; provided that if it appears to the Board that a newspaper publication is unnecessarily expensive and unjustified in any particular case, such other means of securing due publicity may be resorted to in lieu of newspaper publication as the Board by informal resolution may designate.

The publication of ordinances, as well as other publications mentioned in this Charter, shall be made in a newspaper of general circulation in the City and County in body type of the paper and under headlines in twelve point type. [As replaced by Priv. Acts 1949, ch. 811, § 1(k), and amended by Priv. Acts 1977, ch. 150, § 4]

### Mayor

SECTION 7. Be it further enacted, That the Mayor shall preside at all meetings of the Board of Commissioners and perform such other duties consistent with his office as may be imposed by it and he shall have a seat, a voice, and a vote, but no veto.

The Mayor, or the Commissioner designated under Section 5, hereof, to act for him, shall sign the Journal of the Board and all ordinances and formal resolutions on their final passage, and execute all deeds, bonds and contracts made in the name of the City.

The Mayor shall have power and it is hereby made his duty to perform all acts that may be required of him by any ordinance duly enacted by the Board of Commissioners, not in conflict with any of the provisions of this Charter.

All legal process against the city shall be served upon the mayor, recorder or city attorney. [As amended by Priv. Acts 1949, ch. 811, § 1(l), and Priv. Acts 1977, ch. 150, § 5]

### **Officers and Employees**

SECTION 8. Be it further enacted, That the Board of Commissioners shall appoint and fix the salary of the City Manager, who shall serve at the will of the Board of Commissioners, provided, however, that he may not be removed within twelve months from the date on which he assumed his duty, except for incompetence, malfeasance, misfeasance, or neglect of duty. In case of his removal within said period, he may demand written charges and a public hearing thereon before the Board of Commissioners prior to the date on which his final removal shall take effect; but the decision and action of the Board on such hearing shall be final, and pending such hearing the Board may suspend him from duty.

The Board of Commissioners shall fix or approve the salary or compensation to be paid to the City Manager, the heads of the various administrative departments, the members of the various boards and commissions and the city attorney or attorneys. The salary or compensation to be paid to all other officers, agents and employer as shall be fixed and approved by the City Manager within the limits of the annual appropriations for each of the departments. The Recorder, Chief of Police, City Attorney, and all other officers, agents, and employees shall be appointed by the City Manager and removed by him at any time.

Every officer, agent and employee holding a position upon an annual salary shall, before entering upon his duty, take and subscribe and file with the Recorder, an oath or affirmation that he has all the qualifications named in this Charter for the office or employment he is about to assume, that he will support the Constitutions of the United States and of the State of Tennessee and the Charter and Ordinances of the City of Gatlinburg, and that he will faithfully discharge the duties of his office of employment.

The City Manager and every officer, agent, and employees having duties embracing the receipt, disbursements, custody or handling of money shall, before entering upon his duty, execute a fidelity 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 of the Board of Commissioners except where the amount is prescribed in this Charter. All such bonds and sureties thereto shall be subject to the approval of the Board of Commissioners. The cost of making said bonds shall be paid by the City of Gatlinburg.

If at any time, it appears to the Mayor, City Manager, or Recorder that the surety or sureties on any official bond are insufficient, the officer or employee shall be required to give additional bond, and if such officer or

employee fails to give additional bond within twenty days after he shall have been notified, his office shall be vacant. [As amended by Priv. Acts 1949, ch. 811, § 1(m), and Priv. Acts 1977, ch. 150, § 6]

### City Manager

SECTION 9. Be it further enacted, That in addition to all other powers conferred upon the City Manager, he shall be the administrative head of the municipal government under the direction and supervision of the Board of Commissioners; and he shall be appointed without regard to his political beliefs and need not be a resident of the City or State at the time of his appointment.

During the absence or disability of the City Manager, the Board of Commissioners may designate some properly qualified person to perform the functions of the City Manager.

The City Manager shall not be required to give his entire time to the affairs of the City, unless the City Commission, when employing the City Manager, make his employment conditional upon his devoting his entire time to the interest of the City of Gatlinburg.

The powers and duties of the City Manager shall be:

1. To see that the laws and ordinances are enforced, and upon knowledge or information of any violation thereof, to see that prosecutions are instituted in the City Court.

2. Except as in this Charter provided, to appoint and remove all heads of departments and all subordinate officers and employees, all appointments to be made upon merit and fitness alone.

3. To supervise and control the work of the Recorder, Chief of Police, the City Attorney, Treasurer, and all other officers, and of all departments and divisions created by this Charter or which hereafter may be created by the Board of Commissioners.

4. To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility or franchise are faithfully done, kept and performed, and, upon knowledge, or information of any violation thereof, to call the same to the attention of the City Attorney, who is hereby required to take such steps as are necessary to enforce the same.

5. To attend all meetings of the Board of Commissioners, with the right to take part in the discussions, but not vote.

6. To recommend to the Board of Commissioners for adoption such measures as he may deem necessary or expedient.

7. To act as Budget Commissioner and to keep the Board of Commissioners fully advised as to the financial condition and need of the City.

8. To act as purchasing agent for the City in accordance with the provisions hereinafter contained.

He shall, in the manner provided by ordinance, purchase supplies for the City, sell all real and personal property not needed, or unsuitable for public use, or that may have been condemned as useless by the Board of Commissioners. He shall have charge of such store rooms and storage spaces as may be provided by ordinance in which shall be stored all materials purchased by the City and not delivered directly to the various departments; and he shall cause to be inspected all supplies delivered to determine quality and quantity and conformity with specifications, and no voucher for supplies or materials shall be honored by the Treasurer unless approved by the City Manager.

The City Manager shall require from the head of each department at such times as contracts for supplies are to be let, a requisition for the quantity and kind of supplies to be paid for from the appropriation of that department.

Upon the certification that funds are available in the proper appropriation, such goods shall be purchased and shall be paid for from funds in the proper department for that purpose. However, this procedure shall not prejudice the City Manager from purchasing supplies to the credit of the stores account to be furnished the several departments on requisition, goods so furnished to be paid for by the department furnished therewith by warrant made payable to the credit of the stores account. However, no supplies shall be furnished to any department unless there be to the credit of such department an available appropriation balance in excess of all unpaid obligations, sufficient to pay for such supplies.

Before making any purchase or sale, the city manager shall give opportunity for competition by advertising under such rules and regulations as the board of commissioners may establish by ordinance.

In case of emergency, purchases may be made without competition if a sufficient appropriation has theretofore been made against which such purchases may lawfully be charged. In such cases a copy of the order issued shall be filed with the City Manager by the head of the department stating the facts of the emergency. A copy of this certificate shall be filed with the voucher covering the payment for the supplies. The Board of Commissioners, by

ordinance, may limit the amount that may be expended under this emergency provision.

The City Manager, by ordinance, may be authorized and directed to hold and perform the duties of two or more of the appointive offices except that of City Treasurer.

The City Manager shall perform such other duties consistent with the office as may be prescribed by this Charter or required of him by ordinance. [As amended by Priv. Acts 1949, ch. 811, § 1(n), and Priv. Acts 1977, ch. 150, § 7]

### **Recorder's Duties as Judge**

SECTION 10. Be it further enacted, That there is hereby created a Municipal Court for the City of Gatlinburg to be presided over by the Recorder as trial magistrate. The Recorder is hereby authorized and empowered to promulgate rules and regulations for the government of the Municipal Court, subject to the written approval of the City Manager, to fix the times at which said Court shall meet, and to prescribe the times at which all persons within the jurisdiction of said Court are to have their cases set for trial. Pending the establishment and designation by the Board of Commissioners of a regular Municipal Courtroom, said Municipal Court may be held at such place or places as are approved in writing for such purpose by the City Manager.

The Recorder, as trial magistrate, shall have exclusive jurisdiction in all cases involving violations of any of the laws and ordinances of the City of Gatlinburg, except where such jurisdiction is inconsistent with the juvenile laws of the State.

The Recorder shall have power and authority to impose fines, costs, and forfeitures, and to punish by fine or imprisonment or both for violation of City Ordinances and laws of the State of Tennessee; to preserve and enforce order in his Court; to enforce the collection of all such fines, costs, and forfeitures imposed by him, and, in default of the payment, or of good and sufficient security given for the payment of such fines, costs or forfeitures, imposed by him, he shall have the power, and it shall be his duty, to commit the offender to the workhouse or other place provided for such purpose, and to such labor as may be provided by ordinance until such fines, costs, or forfeitures shall be fully paid, at the rate of a day's imprisonment for each one (\$1.00) dollar of such fines, costs, or forfeitures; provided that no such imprisonment shall exceed thirty days for any one offense, and provided further, that no fine shall exceed five hundred dollars (\$500.00), and that fines may be paid in installments in such manner as may be provided by ordinance. The Recorder may remit with

or without conditions, fines and costs imposed for violations of any ordinance or charter provision, or laws of the State of Tennessee.

The Recorder, when acting as such, shall have jurisdiction concurrent with that of a Justice of the Peace, in law and equity.

Any person dissatisfied with the judgment of the Recorder in any case or cases heard and determined by the Recorder, may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next Circuit Court of Sevier County, upon giving bond with good and sufficient security as approved by the Recorder for his appearance or the faithful prosecution of the appeal, provided, however, that in prosecutions for violations of the City Ordinances the bond shall not exceed Two Hundred Fifty (\$250.00) Dollars. In all State cases the Recorder, when acting as Ex-Officio Justice of the Peace, shall be governed by the laws governing procedure as defined in the laws for Justice of the Peace.

Only one warrant shall issue for the same offense, said warrant to embrace all the parties charged with the same offense. No arrest shall be made except upon a warrant duly issued, unless the offense is committed in the presence of the officer making the arrest, or unless in case of felony. The affidavit upon which the warrant is issued shall especially state the offense charged.

All fines imposed by the Recorder for violation of City ordinances shall belong to and be paid into the Treasury of the City of Gatlinburg.

The Recorder in all cases heard or determined by him for offenses against the corporate laws and ordinances shall tax in the bill of costs the same amounts and for the same items allowed in the Courts of Justices of the Peace for similar work in State cases, and in addition shall add thereto the sum of One (\$1.00) Dollar , as a tax on the same. He shall certify to the Chief of Police for collection, all fines, costs, and forfeitures imposed by him for offenses against the laws and ordinances of the City. Costs in favor of any person paid a fixed salary by the City of Gatlinburg shall belong to the City of Gatlinburg and shall be paid into the Treasury thereof. It shall be the duty of the Recorder to collect and receipt for all fines imposed by him and he shall render a monthly report to the Board of Commissioners of all costs and fines collected and of all assessed and uncollected.

It shall be unlawful for any other person or officer to collect or receipt for said fines, costs, and recoveries, but the said Recorder may authorize the Chief of Police to collect and receipt for fines and costs, provided that the order is in writing.



The Recorder shall keep or cause to be kept a Court Docket or Dockets embodying complete detailed records in all cases handled by him.

The City Manager, if acting as Recorder as provided for in Section 12, may appoint, subject to confirmation by the Board of Commissioners, a Deputy Recorder to act as trial magistrate of the Municipal Court for an indefinite term at the pleasure of the City Manager. Upon the confirmation of such appointee and upon his taking and subscribing the oath of office provided for other City Officials, the Deputy Recorder shall be vested and constituted with all the powers and duties in this section given to and imposed upon the Recorder and the Recorder shall thereafter be relieved thereof. The Deputy Recorder shall give such bond and be paid such salary or fees as the Board of Commissioners shall determine and fix by ordinance.

