

CHARTER OF THE CITY OF BENTON, TENNESSEE¹

CHAPTER NO. 204

HOUSE BILL NO. 2505

By Harrill

Substituted for: Senate Bill No. 2536

By Patten

AN ACT to amend the charter of the City of Benton, Tennessee, Chapter 417 of the Private Acts of Tennessee of 1951, and all acts amendatory thereto.

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

SECTION 1. Chapter 417 of the Private Acts of Tennessee of 1951, and all acts amendatory thereto, are amended by deleting the charter of the City of Benton in its entirety and by substituting instead the following charter.

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¹Private Acts of Tennessee for 1988, Chapter 204 is the current basic charter act for the City of Benton, Tennessee. As set out herein, the basic charter has been amended through the 2017 session of the Tennessee General Assembly.

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ARTICLE I

CHARTER, DEFINITIONS, CITY LIMITS AND CORPORATE POWERS

Section 1.01. Body politic, corporate powers, name and general powers, etc. This Act is a charter. This act shall constitute the whole charter of the City of Benton, Tennessee, repealing and replacing the charter provided by Chapter 417, Private Act of 1951 and all acts amendatory thereto. The City of Benton located in the county of Polk, and the inhabitants thereof shall continue, and are hereby constituted and declared a body politic and corporate by the name and style of Benton, Tennessee, and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 1.02. Definitions. As used in this charter the following words and terms shall have the following meanings:

- (a) "City" shall mean the City of Benton, Tennessee.
- (b) "Board of mayor and commissioners" shall mean the legislative body of the city, which shall be composed of the mayor and commissioners,

elected as provided in this charter, and any incumbent commissioners, until the expiration of their current terms of office.

(c) "Commissioners" and "members of the board" shall mean a person elected to the office of commissioner as provided in this charter.

(d) "Nonpartisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization.

(e) "At large" shall mean the entire city, as distinguished from representation by wards or other districts.

(f) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the federal or state government, or by a trade association or other organization generally recognized as an authority in its field of activity.

(g) "Elector" shall mean a qualified voter residing within the city, and who has registered with the election commission of Polk County.

(h) The masculine shall include the feminine, and the singular shall include the plural and vice versa, except when the contrary intention is manifest. [as amended by Priv. Acts of 2017, Ch. 3, § 1]

Section 1.03. City limits. The boundaries of the city that were established by Private Acts of 1951, Section 2, are declared the boundaries of the city. They are as follows:

Beginning at a point on the east side of U.S. Highway No. 411, north of Benton at the northwest corner of A. E. Lyle property; thence in an easterly direction with line of A. E. Lyle to the northeast corner of A. E. Lyle property; thence south with A. E. Lyle line to corner of A. E. Lyle and Floyd Lillard, on the eastern boundary line of Hattie A. Lyle; thence southward with the line of Hattie A. Lyle to the Old Oak Grove Road, continuing with said road to where it intersects Parksville-Benton Road; thence easterly with Parksville Road to road leading to Mrs. Nora Clayton's house; thence with said road along Section Line to the southeast corner of Section 28 near Mrs. Clayton's house; thence west with south line of Section 28 and Section 29 to the north and south middle line of Section 29; thence north with the middle line of Section 29 to the Old Road from Benton to Benton Station, near Four-mile Creek; thence eastwardly with said Old Road to the western line of George Leach property; thence northwardly with said property line and continuing to the line of the McClary farm; thence easterly parallel with Section lines to road leading from Benton to mouth of River Bridge; thence northwardly with said road to the Northwest corner of the property of Herman Bishop on East side of said road; thence a straight line Eastwardly to corner of W. A. Lewis and Everett W. Bates on east side of Old Benton to Etowah Road; thence east with line of Lewis and Bates to U.S. Highway 411. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 1.04. Corporate powers. The city shall have the power:

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

(b) To levy and collect privilege taxes on businesses, privileges, occupations, trades, and professions, and to levy and collect any other kind of tax not prohibited to cities by the Constitution or general law of the state of Tennessee. Collection fees therefor may be provided by ordinance.

(c) To appropriate and borrow money as authorized in this charter, and to authorize the expenditure of money for any municipal purpose.