The Board of Commissioners may provide, if they see fit, for a City Workhouse, or said Board may provide by contract for the handling of City Workhouse prisoners by Sevier County in the County Workhouse, and all persons may be confined in such workhouse who fail or refuse to pay the judgment, penalties, fines or forfeitures imposed by the Municipal Court. [As amended by Priv. Acts 1949, ch. 811, § 1(o), (p), (q); Priv. Acts 1977, ch. 150, § 8; and Priv. Acts 1992, ch. 232, § 3]

### **City Attorney**

SECTION 11. Be it further enacted, That the City Attorney shall be an Attorney-at-Law entitled to practice in the Courts of the State of Tennessee.

The City Attorney shall direct the management of all litigation in which the City is a party, including the functions of Prosecuting Attorney in the City Court, representing the City in all legal matters and proceedings in which the City is a party or interested, or in which any of its officers are officially interested, advise the Board of Commissioners 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. [As amended by Priv. Acts 1949, ch. 811, § 1(r)]

### **City Recorder and Finance Director**

SECTION 12. Be it further enacted, That the City Manager shall appoint a Recorder. He may appoint himself as Recorder.

The City Manager shall appoint the head of the Department of Finance and Taxation who shall be designated the Finance Director. The City Manager may appoint himself, the Recorder or the City Treasurer as Finance Director. However, where any person holds more than one of said positions, including the City Manager if acting as Recorder or Finance Director, as herein provided, he shall be entitled to receive only one salary which shall be deemed to be compensation for all services performed. The Finance Director and City Treasurer shall give such bonds to the City, but for not less than \$5,000.00, as may be provided by ordinance. The Finance Director shall have a seat and a voice but no vote in the Board of Commissioners. He shall have full authority to conduct any investigation deemed necessary to the affairs of his office and for that purpose may summons witnesses in the name of the City and administer oaths.

The City Manager shall appoint a City Treasurer. He may appoint the Recorder or Finance Director as Treasurer but may not appoint himself. It shall be the duty of the Treasurer, under the supervision of the Finance Director, except as otherwise provided, to receive, be custodian of and disburse all funds belonging to the City and all funds handled by City officials as agents or trustees in pursuance of such laws, ordinances or regulations as may be prescribed by the authorities having lawful control over such funds. He shall deposit any monies belonging to the City as hereinafter provided.

It shall be the duty of the Recorder to be present at all meetings of the Board of Commissioners, and to keep a full and accurate record of all business transacted by the Board, the same to be kept and properly preserved in a permanent book which shall be known as the minutes of the proceedings of the Board of Commissioners of the City of Gatlinburg.

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

The Recorder shall provide, and when required by any officer or person, certify copies of records, papers and documents in his 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 Board of Commissioners, and keep in his office for distribution.

The Finance Director, as the head of the Department of Finance and Taxation, 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. He shall be the General Accountant and Auditor of the City; he shall have custody of all records, papers, and vouchers relating to the fiscal affairs of the City, and the records in his office shall show the financial operations and condition, property, assets, claims and liabilities of the City, all expenditures authorized and all contracts in which the City is interested. He shall require proper fiscal accounts, records, settlements, and reports to be kept, made and rendered to him by the several officials of the City including all deputies or employees of his department charged with the collection or expenditures of money, and shall control and audit the same. He shall, at least monthly, adjust the settlements of officers engaged in the collection of revenue.

The Finance Director with the approval of the City Manager, shall cause an efficient system of accounting for the City to be installed and maintained.

Except as by this Charter or by law or ordinance otherwise provided, the Finance Director shall prescribe and regulate the manner of paying creditors, officers, and employees of the City. He shall audit all payrolls, accounts and claims against the City and certify thereon the balance as stated by him, but no payroll, account, or claim, or any part thereof, shall be audited against the City or paid unless authorized by law or ordinance and approved and certified by the City Manager, and the head of the department for which the indebtedness was incurred, and the amount required for payment of the same appropriated for that purpose by ordinance and in the Treasury. Whenever any claim shall be presented to the Finance Director, he shall have power to require evidence that the amount claimed is justly due, and is in conformity to law and ordinance, and for that purpose he may summons before him any officer, agent, or employee of any department of the City, or any other person, and examine him upon oath relative thereto. The City Manager, Finance Director and head of any department concerned, and their sureties, shall be liable to the City for all loss or damages sustained by the City for reason of the corrupt approval of any claim against the City of Gatlinburg.

No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution, or order for the expenditure of money be passed by the Board of Commissioners or be authorized by any officer of the City, unless the Finance Director shall first certify to the Board of Commissioners or the proper officer, as the case may be, that the money required for such contract, agreement, obligation, or expenditure, is in the treasury, or safely assured to be forthcoming and available in time to comply with, or meet such contract, agreement, obligation, or expenditures, and no

contract, agreement or other obligation involving the expenditures of money payable from the proceeds of bonds of the City, shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this Charter in reference to City bonds.

The Treasurer shall be custodian of all the sinking funds established for retiring bonds of the City to be managed in accordance with the provisions of this Charter and the laws governing such sinking funds.

Depositories of the City funds shall be designated by ordinance which ordinance shall in every case require the depository, before being given custody of any City funds, to furnish adequate security to protect the interest of the City or State in an amount equal to the deposit, and security to be approved by the Board of Commissioners.

The Finance Director shall also perform any other duties imposed upon him by this Charter or by ordinance.

Provided further, that nothing herein shall be construed to mean that the City Manager, cannot hold two or more of the appointive offices, except the City Treasurer. [As amended by Priv. Acts 1949, ch. 811, § 1(s), (t), (u), (v)]

### **Taxation and Revenue**

SECTION 13. Be it further enacted, That the assessment, and collection of taxes and special assessments shall be in charge of the Department of Finance, subject to the limitations elsewhere found in this Charter.

All property, real, personal and mixed subject to State, County and City taxes, and all privileges taxable by law, shall be taxed and the taxes thereon collected by the City for municipal purposes as hereinafter provided.

As soon as practicable in each year after the assessment books for the State and County are complete, which shall be after the Equalization Board provided for by general law shall have finished their work, it shall be the duty of the Finance Director to prepare or cause to be prepared from the assessment books of the County and of the Public Service Commission, a tax book similar in form to that required by laws of the State to be made out for the County Trustee, embracing, however, only such property and persons as are liable for taxes within the City. Such tax books, when certified to be true, correct, and complete by the Finance Director, shall be the assessment for taxes in said City for all municipal purposes for the fiscal year beginning on the ensuing July 1st; provided, that there may be an assessment by the Finance Director at any time, of the property subject to taxation found to have been omitted, and such

assessment shall be duly noted and entered on the assessment book of the City; and further provided, that, instead of the assessment made by the County and State Officials as herein provided, the City of Gatlinburg may, by ordinance insofar as not prohibited by general laws, provided for and regulate an assessment to be made by its own Tax Assessor.

The Board of Commissioners shall have the power by ordinance to levy and collect a poll tax to be used for school purposes not exceeding in amount the poll tax levied by the State.

It shall be the duty of the Finance Director, in each year, as soon as the assessment roll for the City is complete, to submit to the Board of Commissioners a certified statement of the total amount of the valuation or assessment of the taxable property for the year within the City limits including the assessment of all public utilities, together with a certified statement of the revenue derived by the City from privileges, taxes, merchants, ad valorem taxes, fines for the preceding year, and miscellaneous revenue. Upon the presentment of such statement by the Finance Director, the Board of Commissioners shall proceed by ordinance to make the proper levy to meet the expense of the City for the current fiscal year, provided, that the City Manager shall have submitted his budget as hereinafter provided.

It shall be the duty of the Finance Director immediately after the levy of taxes by the Board of Commissioners, to cause the said levy to be extended upon said tax book prepared by the Finance Director in the same manner that extensions are made upon the tax book in the hands of the County Trustee.

All taxes due the City, except privileges and merchants ad valorem taxes, shall, until otherwise provided by ordinance, be due and payable on the first day of November of the year for which the taxes are assessed.

Distress warrants may issue for the collection of taxes and any such distress warrants shall be executed by the Chief of Police or any policemen of the City by a levy upon, and sale of goods and chattels upon the same provision as prescribed by law for the execution of such process of Justices of the Peace.

All City taxes on real estate in the City, and all penalties and costs accruing thereon, are hereby declared to be a lien on said realty from and after the tenth day of January of the year for which same are assessed, superior to all other liens except the liens of the United States, State of Tennessee and Sevier County, for taxes legally assessed thereon, with which it shall be a lien of equal dignity. No assessment shall be invalid because the size and dimensions of any tract, lot or parcel of land shall not have been precisely named or the amount of the valuation or tax not correctly given, nor because the property has been

assessed in the name of a person who did not own the same, nor because the same was assessed to unknown owners, nor on account of any objection or informality merely technical, but all such assessments shall be good and valid. The Board of Commissioners shall have power to correct any errors in the tax assessment upon a certificate filed by the Assessor, Finance Director or assessing body, provided, however, the Board of Commissioners does not have the authority or power to remit taxes when properly and legally assessed.

On the first day of December on the year for which the taxes are assessed, or other date provided by ordinance, a penalty of two (2%) per centum upon all taxes remaining unpaid shall be imposed and collected by the City and paid into the City Treasury. An additional penalty of two (2%) per centum shall be added for each month that the said amount of taxes are unpaid thereafter for twelve (12) months. If any taxpayer elects to pay his taxes prior to October 1st, he shall be entitled to a discount of two (2%) per centum from the amount assessed against him.

The Board of Commissioners, may, by ordinance passed by unanimous vote, change the due date and delinquent date of all taxes, and may provide for the semi-annual payment of taxes and a discount for the prompt payment thereof.

On April 1, next succeeding the date on which city taxes on realty and personalty become due, the Finance Director shall certify to the City Attorney a list of all such taxes which are due and unpaid. It shall be the duty of the City Attorney to file suit in the Chancery Court of Sevier County in the name of the City of Gatlinburg, to enforce collection of said delinquent taxes within one year from the date of the delinquency thereof. The lien of such taxes shall be enforced as other liens are enforced, by suits in equity, and in such suits there may be included any number of distinct pieces, or tracts, of land, the owners thereof being made defendants to the bill, and such suits shall not be subject to objections for misjoinder by reason of the distinct interests which the several defendants have in the property proceeded against. When delinquent taxes have been certified to the City Attorney for collection, as herein provided for, whether or not suit to enforce the lien has been brought, a further sum of five (5%) per cent of the amount of such delinquent tax, including penalty, shall be added thereto, which 5% may be allowed to the City Attorney, or his special assistant, appointed for that purpose, as a fee; provided, however, that the Board of Commissioners, by ordinance, may provide a different basis of compensation for the collection of delinquent taxes.