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

(e) To grant franchises or make contracts for public utilities and public services, not to exceed a period of twenty (20) years. Such franchises and contracts may provide for rates, fares, charges, regulations, and standards and conditions of service, subject to regulation by the Tennessee Public Service Commission or other state or federal agency having jurisdiction in such matters. Provided, however, this paragraph shall not effect existing contracts or franchises.

(f) To provide for the acquisition, construction, building, operation, and maintenance of: public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment plants, airports, hospitals, water works, docks, gas works, forests, trees and shrub nurseries, heliports, terminals, parking garages and lots, industrial sites and buildings; charitable, educational, recreational, sporting, cultural, curative, corrective, detentional, penal and medical institutions, agencies, and facilities; and any other public improvements; inside or outside the city; and to regulate the use thereof; and for such purposes property may be either acquired or taken pursuant to the general law for such purposes.

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

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

(i) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such service which, if

unpaid, shall be collectible in the same manner as taxes or other debts. The board of mayor and commissioners by ordinance may prescribe penalties and interest for delinquency.

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

(k) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installations and equipment, fixed mechanical equipment, plumbing and housing for the health, sanitation, cleanliness, safety and comfort of the inhabitants of the city, and to provide for the enforcement of such standards.

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

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

(n) To provide that the violation of any ordinance, rule, regulation, or order shall be punishable by fine, penalty or forfeiture not to exceed fifty dollars (\$50.00) and costs.

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

(p) To dispatch fire equipment within and without the corporate limits, provided that the board shall prescribe by ordinance rules for dispatching and operating fire equipment outside the corporate limits.

(q) To exercise and have all other powers, functions, rights, privileges, and immunities granted by general law or necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this charter as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this charter shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities by the constitution or general laws of the State. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

ARTICLE II

BOARD OF MAYOR AND COMMISSIONERS

Section 2.01. Election of mayor and commissioners. (a) Beginning in 2008 a non-partisan general city election shall be held on the first Tuesday after the first Monday in November and every four (4) years thereafter to elect a mayor and two (2) commissioners from the city at large.

(b) All elections shall be conducted by the commissioners of elections of Polk County in accordance with the general election laws and this charter.

(c) Any person who is a resident of the City of Benton or who has owned at least fifty percent (50%) bona fide and recorded fee simple interest of real property within the boundaries of the City for at least six (6) months prior to the City election and who is qualified to vote for members of the general assembly and other civil officers for Polk County shall be entitled to vote in elections for mayor and commissioner. The same qualifications for voting in all other City elections or referenda shall apply unless otherwise provided by law.

(d) Any elector who has been a resident of the City for one (1) year may be qualified as a candidate for the office of mayor or commissioner.

(e) The mayor and two (2) commissioners elected in the general city election held on the first Saturday in June 2006 shall have their term extended until their successors are elected in the general city election held on the first Tuesday following the first Monday in November of 2008. The mayor, and any commissioner shall be eligible for reelection and, thereafter, the terms of the mayor, and all commissioners shall be four (4) years and until their successors shall be elected. [As amended by Priv. Acts 1996, ch. 27, §§ 1 and 2; replaced by Priv. Acts 2007, ch. 30, § 1; and amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.02. Board of mayor and commissioners. (a) The mayor and two (2) commissioners elected under this charter shall compose the city board, in which is vested all corporate, legislative and other powers of the city, except as otherwise provided in this charter.

(b) The salary of all elected and appointed officials and employees shall be set by ordinance. Officials and employees shall also be reimbursed for actual and necessary expenses incurred in the conduct of their official duties.

(c) The board shall meet regularly at least once every month at the times and places prescribed by ordinance. The board shall meet in special session on verbal notice of the mayor or any one (1) commissioner and served on the other members of the board personally at least twenty-four (24) hours in advance of the meeting. Adequate public notice shall be given for all regularly scheduled and special meetings of the board. Only the business stated in the advertised call may be transacted at a special meeting.

The board shall exercise its powers only in public meetings, and minutes of all meetings of the board shall be promptly and fully recorded, and shall be open to public inspection.

(d) The mayor and one (1) commissioner or two (2) commissioners shall constitute a quorum. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. The board may by ordinance adopt rules and by-laws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The board may subpoena and examine witnesses and order the production of books and papers. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.03. Mayor as presiding officer. The mayor shall preside at all meetings of the board and shall vote. The mayor shall be recognized as the ceremonial head of the city. He shall be the officer to accept process against the city, and shall perform other duties imposed by this charter and by ordinances not inconsistent with this charter. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.04. Vacancy in the office of mayor or commissioners. A vacancy shall exist if the mayor or a commissioner resigns, dies, moves his residence from the city, is convicted of malfeasance or misfeasance in office, a felony, a violation of this charter or election laws of the state, or a crime involving moral turpitude, fails to attend any meetings of the board for a period of ninety (90) days with no extenuating circumstances, or has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office; the board shall by resolution declare a vacancy to exist for any of these reasons, and such finding shall be final.

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

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

At no time shall there be more than one (1) member of the board appointed to fill a vacancy. If a vacancy occurs more than six (6) months prior to a regular election and while one (1) appointed member is on the board, a special election shall be held by the county commissioners of elections on the eighth Thursday following occurrence of the vacancy, at which election a board member shall be elected to serve the unexpired term of the vacant office. The provisions in this article for regular elections shall govern special elections. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.05. Restrictions on board members. The board shall act in all matters as a body, and no member shall seek individually to influence the

official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. The board shall deal with the various agencies, officers and employees of the city, except boards or commissions authorized by this charter, solely through the mayor, and shall not give orders to any subordinates of the mayor, either publicly or privately, Nothing herein contained shall prevent the board from conducting such inquiries into the operation of the city government and the conduct of the city's affairs as it may deem necessary. The office of any board member violating any provisions of this section shall immediately become vacant upon conviction in a court of competent jurisdiction. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.06. Designation of official newspaper. The board by resolution shall designate a newspaper of general circulation in the city as the official city newspaper for publication of official notices of the city. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.07. City legislation. (a) Any action of the board having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises or contracts over five hundred dollars (\$500), authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this charter or the general laws of the state, shall be in written form before being introduced, and a copy shall be furnished to each member of the board in advance of the meeting at which introduced. The enacting clause of ordinances shall be "Be it ordained by the board of the City of Benton:". No action of the board shall be valid or binding unless approved by the affirmative vote of at least two (2) members of the board. Any ordinance which repeals or amends existing ordinances shall set forth at length the sections or subsections repealed or as amended. Every ordinance must be approved on two (2) readings, and shall become effective twenty (20) days after approval on second reading unless its terms provide a later effective date. Every ordinance, except codes adopted by reference as provided in subsection (c) below, shall be read by caption only. Each resolution shall be read by caption only one (1) time and shall become effective. To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted and become effective immediately, by the affirmative votes of two (2) members of the board, if the ordinance contains a full statement of the facts creating the emergency; but any emergency ordinance shall be effective for only ninety (90) days. Appropriations, revenues, franchises, contracts, levy of taxes, borrowing money, or special privileges shall not be passed as emergency ordinances.

(b) The board shall have the general and continuing ordinances of the city assembled into an official code of the city, a copy of which shall be kept currently up to date by the city recorder and shall be available to the public.

After adoption of the official code all ordinances shall be adopted as additions to, deletions from, or amendments to the code.

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

(d) The original copies of ordinances, resolutions, contracts, and other documents shall be filed and preserved by the city recorder. The title and a brief summary of each ordinance and resolution shall be published by the official city newspaper within ten (10) days after its final approval. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 2.08. Donations to private organizations. Taxes and other city revenues are levied and collected for public purposes, and the use of such funds as donations or contributions to nongovernmental agencies or for private purposes is prohibited, but the board may contract with nongovernmental agencies for materials and services necessary to effectuate public purposes authorized by law. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

ARTICLE III

ORGANIZATION AND PERSONNEL

Section 3.01. Organization of city government. The city government shall be organized into a department of finance, police department, fire department, and department of public works and utilities, unless otherwise provided by ordinance. The board shall determine by ordinance the functions and duties of all departments and offices. The board, by ordinance, may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city; may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city subject to the following limitations:

(a) The number of members and authority of the board, as provided in this charter, shall not be changed.

(b) The terms of all officers and employees of the city, except the city attorney, shall be during their good behavior on and off duty, and the terms of officers and employees shall not expire with the terms of the mayor and commissioners. Where the officer or employee is appointed by the board as expressly provided in this charter, he shall be removed by the board only for reasonable cause. All other officers and employees shall be appointed and

removed by the mayor only for reasonable cause under Section 3.07 of this charter. The city attorney shall serve at the will of the board.