The Board of Commissioners shall have the power, and they are hereby given authority, to file bills in Chancery Court in the name of the City of Gatlinburg for the collection of assessments and levies made for the payment for

improvements or service in said City, such as paving, sidewalks, curbing, guttering, sewers and other improvements which constitute a lien on abutting property, the suits commenced by said bills to be conducted as other suits in Chancery for the enforcement of like liens and under the rules of law and practice provided for the same; provided, that the bills shall not be objectionable because the owners of different parcels or lots of land are made parties thereto, it being the intention that all persons in the same improvement district, or liable for portions of the same assessment and levy for improving a portion of the City as aforesaid, and on whose property said assessment or levy is a lien shall be made parties defendant to one bill.

License taxes may be imposed by ordinance upon any of and all privileges, businesses, occupations, vocations, pursuits, or callings, or any class or classes thereof, now or hereafter subject to such taxation under the laws of the State of Tennessee; and a separate license tax may be imposed for each place of business conducted or maintained by the same person, firm or corporation.

The Finance Director shall be custodian of the city tax books and shall collect and enforce the collection of taxes of all kinds due the City and for this purpose shall have and exercise the powers by law vested in, and following the procedure and methods prescribed for, County Court Clerks. [As amended by Priv. Acts 1949, ch. 811, § 1(w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee); Priv. Acts 1951, ch. 612, § 1(b), (c); Priv. Acts 1955, ch. 21, § 1(a); and Priv. Acts 1977, ch. 150, § 9]

### City Bonds Generally

SECTION 14. Be it further enacted, That the Board of Commissioners may cause the bonds and other obligations of the City to be issued in the following manner and subject to the following restrictions:

(1) The bonds of the City may be issued for the acquisition, construction, improvement, extension and/or repair of any public improvement. There may be included as part of the cost of such improvement all engineering, legal and other expenses incidental to the making of the improvement and issuance of the bonds. Two or more improvements may be combined as a single improvement for the purpose of the issuance of bonds. The cost of necessary equipment and furnishings for any improvement or improvements may be included as part of the cost of the improvement.

(2) Except as hereinafter provided, no bonds may be issued hereunder until they have been authorized by vote of a majority of the qualified electors of the City who vote on the proposition at a regular election or at a special election to be called by the Board of Commissioners. The resolution calling the election

shall state the purpose or purposes for which each bond issue is to be authorized, the amount or maximum amount of the bonds, the maximum number of years for which the bonds are to run, and the maximum rate of interest. Every resident of the City who is a qualified elector for general elections under the provisions of this Charter may vote at such elections.

More than one proposition may be submitted at the same election. The resolution of the Board of Commissioners calling the election shall request the Sevier County Election Commissioners to arrange for the holding of the election on the date specified in the resolution, and it shall be the duty of such Commissioners to comply fully therewith in accordance with the applicable law. The election shall thereupon be held, notice thereof given and the results thereof canvassed in the manner provided by the general law for the holding of elections under the supervision of the Election Commissioners. After the Board of Commissioners has received the official report of the outcome of the election from the Election Commissioners, the Board of Commissioners shall adopt a resolution in which there shall be contained a formal finding of the outcome of the election, which finding shall be conclusive.

(3) No bonds shall be issued under the provisions of this article which shall cause the total net bonded indebtedness of the City, after the deduction of all sinking funds on hand for the payment of principal, to exceed 10 percent of the assessed valuation of taxable property in the City as last completed and determined prior to the issuance of the bonds. In computing the bonded indebtedness of the City for the purpose of this paragraph, there shall be excluded:

(a) All bonds issued in anticipation of the collection of special assessments, whether or not such bonds constitute general obligations of the City;

(b) All bonds payable solely from the revenues derived by the City from the operation of any utility or utilities or other income-producing improvement or improvements;

(c) Bonds issued under authority of any general law of the State, as distinguished from bonds issued under sole authority of this Charter;

(d) Bonds, not to be outstanding at any time in an amount in excess of \$10,000.00, issued to provide funds to repair or replace any public building, work or structure of necessity that has been rendered unsuitable for use by fire, storm, explosion, earthquake, rupture or other accidental or fortuitous cause when found by the Board of Commissioners



(which finding shall be conclusive for all purposes) to be essential to the public safety, health or convenience;

(e) Bonds issued under the authority of Section 14A of this Act.

(4) The bonds which under the provisions of Paragraph (3) above are not to be included in the bonded debt limit of the City, may be authorized by the Board of Commissioners without the holding of the election hereinabove required for the authorization of bonds issued under authority of this section.

(5) No bonds issued hereunder may run for a longer period than forty (40) years nor bear interest at a greater rate than the legal rate of interest as provided in Tennessee Code Annotated, Section 47-14-104, nor be sold at a price which will cause the actual interest cost thereof to the City to exceed the legal rate of interest as provided in Tennessee Code Annotated, Section 47-14-104, when computed to maturity according to standard tables of bond values. The Board of Commissioners may, in its discretion, by appropriate provisions inserted in the proceedings and in the bonds, provide that any bonds shall be callable for redemption prior to maturity at the option of the City, on such terms and at such premium or premiums not in excess of 5 per cent as may be provided in such proceedings.

(6) Bonds issued hereunder shall be executed in the manner provided by the Board of Commissioners, and the delivery of any bonds or coupons executed as so provided may be made as any time after such execution, and shall be valid although before the date of delivery the person or persons signing such bonds or coupons shall have ceased to hold office. The Board of Commissioners may provide for the registration of bonds as to principal.

(7) All bonds of the City shall have all the qualities of negotiable paper under the law merchant, regardless of the source or sources of payment thereof, and shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof, and shall be incontestable in the hands of bona fide purchasers or holders thereof for value.

(8) All bonds of the City shall be exempt from all taxation in Tennessee, except inheritance, transfer and estate taxes.

(9) Bonds may be issued for the purpose of refunding not more than a like principal amount of any outstanding bonds of the City. Such refunding bonds may be issued without regard to the amount of bonded indebtedness of the City and without the holding of an election. Where the bonds refunded have become due, or become due or are called for redemption not more than six (6) months after the delivery of the refunding bonds, the refunding bonds may be

delivered and the proceeds thereof escrowed with the fiscal agent of the City for the payment of the bonds to be refunded in such manner as the Board of Commissioners may prescribe.

(10) All bonds issued under authority of this section, except refunding bonds delivered in exchange for the indebtedness refunded thereby, shall be sold by the Board of Commissioners at public sale, after such advertisement as may be prescribed by the Board of Commissioners.

(11) All bonds of the City, except where the bonds and the proceedings for the issuance thereof expressly provide that the bonds are to be payable solely from certain specified sources of revenue other than the proceeds of ad valorem taxes, are hereby made the full general obligations of the City of Gatlinburg for the punctual payment of the principal and interest on which the full faith, credit and resources of the City are hereby irrevocably pledged, and it shall be the duty of the Board of Commissioners annually to levy ad valorem taxes without limitation as to rate or amount on all taxable property in the City fully sufficient to assure the prompt payment of such principal and interest.

(12) The validity of bonds issued by the City shall not in any wise or to any extent be dependent on the regularity of the proceedings had by the Board of Commissioners in connection with the adoption of the annual appropriation ordinance.

(13) The Board of Commissioners may provide for the issuance of interim certificates or temporary bonds in anticipation of the ultimate delivery of any bonds of the City, after the resolution authorizing such bonds and fixing the details thereof has been adopted. The manner of the issuance and retirement of such interim certificates or temporary bonds shall be provided by resolution to be adopted by the Board of Commissioners.

(14) All bonds issued under authority of this section shall be authorized by resolution or resolutions to be adopted by the Board of Commissioners, and no proceedings therefor shall be necessary except as specifically required in this section. No publication of any resolution, proceeding or notice shall be necessary, except as specifically required in this section. Any such resolution may be finally adopted at any adjourned meeting held not earlier than four days after its introduction and first reading and shall take effect on passage.

(15) The Board of Commissioners in the resolution authorizing any bonds may provide that after the adoption of the resolution, there shall be published in a newspaper published in the City or County, a notice in substantially the following form:

**NOTICE**

On \_\_\_\_\_, 19\_\_\_, the Board of Commissioners of the City of Gatlinburg adopted a resolution authorizing the issuance of \$\_\_\_\_\_ bonds for the purpose of \_\_\_\_\_. For a period of twenty (20) days following the publication of this notice, any taxpayer or other interested person may file an appropriate suit or proceeding questioning the validity of the bonds so to be issued or the legality of the proceedings had in the authorization of such bonds. After the expiration of said twenty days, no one shall have any cause or right of action to contest the legality of said bonds or proceedings or the payment of such bonds in the manner provided in said proceedings.

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CITY RECORDER

If, pursuant to direction of the Board of Commissioners, such notice is published, no one shall have any cause or right of action, after the expiration of said twenty-day period, to contest the legality, formality or regularity of such proceedings or bonds for any cause whatsoever, the authority to issue the bonds, the legality thereof and of the taxes or other revenues necessary to pay the same shall be conclusively presumed, and no court shall have authority to inquire into such matters.

(16) The proceeds of the sale of bonds issued under the provisions of this section shall constitute a trust fund to be used exclusively for the purpose or purposes for which said bonds are authorized, but the purchaser of the bonds shall be under no obligation to see to the application thereof.

(17) Nothing contained in this Charter is intended or shall be construed to prohibit the issuance of bonds by the City of Gatlinburg under the provisions of any general law of Tennessee now or hereafter in effect, which under its term is broad enough to include the City of Gatlinburg within its scope, and it is hereby expressly provided that the City may issue bonds under the provisions of all such general laws without regard to any limitations or restrictions contained in this Charter. No proceedings for the issuance of such bonds shall be required other than those required by the general law under which the bonds are authorized, and no provision of any resolution, ordinance or notice, and no election or opportunity for referendum shall be required except as may be specifically required by the provisions of such general law.

SECTION 14A. The Board of Commissioners of the City of Gatlinburg, by resolution, may issue from time to time revenue bonds of the City, and bearing interest at not more than the legal rate of interest as provided in

Tennessee Code Annotated, Section 47-14-104, which interest shall be payable at the time of issuance of said bonds or thereafter, for the purpose of providing funds in anticipation of current revenues, and said Board of Commissioners may issue revenue refunding bonds, with like limitations as to interest, when deemed necessary to provide for the payment of any such revenue bonds or revenue refunding bonds at their maturity; no such revenue bonds or revenue refunding bonds shall mature later than the close of the fiscal year in which the same are issued, except that revenue bonds or revenue refunding bonds issued in the last three (3) months of any fiscal year may mature either in said fiscal year or at any time in the ensuing fiscal year; before the passage of any resolution authorizing revenue bonds, the City Manager shall submit to the Board of Commissioners a statement showing:

(a) The amount of uncollected taxes and revenues of the preceding fiscal year;

(b) The amount of uncollected taxes for the current fiscal year, if theretofore levied, but otherwise the amount of the tax levy for the preceding fiscal year, regardless of what part thereof shall have been collected;

(c) The estimated amount of uncollected revenue for the current fiscal year, excepting taxes;

(d) The amount of all taxes and revenues embraced in (a), (b) and (c) above which are for sinking fund for the payment of bonds maturing after the current fiscal year; and,

(e) The face value of all bonds, notes, judgments, decrees and other city obligations to pay money then outstanding or authorized which have no fixed time of payment, or which, by their terms, are payable within one year and three months from the date of their respective issuance. The substance of such statement of the City Manager shall be recited in said resolution, and no revenue bonds shall therein be authorized whose face value, together with the amount of item (e) above, shall exceed seventy-five (75%) per centum of the remainder obtained by subtracting item (d) from the sums of items (a), (b) and (c) above.