(c) The office of mayor shall not be abolished, nor shall his powers as provided in this charter be reduced. [As amended by Priv. Acts 1996, ch. 127 § 3; and Priv. Acts of 2017, Ch. 3, § 2]

Section 3.02. Administrative duties of mayor. The mayor shall be the executive head of the city government, responsible for the efficient and orderly administration of the affairs of the city. He shall be responsible for the enforcement of laws, rules and regulations, ordinances, and franchises of the city, and the city attorney shall take such legal actions as the mayor may direct for such purposes. He may conduct inquiries and investigations into the affairs of the city and shall have such other powers and duties as may be provided by ordinance not inconsistent with this charter. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 3.03. City recorder. The board shall appoint a city recorder, who shall have the following powers and duties:

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

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

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

(d) To serve as head of the department of finance if appointed to this position by the board.

(e) To perform such other duties as may be required by the board. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 3.04. City attorney. The board shall appoint a city attorney, and such assistant city attorneys as may be authorized by ordinance. The city attorney, or an assistant city attorney designated by him, shall be responsible for representing and defending the city in all litigations in which the city is a party; prosecuting cases in the city court; advising the board and other officers and employees of the city concerning legal aspects of their duties and responsibilities; approving as to the form and legality all contracts, deeds, bonds, ordinances, resolutions, motions and other official documents; and performing such other duties as may be prescribed by the board. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 3.05. City court. (a) City judge - The city judge, who shall constitute the city court, shall be the recorder. In the incapacity of the city judge, or until such time as a recorder is appointed, a disinterested, neutral person appointed by the board shall serve as city judge pro tempore.

(b) Jurisdiction, powers, compensation. The jurisdiction of the city judge shall extend to the trial of all offenses against the ordinances of the city, and costs in such trials shall be fixed by ordinance. Said city judge shall not have any jurisdiction over civil matters. The city judge shall have the power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order.

(c) Fines. Fines may be paid by installments to be fixed and security determined in the city judge's discretion. Receipts of the city court shall be deposited weekly and monthly reports made thereof to the board.

(d) Docket. The city judge shall keep or cause to be kept a docket of all cases handled by him, and shall be designated clerk of the city court unless some other person shall be appointed to said position by the board.

(e) Separation of powers. The city judge shall be the exclusive judge of the law and the facts in every case before him, and no officer or employee of the city shall attempt to influence his decision except through pertinent facts presented in open court. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 3.06. Officers and employees. Only the officer and positions of employment provided for in the annual budget, as provided by the board, shall be filled. Salaries for all positions shall be in accordance with a pay plan adopted by ordinance. In determining salaries, due consideration shall be given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and availability of persons having the qualifications desired.

Section 3.07. Personnel actions. The appointment and promotion of officers and employees of the city over which the mayor has the power of appointment under this charter shall be on a basis of merit, considering technical knowledge required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications.

The mayor shall have authority to make promotions and transfers of officers and employees over which he has the power of appointment under this charter, and for reasonable cause to make demotions, suspensions and removals of such officers and employees, and he may delegate such authority to department heads. Before removal, or suspension for more than fifteen (15) working days, an employee shall be given a written notice of intention to suspend or remove him, containing a clear statement of the grounds for such proposed action and notification that he may appeal to the city board by filing within ten (10) working days, with the city recorder, written notice of his

intention to do so. After receipt of such notice the board shall set a time and place for a public hearing on the matter, to be held within twenty (20) calendar days thereafter. The votes of two (2) board members shall be required to override the suspension or removal, and the action of the board shall be a final determination of the matter. If a suspension is overruled by the board any loss of salary shall be paid to the employee. [As amended by Priv. Acts 1996, ch. 127 §§ 4 and 5; and Priv. Acts of 2017, Ch. 3, § 2]

Section 3.08. Personnel rules. The board may by ordinance adopt supplementary personnel rules and regulations governing the appointment, discipline, termination and other employment conditions of officers and employees of the city, both over which it has the power of appointment and over which the mayor has the power of appointment, provided they are not inconsistent with the provisions of this charter. In the event of any such inconsistencies, this charter shall prevail. [As amended by Priv. Acts 1996, ch. 127 § 6; and Priv. Acts of 2017, Ch. 3, § 2]