Such revenue bonds and revenue refunding bonds shall be sold by the Board of Commissioners upon such terms as it may elect, but shall not be sold at less than par value, except by a unanimous vote of all members of the Board of Commissioners, and then at a price of not less than \$99.00 on \$100.00, but said resolution may authorize the Finance Director to sell the bonds authorized by it at one time or from time to time, in his discretion, as he deems for the best

interest of the City, but any such authority to the Finance Director shall specify the maximum rate of interest and the minimum price for which they may be sold. The proceeds of revenue bonds shall be paid into the treasury of the City to the credit of any one or more of the funds for which the uncollected taxes and revenues anticipated are to be collected, in such amount and to such fund or funds as may be specified in such resolution, but the Board of Commissioners shall not appropriate any greater amount of such proceeds into any one fund than can reasonably be repaid therefrom to meet the payment of such bonds at their maturity; provided, however, that the validity of any such bonds shall not be affected by a failure of the Board of Commissioners to comply with the last mentioned direction. The proceeds of revenue refunding bonds shall be applied solely to the payment of the bonds for whose retirement they shall be issued. For the payment of City revenue bonds and revenue refunding bonds and the interest thereon, at such place or places in Tennessee or elsewhere and may be designated by the Board of Commissioners, the Board of Commissioners is hereby authorized to levy sufficient taxes upon all the taxable property within the City of Gatlinburg over and above all other taxes authorized or limited by law, and said bonds shall be the absolute, direct and general obligation of said City. In each year, at the time of the annual tax levy, there shall be included therein a tax for the payment of the principal and interest of any revenue bonds which have matured and remain unpaid and any revenue refunding bonds, whether matured or not. It shall be the duty of said City, after the authorization of any revenue or revenue refunding bonds, to reserve from the current revenues, as received, except revenues for sinking funds for bonds maturing after the current fiscal year, and revenues received for school and any special purpose, a sum sufficient to meet the payment of such bonds at maturity and the interest thereon. The issuance of any or all bonds authorized hereunder may be revoked by resolution of the Board of Commissioners, thereby reducing the amount of authorized bonds and pro tanto reducing the amount of current revenue which must be reserved for their payment. It shall not be necessary to submit such bonds, or the ordinance or resolution authorizing the same, to a vote of the electors or taxpayers, and the resolution authorizing the same may be finally adopted at any adjourned meeting of the Board of Commissioners held not earlier than four (4) days after its introduction and first reading, and shall be in force from and after its final passage. This section of the Charter of the City of Gatlinburg shall not be affected in any way by any other of the provisions of said Charter touching the issuance of bonds for any purpose or restricting or limiting the issuance thereof in any particular. [As amended by Priv. Acts 1947, ch. 668; replaced by Priv. Acts 1949, ch. 811, § 1(ff); and amended by Priv. Acts 1977, ch. 150, §§ 10, 11, and 12]

### **Budget and Appropriations**

SECTION 15. The fiscal year of the City, sometimes termed the tax year, shall begin on the first day of July and end on the 30th day of June of the succeeding year and may be designated the fiscal year of 19\_\_ (inserting the calendar year in which the fiscal year begins).

SECTION 15A. After the first of July and on or before the 20th of July in each fiscal year, the City Manager shall prepare and submit to the Board of Commissioners a budget estimate compiled from detailed information obtained from the various departments and boards, showing:

(a) His estimate of the amount necessary to be appropriated for the current fiscal year for the expense of conducting or operating each department, division, office or board, and the subdivisions of each.

(b) A similar statement for purposes of comparison, of expenses for two next preceding fiscal years; and

(c) The amount required for interest on the City's debt and for sinking funds and for bonds maturing during the fiscal year; and

(d) [RESERVED.]

(e) Items of payroll increases proposed or necessitated, either as additional pay to employees or as pay for additional employees; and

(f) [RESERVED.]

(g) An itemized estimate by the Finance Director of the revenue to be available during the current fiscal year, separating revenue from taxation from revenue from other sources, but such itemized estimate shall be subject to the following provisions:

(1) Such estimate of collections of current taxes shall not exceed an amount which represents the same percentage of the total tax levy as the percentage of taxes which were levied in the preceding fiscal year, and which were actually collected in cash during such preceding fiscal year;

(2) Such estimate of collections of delinquent taxes shall not exceed an amount which represents the same percentage of the of such taxes which were delinquent on the last day of the

preceding fiscal year as the percentage of delinquent taxes actually collected in cash during such preceding fiscal year;

(3) Such estimate of collections of special assessments shall exclude special assessments theretofore pledged and shall not exceed an amount which represents the same percentage of unpledged special assessments which remained unpaid on the last day of the preceding fiscal year as the percentage of special assessments actually collected in cash in such preceding fiscal year; and

(4) Such estimate of the collections from miscellaneous revenues from sources other than taxes and special assessments shall not exceed one hundred and ten per centum (110%) of the amount actually collected in cash in the preceding year from such miscellaneous revenues.

(h) The amount of outstanding indebtedness of the City, with a schedule of maturities thereof; and

(i) [RESERVED.]

(j) The rate of the tax to be levied, to which there shall be added a rate to provide an amount to compensate for probable failures of collection within the current fiscal year, which amount shall be obtained by deducting from the estimated proceeds of the total estimated tax levy for the current fiscal year the sum of (1) the amount which shall be estimated pursuant to clause (g) of this section as the amount of the collections of current taxes during the current fiscal year, and (2) the amount which shall be estimated pursuant to clause (g) of this section as the amount of the collections of delinquent taxes during the current fiscal year; and

(k) [RESERVED.]

(l) [RESERVED.] [As amended by Priv. Acts 2015, ch. 1, § 1]

SECTION 15B. After receiving the budget estimate the Board of Commissioners shall prepare and pass on first reading an appropriation ordinance using the estimate made as a basis but appropriating for each department, division, office or board such sums as the Board of Commissioners may deem sufficient and proper, whether greater or less than the recommendations of the budget estimate; provided, however, that (a) no appropriation recommended by the budget estimate for debt service shall be

reduced and (b) no appropriation shall be made in excess of an amount which may legally be provided by taxation within such limits, if any, as are fixed by the Charter and by other revenues available therefor.

SECTION 15C. After its passage on first reading, provision shall be made for a public hearing upon the appropriation ordinance before a committee of the Board of Commissioners or the Board of Commissioners as a whole. Preceding the hearing and before the second reading and final passage of the ordinance, it shall be published in one or more of the newspapers of the City or County. The Board of Commissioners shall not finally pass the appropriation ordinance until ten days after its publication, but must pass it before the first day of September of the fiscal year.

The details of the budget estimate, as ultimately changed to conform to the total amount finally appropriated by the annual appropriation ordinance, shall serve as a guide in the operation of the City, but shall have no other force or effect except as herein specifically provided.

SECTION 15D. In the interval between the beginning of the fiscal year and the final adoption of the annual appropriation ordinance, the Board of Commissioners upon recommendation in writing of the City Manager, may make an appropriation or appropriations for the purpose of paying fixed salaries, the principal, interest and sinking fund requirements of indebtedness, the stated compensation of officers and employees and the usual ordinary expenses of the City, which appropriations so made shall be chargeable to the several appropriations, respectively, thereafter made in the annual appropriation ordinance for that fiscal year.

SECTION 15E. Except as otherwise specifically provided herein, the Board of Commissioners shall have the power to levy in any one fiscal year for any and all purposes, ordinary and extraordinary, a tax not exceeding three dollars and fifty cents (\$3.50) on each one hundred (\$100) dollars of the assessed value of the taxable property within the City limits, provided that the said limit shall not include taxes for the City's share of any local improvement the cost of which in part has been or is to be assessed against abutting or specially benefited property, nor taxes for the payment of principal or interest of bonds authorized by law and issued or to be issued during such fiscal year.

As soon as practicable after the final passage of the appropriation ordinance but not later than the 15th day of September in each year, the Board of Commissioners shall pass an ordinance levying upon all the taxable property within the City such rate of tax as may be necessary to produce the sum appropriated, taking into consideration and deducting therefrom, however, (a) surplus revenues carried over from the preceding fiscal year (being the amount



of cash on hand or on deposit to the credit of the general fund of the City at the close of the preceding fiscal year in excess of all outstanding and unpaid bills or other obligations lawfully incurred during such fiscal year and all amounts payable therefrom to all special funds of the City), and (b) the estimated collections of delinquent taxes, not exceeding the amount reported for such item in the budget estimate pursuant to clause (g) of Section 15A hereof, and (c) the estimated collections from special assessments and from miscellaneous revenues from sources other than taxes, not exceeding the amounts reported for such items in the budget estimate pursuant to clause (g) of Section 15A hereof. Provided, however, that to the tax rate so computed there shall be added a rate to provide an amount sufficient to cover any deficit reported in the budget estimate pursuant to clause (k) of Section 15A hereof, and there shall also be added to the tax rate that rate which was reported in the budget estimate pursuant to clause (j) of Section 15A hereof, being a rate sufficient to produce an amount arbitrarily representing probable failures of collection during the fiscal year. Any tax rate thus levied, to provide for the payment of any deficit in any fund or for probable failure in the tax collections, may be over and above all other taxes authorized or limited by law. Any appropriation for the probable failures of collection thus provided shall be used towards placing and keeping the City's finances on a sound basis, and shall at no time be used to reduce the tax levy, nor shall any cash expenditure be made therefrom.

SECTION 15F. [RESERVED.] [As replaced by Priv. Acts 2015, ch. 1, § 2]

SECTION 15G. It is the purpose and intent of the foregoing provisions to provide a system whereby accumulated deficits be made up as soon as possible and future deficits prevented, to the end that City may balance its budget and carry out its functions without incurring deficits.

SECTION 15H. Upon written recommendation of the City Manager, the Board of Commissioners may at any time transfer an unencumbered balance of an appropriation made for the purpose of one department or purpose to another department or purpose; but no such transfer shall be made of appropriations or balance for educational purposes, or the revenue or earnings of any non-tax-supported public utility. If during any fiscal year the total accruing revenue of the City shall be in excess of the total appropriated for that fiscal year, as set forth in the annual appropriation ordinance, the Board of Commissioners may from time to time appropriate such excess to such uses as will not conflict with any uses for which specifically such revenues accrued.

SECTION 15I. No money shall be drawn from the City treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of appropriations made by the Board of Commissioners; and whenever an appropriation is so made, the Recorder shall forthwith give notice

to the Finance Director. At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the fund from which it was appropriated, but appropriations may be made in furtherance of improvements or other objects of work in the City which will not be completed within the current year.

Accounts shall be kept for each item of appropriation made by the Board of Commissioners and every warrant on the treasury shall state specifically against which of such items the warrant or voucher is drawn. Each such account shall show in detail the amount appropriated thereto by the Board of Commissioners, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof.

No claim against the City shall be paid unless it be evidenced by a voucher approved by the head of the department or office for which the indebtedness was incurred; and each such director or officer and his surety shall be liable to the City for all loss or damage sustained by the City by reason of his negligent or corrupt approval of such claim. The Finance Director shall examine all pay rolls, invoices and other claims and demands against the City, and shall issue no warrant for payment unless he find that the claim is in proper form, and correctly computed and duly approved; that it is justly and legally due and payable; that an appropriation has been therefor which has not been exhausted, or that the payment has been otherwise legally authorized; and that there is money in the City treasury to make the payment. He may investigate any claim, and for that purpose may summon before him an officer, agent or employee of any department, any claimant or other person, and examine him upon oath or affirmation relative thereto, which oath or affirmation he may administer.

If the Finance Director issue a warrant contrary to the provisions of this section, he and his sureties shall be liable to the City for any loss sustained thereby.

SECTION 15J. [RESERVED.] [As replaced by Priv. Acts 2015, ch. 1, § 2]

SECTION 15K. All contracts, agreements or other obligations entered into, all ordinances passed, and resolutions and orders adopted contrary to the provisions in the preceding sections relative to appropriations and expenditures, shall be void, and no person whatever shall have any claim or demand against the City thereunder. Nor shall the Board of Commissioners or any officer of the City waive or qualify the limits fixed by ordinance, resolution or order as provided in this Act, or fasten upon the City any liability whatever in excess of such limits or relieve any party from an exact compliance with his contract

under such ordinances, resolution or order. [As replaced by Priv. Acts 1949, ch. 811, § 1(gg), and amended by Priv. Acts 1977, ch. 150, § 13]

### Police Force

SECTION 16. Be it further enacted, That the City Manager shall appoint a Chief of Police and such patrolmen and other members of the Police Force as may be provided by ordinance.

It shall be the duty of the Chief of Police and the members of the Police Force to preserve order in the City of Gatlinburg, protect the inhabitants and property owners therein from violence, crime, and all criminal acts, prevent the commission of crime, violations of law and of the City ordinances, and perform a general police duty, execute and return all processes, notices, and orders of the Mayor, City Manager, City Attorney, and City Recorder and all other processes, notices, and orders as in this Charter or by ordinance may be provided.

In time of riot or other emergency, the Mayor or the City Manager shall have power to summons any number of male inhabitants to assist the Police Force.

Members of the Police Force, whenever necessary for the purpose of enforcing the ordinances of the City, shall procure the issuance of warrants, serve the same, and appear in the City Court as prosecutors, relieving complainants insofar as practical of the burden of instituting cases involving the violation of ordinances; but shall not be construed to relieve any person from the duty of appearing in Court and testifying in any case.

It shall be the duty of the City Manager to appoint a Chief of the Fire Department and such other members of said department as may be provided by ordinance.

The Board of Commissioners, by ordinance, shall prescribe and make such rules governing the Fire Department and the members thereof as may be necessary for the proper protection of the property in the City.

The Chief of Police and the Chief of the Fire Department and all other members of the police force and fire department shall receive such salaries as are fixed by the Board of Commissioners. [As amended by Priv. Acts 1949, ch. 811, § 1 (hh)]

### **Education**

SECTION 17. Be it further enacted, That the Commissioners of the City of Gatlinburg, by proper ordinance may establish, erect, and maintain public schools, and may levy taxes for such purpose.

The City Manager shall have full power to manage and control the public or City schools.

The City Manager shall appoint, prescribe the duties and powers of and fix the salary of, and have power to remove all officers and all teachers, agents and employees of the City Schools.

In appropriation and apportioning the State and County School Funds of Sevier County, the County Board of Education, or other apportioning and disbursing body, shall apportion and pay over to the Treasurer of the City of Gatlinburg such portion of the State and County School Funds as by law is applicable to the City schools within the limit of the City of Gatlinburg.

The Board of Commissioners shall provide by ordinance the manner in which the State, County, and City taxes apportioned to the School Fund shall be paid over to the City Treasurer. [As amended by Priv. Acts 1949, ch. 811, § 1(ii)]

### **Definitions, Political Restrictions, Political Contributions, etc.**

SECTION 18. Be it further enacted, That whenever the word City shall appear herein, it shall mean the City of Gatlinburg and when the word County shall appear herein, it shall mean the County of Sevier and whenever the words Board of Commissioners appears herein, it shall mean the Board of Commissioners of the City of Gatlinburg.

In the construction of any portion of this Charter whose meaning or application is in dispute, it is intended that its phraseology shall be liberally construed to effect the substantial objects of the law.

Neither the City Manager nor any other person in the employ of the City, whether he be a full-time or part-time employee, shall take any active part in or contribute or solicit any money or other thing of value toward the nomination or election of any candidate for election to the Board of Commissioners, provided that such employees may answer such questions as may be put to them and as they may desire to answer.

A violation of the above shall subject the offender to removal from office or employment and to punishment by fine of not more than Fifty (\$50.00) Dollars of each offense.

No candidate for any office nor any other person shall, directly or indirectly, give or promise any person or persons any office, employment, money, benefit, or anything of value for the purpose of influencing or obtaining political support, aid or vote for any candidate; and any person violating this provision shall be punished by fine of not more than Fifty (\$50.00) Dollars for each offense. [As amended by Priv. Acts 1949, ch. 811, § 1(jj)]

### **Audit of Books and Records**

SECTION 19. Be it further enacted, That the Board of Commissioners shall cause a continuous audit to be made of the books of accounts, records and transactions of all departments, boards and officers of the City. Such audits shall be made during each fiscal year and shall be made by an individual or firm of certified public accountants holding a certificate of competency from the Tennessee State Board of Accountancy or its successors, or by a State maintaining an equal or greater standard of professional requirements for accountants. Such auditor or auditors shall be appointed by the Board on or before the first day of each fiscal year and shall submit quarterly reports and an annual report in at least four copies, said reports to be submitted within fifteen days from the close of each quarter and within fifteen days from the close of the fiscal year, and said auditor or auditors shall include in said reports a statement showing a balance sheet exhibiting the assets and liabilities of the City, supported by departmental schedules and schedules for each utility publicly owned and operated; summaries of income and expenditures, and also comparison in proper classification with the last previous fiscal year, and such other information as the Board of Commissioners may require. One copy of each of said reports when submitted shall be filed with the Recorder, and shall thereupon become a public record and subject to examination during regular business hours by any citizen, taxpayer or creditor. [As replaced by Priv. Acts 1949, ch. 811, § 1(kk)]

### **Initiative and Referendum Generally**

SECTION 19A. Any ordinance may be proposed and submitted to the Board of Commissioners for adoption, by a petition signed by such number of the legally qualified voters of the city as equals in number one-third (1/3) of the registered voters of the City of Gatlinburg, Tennessee, requesting said Board of Commissioners to pass such ordinance. Likewise, any ordinance for the repeal or amendment of any ordinance hereafter adopted by the Board of Commissioners, or heretofore passed and still in force and effect in the City of

Gatlinburg by reason of the terms of this Act, may be submitted to the Board of Commissioners by a petition signed by a like number of the qualified voters of the city, requesting the Board of Commissioners to pass such repealing or amendatory ordinance. The petitioners referred to herein shall contain the personal signatures of legally qualified voters of the city, which signatures need not all be appended to one paper, but each signer shall add opposite his signature his place of residence, giving street and number, if possible. One of the signers of each such paper shall make oath before an officer authorized to administer oaths that each signature contained on such paper is the genuine signature of the person whose signature it purports to be. Within 15 days from the date of the filing of said petition the Board of Election Commissioners of Sevier County shall, after the delivery of said petition to said Board by the city, examine the same and ascertain whether it is signed by the required number of voters and whether such voters are qualified as shown by the registration books, if registration of voters is required by law, and said Board of Election Commissioners shall attach to said petition its certificate showing the result of such examination, which petition shall thereupon be returned to the city. If by such certificate the petition is shown to be sufficient, the Board of Commissioners shall, after having passed such ordinance upon one reading at its first regular meeting coming after the return of such petition to the city by the Board of Election Commissioners, submit such ordinance to the qualified voters of the city for their approval, or disapproval, in an election called and held at the time to be fixed by the Board of Commissioners; but no such election shall be called for a date coming before 30 days after the date on which such ordinance is passed upon such first reading. The Board of Election Commissioners of Sevier County shall thereupon make, or cause to be made, publications of notice and all arrangements for holding said election, and the result thereof declared and certified. The expenses of such election shall be paid by the city in all respects as in other city elections.

In all cases, where any proposed or repealing or amendatory ordinance is submitted to the Board of Commissioners by petition, as aforesaid, such ordinance shall be filed with the City Recorder, upon its passage by the Board of Commissioners as aforesaid, and shall be published, together with the petition, at least one time in some newspaper published in the City of Gatlinburg, or, if there be no such newspaper then in some newspaper in general circulation therein, at least two weeks before the holding of the election at which it is to be submitted to the voters of the city as hereinabove provided. The costs of such publication shall be paid by the city.

In any election held under this section, if the majority of the votes cast in any such election are in favor of the adoption of any such proposed or repealing or amendatory ordinance, such fact shall be shown by proper entry upon the minutes of the Board of Commissioners, and the Board of Commissioners shall

thereupon proceed to pass such ordinance upon its second reading. If the majority of the votes cast in any such election are against the adoption of any such ordinance, such fact shall be shown by proper entry upon the minutes of the Board of Commissioners, and such ordinance shall not take effect; and the Board of Commissioners shall not pass or adopt any similar or substantially similar ordinance for a period of thirty days after the holding of any such election, nor shall the Board of Commissioners submit any such similar or substantially similar ordinance to the qualified voters of the city for their approval or disapproval within a period of six (6) months after the holding of any such election.

Provided, however, that notwithstanding anything to the contrary in this section contained, the Board of Commissioners may adopt any such proposed or repealing or amendatory ordinance without referring the same to the voters of the City for approval or disapproval; and provided, further, that no ordinance making an appropriation or fixing a tax levy shall be referred to the voters of the city, under the provisions of this section, and neither the repeal nor amendment of any ordinance, affected under the provisions of this section, shall in any manner impair, invalidate or affect any contract or property right that may have been acquired or which may have become vested under and by virtue of any such ordinance while the same remained unrepealed or unamended. [As added by Priv. Acts 1951, ch. 612, § 1(d), and amended by Priv. Acts 1990, ch. 131, § 2]

**Authority of Board of Commissioners to Submit Ordinances  
to Voters for Approval or Disapproval**

SECTION 19B. The Board of Commissioners may, upon its own initiative and in its discretion, submit any new ordinance or any ordinance repealing or amending any ordinance to the qualified voters of the city for their approval or disapproval by an election called, and held at the time fixed, by the Board of Commissioners, for the purpose. The City Recorder shall publish the proposed ordinance in the same manner provided in Section 19A of this Act, and it shall be the duty of the Board of Election Commissioners of Sevier County, likewise, to make, or cause to be made, publication of notice and all arrangements for holding said election and the result thereof declared and certified to the city. The expenses of such election shall, likewise, be paid by the city, in all respects as in any other city elections. [As added by Priv. Acts 1951, ch. 612, § 1(d)]

**Charter Declared a Public Act**

SECTION 20. Be it further enacted, That this Act is declared to be a Public Act, and may be read in evidence in all Courts of Law and equity; and all ordinances and resolutions and proceedings of said Board of Commissioners created by this Act may be proven by Seal of said Corporation, attested to be the

Recorder; and when printed and published by the authority of said Corporation, the same shall be received in evidence in all Courts and places without further proof when certified to by the Recorder.