Section 3.09. Oath of office. Before a person takes any office in the city government, he shall subscribe to the following oath or affirmation, administered by the city recorder or any justice of the peace:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Tennessee, that I will, in all respects, observe the provisions of the charter and ordinances of the City of Benton, and that I will faithfully discharge the duties of the office of _____." [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 3.10. Official bonds. The mayor and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees designated by the board, shall give a fidelity bond or faithful performance bond, as determined by the board, with some surety company authorized to do business in the State of Tennessee as surety, in such amount as shall be prescribed by the board. All such bonds and sureties thereto shall be subject to approval by the board. The cost of such bonds shall be paid by the city. Such bonds shall be blanket bonds covering offices and positions to be bonded, and individual bonds may be secured only when blanket bonds are not obtainable. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 3.11. Personal financial interest. Any officer or employee of the city shall not profit personally, directly or indirectly, from any business transacted with the city government, nor shall any officer or employee accept

any free or preferred service benefits or concessions from any person, company or firm regulated by or doing business with the city. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

ARTICLE IV

FISCAL ADMINISTRATION

Section 4.01. Fiscal year. The fiscal year of the city government shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding year, unless otherwise provided by ordinance. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.02. Mayor to submit annual budget. Not later than forty-five (45) days prior to the beginning of each fiscal year, the mayor shall submit to the board a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following: (a) revenue and expenditures during the preceding year, (b) estimated revenue and expenditures for the current fiscal year, (c) estimated revenue and recommended expenditures for the next fiscal year, not to exceed the amount of estimated revenue, (d) a comparative statement of the cash surplus (or deficit) at the end of the preceding year and the estimated surplus (or deficit) at the end of the current fiscal year, and (e) any other information and data, such as work programs and unit costs, in justification of recommended expenditures that may be considered necessary by the mayor or requested by the board. The mayor may recommend and estimate receipts from additional revenue measures, providing such estimates are separated clearly from normal revenue estimates. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year as compared with the current fiscal year, a general summary of the budget, and such other comments and information as he may deem pertinent. A sufficient number of copies of the mayor's message shall be reproduced to furnish a copy to any person desiring one. A copy of the budget in full shall be filed with the city recorder for public inspection and a copy shall be furnished to each board member. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.03. Capital improvement budget. A capital improvement budget may also be prepared to include a description of projects recommended for the ensuing fiscal year and the five fiscal years thereafter, the estimated cost of each project, and the recommendation of the mayor for financing the projects proposed for the ensuing year. The capital improvement budget shall be prepared by or reviewed by the local planning commission, and the recommendations of the planning commission shall be submitted by the mayor

to the board concurrently with the annual budget. The board may accept, reject, or revise the capital improvement budget as it deems desirable.

Section 4.04. Public hearing. After receiving the mayor's proposed budget, the board may fix a time and place for a public hearing thereon, and shall cause a public notice thereof and announcement of where and when the full budget may be examined to be published two (2) times in the official city newspaper, the last such publication to be at least ten (10) days in advance of the date of the hearing. The public hearing shall be held before the board at the stated time and place, and all persons present shall be given a reasonable opportunity to be heard.

Section 4.05. Action by board on budget. After the public hearing and before the beginning of the ensuing fiscal year the board shall adopt an appropriation ordinance, based on the mayor's proposed budget with such modifications as the board considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department or agency. The board shall not make an appropriation in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city declared by a vote of all members of the board. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year subject to amendment as provided in this section. Amendments may be made to the original appropriation ordinance at any time during a current fiscal year after ten (10) days' notice published in the newspaper and a public hearing before the board. Appropriations, except emergency appropriations as provided above, may be increased during the year only after the mayor certifies in writing that sufficient amount of unappropriated revenue will be available. Any portion of an annual budget remaining unexpended and unencumbered at the close of a fiscal year shall lapse and be subject to appropriation for the following year. Any balance remaining in any fund other than the general fund at the end of a fiscal year may remain to the credit of such fund and be subject to further appropriation. At the end of each month the mayor shall submit to the board a budget report showing revenue receipts, encumbrances and expenditures for the month and for the fiscal year to the end of that month. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.06. Control of expenditures. The mayor shall be responsible for controlling expenditures of the various agencies of the city government to accomplish maximum efficiency and economy. No expenditures shall be made in excess of appropriations. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.07. Centralized purchasing. (a) All contracts and purchases, except those reserved to the board by ordinance, shall be made by the purchasing agent appointed by the mayor, or by the mayor acting as purchasing agent. The purchasing agent may prescribe rules for emergency purchases to be made by department heads. Departments shall estimate their future needs and requisition items so that purchases in maximum quantities may be made. The purchasing agent shall prepare standard specifications, dispose of surplus or worn out supplies and equipment and enforce such specifications, dispose of surplus or worn out supplies and equipment, store and maintain records of materials and supplies, and maintain records of city property.