### **Invalidity of Part of Charter**

SECTION 21. Be it further enacted, That if any Section or part of a Section, or any clause or part of a clause of this Charter proves 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 Charter, 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.

### **Conflicting Acts Repealed**

SECTION 22. Be it further enacted, That all Acts and parts of Acts in conflict with this Act be, and the same are, hereby repealed.

### **Charter to be Adopted by Voters**

SECTION 23. Be it further enacted, That this Act shall take effect and become the Charter of the City of Gatlinburg after a majority of the votes cast at an election, held for the adoption of this Charter, by the qualified voters residing within the boundaries of the proposed City of Gatlinburg, are for the adoption of this Charter.

That said election shall be called by the Election Commissioners of Sevier County, herein named, and said election shall be held in the same manner as other City elections are provided for herein. That said election shall be called by the Election Commissioners of Sevier County and shall be held on March 30, 1945. That it shall be the duty of the Election Commissioners of Sevier County to appoint the proper election officials, to hold said election in the same manner as provided for in this Charter, to hold City elections; and it shall be the duty of the judges and officials holding said election to conduct the same and in the same manner and under the same conditions as City elections are herein provided for. That the qualifications of the voters shall be the same as provided for in this Charter for other City elections.

It shall be the duty of the Election Commissioners of Sevier County to cause to be printed, ballots in a sufficient number. Said ballots to be printed on white paper of the dimensions of six (6) inches by eight (8) inches, with the following instructions printed thereon:



Those desiring to vote for the adoption of this Charter shall place an X in the box at the right of "For the adoption of the Charter."

For the Adoption of the Charter

Those desiring to vote against the adoption of this Charter shall place an X in the box at the right of "Against the adoption of the Charter."

Against the Adoption of the Charter

That the said election officials holding said election shall count the ballots and shall certify the result thereof to the Election Commissioners of Sevier County forthwith and the Election Commissioners of Sevier County shall canvass the same forthwith; and shall certify the result thereof by showing the number of votes cast for the adoption of the Charter and the number of votes cast against the adoption of the Charter and shall forward the same, after certifying same to the Secretary of State of the State of Tennessee at Nashville, by registered mail.

And it shall be the duty of the Secretary of State to attach said certificate to this Act and when so attached, the same shall become a part hereof. [As amended by Priv. Acts 1945, ch. 463, §§ 2 and 3]

Passed: January 25, 1945.

Larry Morgan,  
Speaker of the Senate.

George Woods,  
Speaker of the House of Representatives.

Approved: February 3, 1945.

Jim McCord,  
Governor.

STATE OF TENNESSEE

COUNTY OF SEVIER

Pursuant to the authority in us vested by Chapter No. 463 of the Private Acts of the General Assembly of Tennessee for the year 1945, being an act

entitled "An Act to amend Chapter No. 84 of the Private Acts of the General Assembly of the State of Tennessee for the year 1945, the caption of which reads as follows: An Act to incorporate the City of Gatlinburg, in Sevier County, Tennessee; to create a Municipal Corporation; to define its rights, powers, duties and obligations and to provide for the government, control and general welfare thereof; to fix the boundaries of said municipality; to provide for the election of officers, prescribe their duties; to appoint a Mayor and other Commissioners to serve as provided in said Act; to create a Charter for said City and to repeal all Acts or parts of Acts in conflict with this Act."

We, the Election Commissioners of Sevier County, do hereby certify that an election was opened and held on March 30, 1945, according to said Acts and due return having been made to us, we have this day canvassed said returns of said election and we hereby certify that the result of said election as is as follows:

No. of votes cast for the adoption of said Charter, one hundred sixty one (161).

No. of votes cast against the adoption of said Charter, seventy (70).

We, therefore, further certify that a majority of the votes cast at said election was in favor of the adoption of said Charter and we therefore, certify that said Charter was adopted as the Charter of the City of Gatlinburg.

Done at the Office of the Sevier County Election Commissioners, in the City of Sevierville, on this the 31st day of March, 1945.

Issac W. Denton, Chairman

George C. Allen, Secretary

Lawrence Huff, Member

**RELATED ACTS**

**PAGE**

Priv. Acts 1978, ch. 200,  
"Privilege tax on occupancy of rooms, etc." ..... C-52

Priv. Acts 1989, ch. 16,  
"Privilege tax on amusements" ..... C-57

Priv. Acts 1989, ch. 25,  
"Privilege tax on purchasing foods" ..... C-62

Priv. Acts 1990, ch. 167,  
"Development impact fee" ..... C-64

Priv. Acts 2002, ch. 102,  
"Privilege tax on amusements" ..... C-71

## CHAPTER NO. 200

## HOUSE BILL NO. 2177

By Ford (Cocke), Atchley

Substituted for: Senate Bill No. 2399

By Koella

AN ACT authorizing the levy of a privilege tax on the occupancy of any rooms, lodgings, or accommodations furnished to transients by any hotel, inn, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished transients for a consideration in municipalities having populations of not less than 2300 persons nor more than 2400 persons and not less than 1300 persons nor more than 1400 persons, according to the federal census, and in which at least fifty percent (50%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of the hotels, motels, and tourist courts accommodations; providing for its collection and administration; providing penalties; and providing for the expending and distributing of the proceeds of the tax for certain purposes.

WHEREAS, certain cities within the State of Tennessee are in a unique situation in that they are visited by a large number of tourists each year and yet they have only a relatively small permanent population and that this influx of tourists places a heavy burden upon the local inhabitants to provide public facilities including roads, streets, utilities, meeting places, and other public services out of proportion to the local citizens needs and since at least a portion of these expenses should be borne by the tourists who make use of the needed facilities and services, now, therefore,

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

SECTION 1. Definitions. As used in this Act, unless a different meaning clearly appears from the context, the following definitions shall apply:

(a) Person. "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.

(b) Hotel. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

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

(d) Transient. "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 ninety (90) continuous days.

(e) Consideration. "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.

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

(g) Tourism. "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business.

SECTION 2. Levy of Tax. Municipalities having a population of not less than 2300 nor more than 2400 persons according to the federal census of 1970, or any subsequent federal census and in which at least fifty percent (50%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, and tourist court accommodations, are hereby authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount of three percent (3%) of the consideration charged by the operator. Said tax so imposed is a privilege tax upon the transient occupying said room and is to be collected and distributed as hereinafter provided.

SECTION 3. Tax Added to Room Invoice. Said tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel, such invoice to be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the Department of Finance of the municipality in which the hotel is located.

SECTION 4. Remittance to Director of Finance. The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the Director of Finance of the municipality in which the hotel is located, to be remitted to such officer not later than the 20th day of each month next following collection from the transient.

For the purpose of compensating the operator in accounting for and remitting the tax levied by this act, said operator shall be allowed two percent (2%) of the amount of tax due and accounted for and remitted to the director of finance in the form of a deduction in submitting his report and paying the amount due by him; provided the amount due was not delinquent at the time of payment.

SECTION 5. Offer to Absorb Tax Prohibited. 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 be added to the rent, or that, if added, any part will be refunded.

SECTION 6. Penalties and Interest for Delinquency. Taxes collected by an operator which are not remitted to the Department of Finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for penalty of one-half of one percent (1/2 of 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. Willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving lodging services paid by a customer to the operator in those cases when the operator fails or refuses to pay the tax payable to the Department of Finance.

SECTION 7. Records. It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this Act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and

payment to the municipality he may have been liable, which records the Director of Finance shall have the right to inspect at all reasonable times.

SECTION 8. Administration. In administering and enforcing the provisions of this Act, the Director of Finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Title 67 of Tennessee Code Annotated or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-2313, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the Director of Finance shall possess those powers and duties as provided in Tennessee Code Annotated Section 67-2301, with respect to the adjustment and settlement with taxpayers of all errors of taxes collected by him under the authority of this act and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the Director of Finance, and suit for recovery shall be brought against him.

SECTION 9. Expending and Distributing Tax. The proceeds from the tax levied herein shall be retained by the municipality and distributed as follows:

- (1) One-third (1/3) of the proceeds shall be used for direct promotion of tourism.
- (2) One-third (1/3) of the proceeds shall be used for tourist related activities.
- (3) One-third (1/3) of the proceeds shall be deposited in the general funds of the municipality.

Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel.

SECTION 10. Tax is Additional Tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 11. Severability. If any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional, it shall not affect the remainder of this Act notwithstanding the part held to be invalid, if any, and to that end the provisions of this Act are declared to be severable.

SECTION 12. Local Approval. This Act shall have no effect unless it is approved by a two-third (2/3) vote of the municipal governing body of any municipality to which it may apply. Its approval or non-approval shall be proclaimed by the presiding officer of the governing body and certified by him to the Secretary of State.

SECTION 13. For the purpose of approving this Act as provided in Section 12, it shall take effect on becoming a law, the public welfare requiring it, but for all other purposes, it shall become effective upon being approved as provided in Section 12.

PASSED: March 2, 1978

Ned R. McWherter,  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

John S. Wilder,  
SPEAKER OF THE SENATE

APPROVED: March 8, 1978

Ray Blanton,  
GOVERNOR

This is to certify that according to the official records in this office, House Bill No. 2177, which is Chapter No. 200 of the Private Acts of 1978 was properly ratified and approved and is therefore operative and in effect in accordance with its provisions.

GENTRY CROWELL  
Secretary of State



## CHAPTER NO. 16

## HOUSE BILL NO. 140

By Huskey

Substituted for: Senate Bill No. 256

By Koella

AN ACT authorizing the levy of a privilege tax on amusements in municipalities having a population of not less than three thousand two hundred (3,200) nor more than three thousand two hundred twenty (3,220), according to the 1980 Federal Census or any subsequent Federal Census; providing for its collection and administration, providing penalties; and providing for the expending and distributing of the proceeds of the tax for certain purposes.

WHEREAS, certain cities within the State of Tennessee are in a unique situation in that they are visited by a large number of tourists each year and yet they have only a relatively small permanent population and that this influx of tourists places a heavy burden upon the local inhabitants to provide public facilities including roads, streets, utilities, meeting places, and other public services out of proportion to the local citizens' needs and at least a portion of these expenses should be borne by the tourists who make use of the needed facilities and services; now, therefore,

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

SECTION 1. As used in this act, unless the context requires otherwise, the following definitions shall apply:

(a) "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;

(b) "Amusement" means any theater, motion picture house, cinema, athletic contest, exhibition, pageant, show, production, demonstration, play, performance, concert, musicale, recital, reading, circus, carnival, act, exhibit, lecture, address, nightclub, cabaret, dance, dance hall, restaurant which provides either floor show, singing, dancing, or dancing facilities for patrons, any ride or excursion where passengers are taken on and discharged within the county boundaries, shooting galleries, and all games of skill or chance, as well

as all mechanical or electrical devices operated for pleasure or skill where a fee is charged for admission or entrance or for the purpose of playing them, or where there is any charge whatever for them or in connection with them either directly or indirectly, where such games or devices are located in any amusement park or amusement center;

(c) “Admission” means admission into or for an amusement after consideration paid by single ticket, season ticket or subscription; for any admission charged within any enclosure in addition to the initial charge for admission to such enclosure; and for the use of sporting or recreational facilities or equipment, including the rental of such facilities or equipment; and shall apply on admission fees or charges, whether or not a ticket is actually issued;

(d) “Consumer” means any person who pays consideration into or for an amusement;

(e) “Consideration” means the consideration charged whether or not received, for an admission for an amusement 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 service provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(f) “Operator” means the person operating an amusement; and

(g) “Tourism” means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business.

SECTION 2. Municipalities having a population of not less than three thousand two hundred (3,200) nor more than three thousand two hundred twenty (3,220) according to the Federal Census of 1980, or any subsequent Federal Census, are hereby authorized to levy a privilege tax upon the privilege of a consumer paying consideration for admission into or for an amusement up to a maximum rate of three percent (3%) of the consideration charged by the operator. Such tax may be less than three percent (3%) but may not exceed three percent (3%) within the discretion of the legislative body of such

municipality. Such tax so imposed is a privilege tax upon the consumer enjoying the amusement and is to be collected and distributed as hereinafter provided.

SECTION 3. Such tax shall be added by each and every operator to each ticket sold for a consideration for admission into or for such amusement, and shall be collected by such operator from the consumer and remitted to the Department of Finance of the municipality in which the amusement is located. The tax shall not be assumed by the operator. Where the tax calculated on any individual admission ticket includes any fraction of a cent, the next highest full cent shall be charged.

SECTION 4. The tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the Director of Finance of the municipality in which such amusement is located, to be remitted to such officer not later than the twentieth day of each month next following collection from the consumer. The Director of Finance may promulgate reasonable rules and regulations for the enforcement and collection of the tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods.

SECTION 5. No operator of an amusement 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 be added to the consideration, or that, if added, any part will be refunded.

SECTION 6. The tax shall not apply to activities sponsored by any religious or charitable organization or any public or private educational institution where the receipts are devoted exclusively to the use of such organization or institution. Neither shall it apply to charges for admission to any activity sponsored or operated by the government of any municipality to which this act may apply.

SECTION 7. Taxes collected by an operator which are not remitted to the Department of Finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for penalty of one-half of one percent (1/2 of 1%) for each month or a fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a consumer to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this act when the operator fails or refuses to pay the tax payable to the Department of Finance.

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the Director of Finance shall have the right to inspect at all reasonable times.

SECTION 9. In administering and enforcing the provisions of this act, the Director of Finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, Title 67; or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-1-911, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected apply to the tax collected under the authority of this act; provided, the Director of Finance shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to the adjustment and settlement with taxpayer of all errors of taxes collected by him under the authority or this act and to direct the refunding of the same. Notice of any tax paid under protest shall be given to the Director or Finance, and suit for recovery shall be brought against him.

SECTION 10. The proceeds from the tax levied herein shall be deposited in the general funds of the municipality.

SECTION 11. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 12. 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 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the municipal legislative body of any municipality to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the municipal legislative body and certified by him to the Secretary of State.

SECTION 14. 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 13.

PASSED: FEBRUARY 16, 1989

s/Ed Murray

ED MURRAY, SPEAKER  
HOUSE OF REPRESENTATIVES

s/John Wilder

JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 3<sup>rd</sup> day of March 1989

s/Ned McWherter

NED McWHERTER, GOVERNOR

## CHAPTER NO. 25

## HOUSE BILL NO. 16

By Huskey

Substituted for: Senate Bill No. 28

By Koella

AN ACT relative to privilege tax on the privilege of purchasing food from certain restaurants, cafes, cafeterias, caterers, and other similar establishments engaged in selling prepared foods in the city of Gatlinburg.

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

SECTION 1. The city of Gatlinburg, by ordinance of its legislative body is authorized to levy, in addition to all other taxes, a privilege tax not to exceed two percent (2%) of the consideration charged by restaurants, cafes, cafeterias, caterers, and other similar establishments, located in such municipality, as defined in the ordinance levying such tax, which establishments are engaged in the business of selling prepared food. The ordinance shall provide for the collection, payment, administration and enforcement of such tax in the same manner as other taxes levied in the municipality and shall further provide for the disbursement of revenue collected from such tax. Such tax so levied is a privilege tax upon the purchase of such food. The provisions of this act shall apply to all restaurants, even though these commercially operated restaurants are located within hospitals. The provisions of this act shall not apply to food prepared to be served at churches, schools, senior citizen centers, nursing homes, and at boarding houses where the cost of food is included in the rental rate. The provisions of this act shall not apply to purchasers of food that will be consumed out-of-state. It is further the specific legislative intent that this act shall not apply to the sale of alcoholic beverages in any form, manner, time or place.

SECTION 2. If any provision of this act or the application thereof to any person 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 severable.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the city of Gatlinburg legislative body. Its approval or

nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

SECTION 4. 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 3.

PASSED: MARCH 15, 1989

s/Ed Murray  
ED MURRAY, SPEAKER  
HOUSE OF REPRESENTATIVES

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

APPROVED this 28th day of March 1989

s/Ned McWherter  
NED McWHERTER, GOVERNOR

CHAPTER NO. 167

HOUSE BILL NO. 2630

By Huskey

Substituted for: Senate Bill No. 2661

By Koella

AN ACT relative to the authority of the City of Gatlinburg, to levy and collect impact fees against new land development in order to provide that new developments contribute their proportionate share of the cost of providing public capital improvements.

WHEREAS, orderly growth patterns within municipalities are essential to the welfare of the State and its citizens; and

WHEREAS, growth in construction of new residences and businesses is occurring in many areas of the state and the construction of new residences and businesses and the expansion of existing businesses has created and imposes severe financial pressure on municipalities to provide public capital improvements; and

WHEREAS, municipalities many times lack a financial base capable of generating the funds required to provide public capital improvements to new residences and businesses that such growth demands; and

WHEREAS, in order to protect the public health, safety, and general welfare of the citizens and residents of those municipalities it is necessary that an additional method of financing public capital improvements be granted to those municipalities and that those municipalities be authorized to levy impact fees upon new developments, with the fees collected earmarked for the funding or such public capital improvements reasonably related to new development; now, therefore,

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

SECTION 1. This act shall be known and cited as the “City of Gatlinburg Development Impact Fee Act”.

SECTION 2. As used in this act, unless a different meaning appears from the context:



(1) “Feepayer” means the person, corporation, partnership, or other entity that seeks to develop land by applying to Gatlinburg for a building permit for any land development that will have an impact on the public capital improvements set out in subparagraph (4) above and for which Gatlinburg has enacted an impact fee pursuant to this act.

(2) “Governing body” means the municipal legislative body of the City of Gatlinburg.

(3) “Governmental entity” means the City of Gatlinburg.

(4) “Impact fees” are charges imposed upon new development by the governmental entity to fund all or a portion of the public capital improvements required by the new development from which it is collected or to recoup the cost of existing public capital improvements made in anticipation of the needs of new development.

(5) “Non-site related improvements” are land dedications or provisions of public capital improvement that are not for the exclusive use or benefit of a new development and that are not site-related improvements.

(6) An “offset” is a reduction in impact fees designed to fairly reflect the value of non-site related public capital improvements provided by a developer pursuant to any local government land-use regulations or requirements.

(7) “Present value” is the value of past or future payments after they have been adjusted to a base period by a discount rate.

(8) “Proportionate share” is that portion of total public capital improvement costs which is reasonably attributable to new development less (A) any credits for past or future payments, adjusted to present value, for public capital improvement costs made or reasonably anticipated to be made by new development toward public capital improvement costs in the form of user fees, debt service payments, taxes or other payments or (B) offsets for non-site related public capital improvements provided by a developer pursuant to any local government land-use regulations or requirements.

(9) “Public capital improvement costs” include but are not limited to capital improvement costs associated with the construction of new, expanded, or otherwise enhanced public capital improvements and the costs of equipment, land acquisition, land improvement, design, and engineering related thereto. Public facilities capital improvement costs do not include routine and periodic maintenance expenditures or personnel, training or other operating costs.

(10) "Public Capital Improvements" means the construction, reconstruction, building, extension, enlargement, or enhancement of the capacity of any street, road, alley, side walk or gutter, and the acquisition of rights-of-way for the same; waterworks and water distribution systems; sewers and sewerage treatment facilities; storm water and drainage systems; and public parking lots and facilities.

(11) "Reasonable benefit" is a benefit received from the provision of a public capital improvement which is greater than that afforded the general public in the jurisdiction imposing impact fees. Incidental benefit to other developments shall not negate a "reasonable benefit" to a new development.

(12) "Recoupment" means the proportionate share of the public capital improvement costs of excess capacity in existing capital facilities where such excess capacity has been provided in anticipation of the needs of new development.

(13) "Site related improvements" are land dedications or provisions of public capital improvements which are for the exclusive use or benefit of a new development and/or which are for the exclusive purpose of safe and adequate provision of public capital improvements to the particular new development.

SECTION 3. It is the intent and purpose of this act to grant the governing body the authority to establish by ordinance a regulatory procedure or system to collect impact fees from any new land development so as to require new land development to pay its proportionate share for the reasonably anticipated cost for public capital improvements reasonably related to new land development activity.

SECTION 4. The governmental entity may perform or order the construction, reconstruction, building, extension, enlargement, or enhancement of any public capital improvement reasonably related to the needs created by new development and provide for the payment of the cost in all or in part of any such public capital improvements by levying and collecting an impact fee on new land development.

SECTION 5. The need, tests and criteria for impact fee shall be as follows:

(a) The governing body considering the adoption of impact fees shall conduct a needs assessment for the type of public capital facility or public capital facilities for which impact fees are to be levied. The needs assessment shall identify level of service standards, project public capital improvements needs, and distinguish existing needs from future needs.

(b) The amount of each impact fee imposed shall be based upon actual capital cost of public capital expansion, or reasonable estimates thereof, to be incurred by the local government as a result of new development.

(c) An impact fee shall meet the following two tests:

(1) The provision of new, expanded or otherwise enhanced public capital improvements for which an impact fee is charged, must be reasonably related to the needs created by new development;

(2) The impact fees imposed must not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following seven factors shall be considered in determining a proportionate share of public capital improvement costs:

(A) The need for public capital improvements required to serve new development, based on a capital improvement component, element or program which shows deficiencies in capital facilities serving existing development, and the means, other than impact fees, by which any existing deficiencies will be eliminated within a reasonable period of time, and which shows additional demands anticipated to be placed on specified capital facilities by new development.

(B) The availability of other means of funding public capital improvements, including but not limited to, user charges, taxes, intergovernmental transfers and other revenue, and special taxation or assessments.

(C) The cost of existing public capital improvements.

(D) The methods by which the existing public capital improvements were financed.

(E) The extent to which new development required to pay impact fees has, during at least the past five (5) years, contributed to the cost of existing public capital improvements, and received no reasonable benefit therefrom, and any credits that may be due new development because of such past payments.

(F) The extent to which new development required to pay impact fees may reasonably be anticipated, for at least the next twenty (20) years, to contribute to the cost of existing public capital improvements through user fees, debt service payments, or other

payments and any credits due new development because of such future payments.

(G) The extent to which new development required to pay impact fees is required as a condition of development or construction approval to provide non-site related public capital improvements and any offsets due new development because of such provision.

SECTION 6. The impact fee ordinance enacted by the governing body shall contain a schedule of impact fees and methods for their payment as a condition for the issuance of a building permit.