(b) Purchases or contracts of more than one hundred dollars (\$100) shall require approval of the board. All purchases and contracts, except for minor items used infrequently or items which must be obtained immediately to avoid disruption of services, shall be by competition, subject to such regulations as may be provided by resolution. Any expenditure or contract for more than three thousand dollars (\$3,000) shall be made only after sealed bids have been invited by notices published one (1) time in the official city newspaper and at the city hall, to be published not less than fifteen (15) days in advance of the date set for receiving bids. Purchases and contracts shall be awarded to the lowest responsible bidder, but all published notices shall state that the city reserves the right to reject any and all bids. The city may waive the requirement to obtain bids when there is only one source of supply or when such action is in the best interest of the city, providing the reasons for any such waiver are made a matter of record. Bid records shall be preserved for a period of not less than two (2) years. Bids need not be taken for professional services and services for which the rates or prices are regulated by public authority, nor shall competitive bidding be required for purchases from other governmental agencies. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.08. Unauthorized contract on expenditure. Any contract or agreement made in violation of the provisions of this charter or ordinances of the city shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder, and their sureties of their official bonds, and every person who shall knowingly receive such a payment, shall be jointly and severally liable to the city for the full amount so paid or received. A violation of this section by any officer or any employee shall be cause for his removal. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.09. Sale of city property. The mayor may sell city property which is obsolete, surplus or unusable, after advertisement as provided in Section 4.07 (b), by sealed bids or at public auction; provided, however, that any sale for more than five hundred dollars (\$500), or any sale of real estate, shall

be subject to approval by the board. The mayor may sell any item valued at less than fifty dollars (\$50) without taking bids, but each such sale shall be reported to the board at its next meeting. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.10. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principals of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the city shall be required by action of the Board of Mayor and Commissioners and same be made after the end of each fiscal year by a certified public accountant skilled in such work. [As replaced by Priv. Acts 1991, ch. 115 § 1; and amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.11. Bonds for public works contracts. Each bid on a contract for any public works or improvement shall be accompanied by a cash or surety company bid bond in the amount of five percent (5%) of the amount of the bid. Before any contract is awarded, the contractor shall give a bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price. The board may waive these requirements for contracts under five thousand dollars (\$5,000).

Section 4.12. Property taxes. All property subject to taxation shall be subject to the property tax levied by the city. The board shall use county assessments for all property subject to taxation except property assessed by the public service commission. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.13. Omitted property. If county assessments are used and the city recorder shall add to the assessments rolls any taxable property that may have been omitted by the county assessor. Such property shall be appraised and assessed at the same ratio as other property of the same class located in the city. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.14. Tax levy. The board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation, not later than ninety (90) days prior to the tax due date. In event of board's failure to do so, the prior year's tax rate shall continue in effect.

Section 4.15. Tax due dates and tax bills. Property taxes shall be payable on and after October 1st in the year for which assessed and shall become delinquent on March 1st following. Failure to send tax bills shall not, however, invalidate any tax, penalty or interest thereon. Property taxes, upon becoming delinquent, shall be subject to such penalty and interest as is authorized and

prescribed by state law for delinquent county real property taxes. [As amended by Priv. Acts 1991, ch. 115 § 2]

Section 4.16. Delinquent taxes. The board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process by the county trustee as provided by general law; or by the city attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes; by garnishment; by suits in chancery; or by any two (2) or more of the foregoing methods, or by the use of any other available legal processes and remedies. If not otherwise collected, the city attorney, or others designated by the board, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.17. Taxes not to be excused. No officer or employee of the city shall have the authority to excuse taxes, penalties, interest, special assessment, or other charges due the city, but errors may be corrected when authorized by the board. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.18. Disbursement by checks. All disbursements, except for any agency of the city administered by a board or commission, shall be made by checks signed by the city recorder and countersigned by the mayor. The board may by resolution designate other officers to sign such checks in the absence or disability of the mayor or city recorder. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.19. Official depository. The board shall designate an official depository or depositories for deposit and safekeeping of funds of the city, with such collateral security as may be deemed necessary by the board. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.20. Accounting. The financial records of the city shall be established and maintained in general conformity with the accounts and procedures recommended by the Government Finance Officers Association or other nationally recognized authority on municipal accounting. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 4.21. Tax anticipation borrowing. The board may borrow money in anticipation of revenues, for payment of current and necessary expenses, which shall be repaid in the same or following fiscal year.