SECTION 7. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the fees. In order to satisfy this test, the ordinance must specifically consider the following requirements:

(a) Upon collection, impact fees must be deposited in a special trust fund, which shall be invested with all interest accruing to the trust fund. That portion of impact fees which is recoupment may be transferred to any appropriate fund.

(b) The collection and expenditure of impact fees may be localized in order to provide a reasonable benefit to the development paying the fees. Any benefit zones established would be appropriate to the nature of the particular public facility and the surrounding area.

(c) Except for recoupment, impact fees shall not be collected from a development until adoption of a capital improvement component, element or program which sets out planned expenditures bearing a reasonable relationship to the needs created by the development.

(d) Impact fees shall be spent for the type of facility for which they are collected and spent for public capital improvements which are of reasonable benefit to development paying the fees.

(e) Within six (6) years of the date of collection, impact fees shall be expended or encumbered for the construction of public capital improvements of reasonable benefit to developments paying the fees and which are consistent with the capital improvement component, element or program.

(f) Where the expenditure or encumbrance of fees is not feasible within six (6) years, the local government may retain impact fees for a

longer period of time, if there are compelling reasons for such longer period. In no case shall impact fees be retained longer than ten (10) years.

SECTION 8. The governing body shall provide for the refund of impact fees on the following basis:

(a) If impact fees are not expended or encumbered within the period established in Section 7 of this act, the governing body shall refund to the feepayer or successor in title the amount of the fee paid and accrued interest. Application for a refund must be submitted to the governing body within one (1) year of the date on which the right to claim a refund arises. All refunds due and not claimed within one (1) year shall be retained in the special trust fund and expended as provided in Section 7 of this act.

(b) When a governing body seeks to terminate any or all impact fee requirements, all unexpected or unencumbered funds shall be refunded as provided above. Upon the finding that any or all fee requirements are to be terminated, the governing body shall place a notice of termination and availability of refunds in a newspaper of general circulation at least two (2) times. All funds available for refund shall be retained for a period of one (1) year. At the end of one (1) year, any remaining funds may be transferred to the general fund and used for any public purpose. A governing body is released from this notice requirement if there are no unexpended or unencumbered balances within a fund or funds being terminated.

(c) Any portion of an impact fee which represents recoupment is exempted from the provisions of (a) and (b) of this section.

SECTION 9. The provisions of this act shall in no manner repeal, modify, or interfere with the operation or any general abutting property law or any special or local assessment or abutting property law enacted for the benefit of any governmental entity. This act shall be deemed to create an additional and alternative method for governing bodies to collect fees for the purpose of defraying the costs of public capital improvements.

SECTION 10. If any word, phrase, sentence, paragraph, or other provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other word, phrase, paragraph, or other provision or application of this 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 11. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the municipal legislative body of the City of Gatlinburg. Its approval or nonapproval shall be proclaimed by the presiding officer of the governing body and certified by him to the Secretary of State.

SECTION 12. 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 11.

PASSED: MARCH 22, 1990

s/Ed Murray  
ED MURRAY, SPEAKER  
HOUSE OF REPRESENTATIVES

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

APPROVED this 5<sup>th</sup> day of April 1990

s/Ned McWherter  
NED MCWHERTER, GOVERNOR

CHAPTER NO. 102

SENATE BILL NO. 2875

By Clabough

Substituted for: House Bill No. 2701

By Montgomery

AN ACT Authorizing the levy of a privilege tax on amusements in Gatlinburg, Tennessee; providing for its collection and administration, providing penalties; and providing for the expending and distributing of the proceeds of the tax for certain purposes.

WHEREAS, Certain cities within the State of Tennessee are in a unique situation in that they are visited by a large number of tourists each year and yet they have only a relatively small permanent population. This influx of tourists places a heavy burden upon the local inhabitants to provide public facilities including roads, streets, utilities, meeting places, and other public services out of proportion to the local citizens' needs and at least a portion of these expenses should be borne by the tourists who make use of the needed facilities and services; and

WHEREAS, Gatlinburg is one of such cities; now, therefore,

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

SECTION 1. As used in this act, unless the context requires otherwise, the following definitions apply:

a. "Admission" means admission into or for an amusement after consideration paid by single ticket, season ticket or subscription; for any admission charged within any enclosure in addition to the initial charge for admission to such enclosure; and for the use of sporting or recreational facilities or equipment, including the rental of such facilities or equipment; and shall apply on admission fees or charges, whether or not a ticket is actually issued;

b. "Amusement" means any theater, motion picture house, cinema, athletic contest, exhibition, pageant, show, production, demonstration, play, performance, concert, musicale, recital, reading, circus, carnival, act, exhibit, lecture, address, nightclub, cabaret, dance,

dance hall, restaurant which provides either floor show, singing, dancing, or dancing facilities for patrons, any ride or excursion where passengers are taken on and discharged within the county boundaries, and shooting galleries, as well as all mechanical or electrical devices operated for pleasure or skill where a fee is charged for admission or entrance or for the purpose of playing them, or where there is any charge whatever for them or in connection with them either directly or indirectly, where such games or devices are located in any amusement park or amusement center, provided, however, actual play on coin-operated machines of skill or chance are exempt from the provisions of this tax;

c. "Consideration" means the consideration charged whether or not received, for an admission for an amusement 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 service provided to the person is complimentary from the operator and no consideration is charged to, or received from, any person;

d. "Consumer" means any person who pays consideration into, or for, an amusement;

e. "Operator" means the person operating an amusement;

f. "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; and

g. "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business.

SECTION 2. The legislative body of Gatlinburg, Tennessee is hereby authorized to levy a privilege tax upon the privilege of a consumer paying consideration for admission into, or for, an amusement up to a maximum rate of three percent (3%) of the consideration charged by the operator. Such tax



may be less than three percent (3%) but may not exceed three percent (3%) within the discretion of the legislative body of Gatlinburg. Such tax so imposed is a privilege tax upon the consumer enjoying the amusement and is to be collected and distributed as hereinafter provided.

SECTION 3. Such tax shall be added by each and every operator to each ticket sold for a consideration for admission into, or for, such amusement, and shall be collected by such operator from the consumer and remitted to the Department of Finance of Gatlinburg. The tax shall not be assumed by the operator. Where the tax calculated on any individual admission ticket includes any fraction of a cent, the next highest full cent shall be charged.

SECTION 4. The tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the Director of Finance of Gatlinburg, to be remitted to such officer not later than the twentieth (20<sup>th</sup>) day of each month next following collection from the consumer. The Director of Finance may promulgate reasonable rules and regulations for the enforcement and collection of the tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods.

SECTION 5. No operator of an amusement 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 be added to the consideration, or that, if added, any part will be refunded.

SECTION 6. The tax shall not apply to activities sponsored by any religious or charitable organization or any public or private educational institution where the receipts are devoted exclusively to the use of such organization or institution. Neither shall it apply to charges for admission to any activity sponsored or operated by Gatlinburg.

SECTION 7. Taxes collected by an operator which are not remitted to the Department of Finance on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for a penalty of one-half of one percent ( $\frac{1}{2}$  of 1%) for each month or a fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. It is a violation of this act for the willful refusal of an operator to collect or remit the tax or willful refusal of a consumer to pay the tax imposed. Each violation is subject to the imposition of a civil penalty in an amount not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this act when the operator fails or refuses to pay the tax payable to the Department of Finance.

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the Department of Finance of any tax levied under the authority granted by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to Gatlinburg he may have been liable, which records the Director of Finance shall have the right to inspect at all reasonable times.

SECTION 9. In administering and enforcing the provisions of this act, the Director of Finance shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, Title 67; or otherwise provided by law. Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-1-911, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the Director of Finance shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to the adjustment and settlement with taxpayer of all errors of taxes collected by him under the authority of this act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the Director of Finance, and suit for recovery shall be brought against him.

SECTION 10. The proceeds from the tax levied herein shall be deposited in the general fund of Gatlinburg, and shall be expended so that one-half ( $\frac{1}{2}$ ) shall be used to advertise and promote the city and one-half ( $\frac{1}{2}$ ) shall be used for capital improvement projects for the city.

SECTION 11. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 12. 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 this 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 13. This act shall have no effect unless approved by a two-thirds ( $\frac{2}{3}$ ) vote of the municipal legislative body of Gatlinburg. Its approval or nonapproval shall be proclaimed by the presiding officer of the municipal legislative body of Gatlinburg and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving or rejecting the provisions of this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 13.

PASSED: March 11, 2002

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

s/Jimmy Naifeh  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED THIS      day of      2002

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DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 2875 in his possession longer than ten (10) days; therefore, the bill becomes law without the Governor's signature.

**CHARTER AND RELATED ACTS FOR THE  
CITY OF GATLINBURG, TENNESSEE**

YEAR	CHAPTER	SUBJECT
1945	84	Basic Charter Act.
1945	463	Amended § 3, elections, and § 23, charter to be adopted by voters.
1947	124	Validation act.
1947	668	Amended § 14, city bonds generally. (Repealed)
1949	811	Amended § 3, elections; § 4, corporate powers; § 5, board of commissioners; § 7, mayor; § 8, officers and employees; § 9, city manager; § 10, recorder's duty as judge; § 11, city attorney; § 12, city recorder and finance director; § 13, taxation and revenue; § 16, police force; § 17, education; § 18 definitions, political restrictions, political contributions, etc.; Replaced § 6, ordinances; § 14, city bonds generally; § 15, budget and appropriations; and § 19, audit of books and records.
1951	612	Amended § 4, corporate powers; § 13, taxation and revenue; and added § 19A and § 19B.
1953	101	Repealed by Priv. Acts 1955, ch. 327.
1955	21	Amended § 4, corporate powers, and § 13, taxation and revenue.
1955	327	Repealed Priv. Acts 1953, ch. 101.
1955	328	Amended § 4, corporate powers.

YEAR	CHAPTER	SUBJECT
1961	50	Amended § 4, corporate powers.
1963	97	Amended § 3, elections.
1965	42	Amended § 3, elections, and § 5, board of commissioners.
1977	150	Amended § 3, elections; § 4, corporate powers; § 5, board of commissioners; § 6, ordinances; § 7, mayor; § 8, officers and employees; § 9, city manager; § 10, recorder's duties as judge; § 13, taxation and revenue; § 14, city bonds generally; and § 15, budget and appropriations.
1978	200	Privilege tax on occupancy of rooms, etc. (See Related Acts at the end of the charter.)
1984	245	Amended § 5, board of commissioners.
1988	140	Amended § 3, elections.
1989	16	Privilege tax on amusements. (See Related Acts at the end of the charter.)
1989	19	Amended § 4, corporate powers.
1989	25	Privilege tax on purchasing foods. (See Related Acts at the end of the charter.)
1990	131	Amended § 5, board of commissioners, and § 19A, initiative and referendum generally.
1990	167	Development impact fee. (See Related Acts at the end of the charter.)

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YEAR	CHAPTER	SUBJECT
1991	86	Amended § 5, board of commissioners.
1992	232	Amended § 4, corporate powers; § 5, board of commissioners; and § 10, recorder's duties as judge. Also amended Priv. Acts 1977, ch. 150, § 2.
2002	102	Adds a related act "privilege tax on amusements."
2004	132	Amended § 4, corporate powers.
2014	56	Amended § 3, elections.
2015	1	Amended § 15A and replaced §§ 15F and 15J.