ARTICLE V

INTERGOVERNMENTAL COOPERATION AND CONTRACTING

Section 5.01. Intergovernmental cooperation and contracts. In addition to other powers granted in this charter, the board of mayor and commissioners shall have the power to contract and cooperate with any other municipalities or other political subdivision of the state, or with an elective or appointive official thereof, or with any duly authorized agency of the federal or state government, for the exercise of any power or function which the city is authorized to undertake by this charter. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 5.02. Execution of such powers. The board of mayor and commissioners may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any such contract or cooperative action. The parties to such a contract or cooperative action, or any of them, may acquire, by gift or purchase, or by the power of eminent domain exercised by one or more of the parties, the lands, buildings, and other property necessary or useful for the purposes of the contracts or cooperative action, either within or without the corporate limits of one or more of the contracting parties, and shall have the power to hold or acquire such property jointly. The city may provide for the financing of its share or portion of the cost or expenses of such a contract or cooperative action in the same manner as if it were acting alone and on its own behalf.

Such a contract also may provide for the establishment and selection of a joint commission, officer or officers to supervise, manage, and have charge of a joint service or project, and may provide for the powers and duties, term of office, compensation, if any, and other provisions relating to the members of such joint commission, officer or officers. Such contract may include and specify terms and provisions relative to the termination of (or) cancellation of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be give of such termination or cancellation. Such cancellation or termination shall not relieve any party participating in such contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such cancellation or termination. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 5.03. Immunities and liabilities of officers. All public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article shall enjoy the same immunities and be subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

Section 5.04. Handling of funds. All money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided by law, shall be deposited and disbursed in accordance with the provisions of such contract or cooperative action.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01. Other general laws may be used by city. Notwithstanding any provision of this charter, the board may elect to operate under or adopt any general law or public act available to municipalities of the state, in lieu of or in addition to provisions of this charter. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

Section 6.02. Penalties. The violation of any provision of this charter, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor, and persons guilty of such violations shall be fined not more than fifty dollars (\$50).

Section 6.03. Severability. If any article, section, subsection, paragraph, sentence, or part of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence, or part be enacted separately and independently of each other.

Section 6.04. Applicability. To be applicable as the charter of the City of Benton, this act must be approved by a two-thirds (2/3) vote of the governing body, said vote to be taken not less than sixty (60) nor more than one hundred twenty (120) days after passage of this act. The mayor shall, within ten (10) days thereafter, certify to the secretary of state the result of said vote. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

SECTION 2. Nothing in this act shall be construed as having the effect of altering the salary of any incumbent prior to the end of the term for which such public officer was selected.

Nothing in this act shall be construed as having the effect of removing an incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 3. This act shall become effective when it has been approved by the board of commissioners of the City of Benton by a vote of not less than two-thirds (2/3) of the entire membership of the Board. The approval or nonapproval of this act by the board of commissioners shall be certified by the mayor of the City of Benton to the secretary of state. [as amended by Priv. Acts of 2017, Ch. 3, § 2]

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: April 27, 1988

Ed Murray
SPEAKER OF THE HOUSE OF REPRESENTATIVES

John S. Wilder
SPEAKER OF THE SENATE

APPROVED this 2nd day of May 1988.

PRIVATE ACTS COMPRISING THE CHARTER OF THE
CITY OF BENTON, TENNESSEE

YEAR	CHAPTER	SUBJECT
1988	204	Basic charter act.
1991	115	Replaced § 4.10, accounting records and audit; and § 4.15 tax due dates and tax bills.
1996	127	Amended § 2.01 (e) Election of mayor and commissioners; § 3.01(b), terms of offices and employees; § 3.07, appointment and promotions of officers and employees; and § 3.08, personnel rules and regulations.
2007	30	Replaced § 2.01, Election of mayor and commissioners.
2017	3	Changed "town" to "city" throughout charter.