

CHARTER OF THE TOWN OF CARTHAGE, TENNESSEE¹

CHAPTER NO. 112

HOUSE BILL NO. 1611

By Representative Buck

Substituted for: Senate Bill No. 1599

By Senator Burks

AN ACT to amend the charter of the Town of Carthage, Tennessee, and all acts amendatory thereto.

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¹Priv. Acts 1991, Ch. 112, is the current basic charter act for the Town of Carthage, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2017 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 private act or acts constituting the amendment or amendments. No other changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the private 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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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The charter of the Town of Carthage, being Chapter 186 of the Private Acts of 1901, and all Acts amendatory thereto, be and is hereby amended to read as follows:

BOUNDARIES

Section 1. The inhabitants of the Town of Carthage, in the County of Smith and the State of Tennessee, are hereby constituted a body politic and corporate under the name and title of the "Town of Carthage," in the following stated boundaries, to-wit: Beginning at the northwest corner of the T. P. Bridges farm on the bank of the Cumberland River, running thence northwardly with the Bridges line to the Carthage and Hartsville turnpike; thence with said turnpike to the corner of the farm of T. J. Fisher, Sr., on the pike near the toll gate; thence with the line of said Fisher northward and eastward to the northeast corner thereof to the line of the old Jos. Myer farm; thence with the line between the Jos. Myer farm and the farm of Wright Bros. eastwardly to the Cumberland River; thence with the meanders of said river to the beginning.

MAYOR AND ALDERMEN - GENERAL POWERS SUCCESSION

Section 2. The Mayor and Alderman of the Town of Carthage shall have perpetual succession, may sue and be sued, implead and be impleaded in all the courts of law and equity; may purchase, receive and hold real, personal, and mixed property within said town for municipal purposes, and may purchase, receive, and hold property, both real and personal, to be used for the burial of the dead, erection of water works, work house or house of correction, and may sell, lease or dispose of said property for the benefit of the Town of Carthage, and to do all other acts in and about the same as natural persons. The Mayor and Alderman or the Town of Carthage shall have the power to fix the compensation of all city employees. They shall have and use a common seal, which may be changed at pleasure.

MAYOR AND ALDERMEN - ELECTION AND ELIGIBILITY

Section 3. The officers of said town, to be chosen and elected by the qualified voters of the town, shall be Mayor and six (6) Aldermen, who shall constitute the Town Council. Those persons elected to the above-mentioned positions shall have been residents of the Town of Carthage for at least one year preceding his election. Should the Mayor or any Alderman cease to be a bona fide resident of the Town of Carthage, his office shall be vacated. In the event that the election of Mayor or Alderman cannot be determined due to a tie vote, then a run-off election shall be held within forty-five (45) days for that office. The swearing in shall be within five (5) days of certification of their election by the Smith County Election Commission. [As amended by Priv. Acts 1993, ch. 53, § 1]

TERMS OF MAYOR AND ALDERMEN

Section 4. The Mayor and Aldermen shall be elected for four (4) year terms and an election shall be held on the first (1st) Tuesday following the first (1st) Monday in November or all even-numbered years so as to coincide with the November general election. Nothing In this Act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which he was elected. All officers of the Town shall hold their offices until their successors are elected or appointed and qualified. All elections shall be held in accordance with the provisions of the State's general election laws.

OATH OF OFFICE OF MAYOR AND ALDERMEN

Section 5. The Mayor and Aldermen, before entering upon their duties, shall each take an oath before some person qualified to administer the same,

that they will honestly and faithfully discharge the duties of the office without fear, favor or affection, and to support the Constitutions of the United States and of the State of Tennessee.

LEGISLATIVE POWERS OF TOWN COUNCIL: VICE MAYOR
FILLING VACANCIES IN OFFICES OF MAYOR AND ALDERMEN

Section 6. (a) That the legislative powers of the said town shall be exercised by the Town Council, consisting of the Mayor and Aldermen, over whose meetings the Mayor shall preside and cast the deciding vote in case of a tie. A majority of all the Aldermen shall constitute a quorum for the transaction of business.

(b) The office of vice Mayor of the Carthage city government is hereby created, with such duties as are prescribed by this charter.

(c) At the first meeting of the city Council of Carthage (after each regular biennial city election) at which newly elected members are installed, the city Council of Carthage shall choose from its membership a vice Mayor of Carthage, to act in the Mayor's absence, inability or failure to act. In the event of a tie regarding the vice Mayor's election by the Carthage city Council, it shall be decided by the Mayor's vote which by this Act shall be required in order to elect a vice Mayor of Carthage.

In the event of the Mayor's death, resignation, or ouster from office, the vice Mayor of Carthage shall become Mayor for the unexpired term of either one (1) or two (2) years with a Mayor's election required at the next biennial city election.

The vacancy in the vice Mayor's office due to his succession to the Mayor's office, caused by the Mayor's death, resignation, or ouster from office, shall be filled by a majority vote of the Carthage city Council and in case of a tie, the Mayor of Carthage shall be required to cast the deciding vote in order to elect a vice Mayor. In the event of the Mayor's death in office, resignation from office, or ouster from office, it shall be the duty of the Carthage city Council to proceed with, as expeditiously as possible, the swearing in of the vice Mayor of Carthage, by the appropriate official to the Mayor's office immediately after a vacancy occurs due to the Mayor's death, resignation, or ouster from office. In the event of the vice Mayor's death in office, resignation, or ouster from office, the vacancy of the vice Mayor's term of office shall be filled by a majority of the Carthage city Council with the Mayor of Carthage casting the deciding vote in the event of a tie among the aldermen's efforts to elect a vice Mayor.

(d) A majority of the Carthage city Council shall be required to fulfill or appoint a Carthage city alderman to a vacancy on the Carthage city Council due to the death, resignation, or ouster from office of a Carthage city alderman during his term of office. The Mayor of Carthage shall be required to convene the Carthage city Council as expeditiously as possible in the event of a Carthage city alderman's death in order to fill the Council office vacancy and if a vacancy occurs because of an alderman's resignation or ouster from office, the Mayor shall act as expeditiously as possible to fill the vacancy by means herein stated.

(e) The Mayor of Carthage shall be required to cast the deciding vote in the event of a tie regarding the election or appointment of a Carthage city alderman by the Carthage city Council due to a Carthage city alderman's death, resignation, or ouster from office during his elected term of office. The alderman-elect shall serve out the unexpired term of the deceased Carthage city alderman's office or remaining time of a resigned alderman's office or remaining time of the ousted alderman's office.

CONDUCT AND REMOVAL OF OFFICERS

Section 7. The Council of the Town of Carthage shall prescribe its own rule of proceeding and punishing its own members for malfeasance, misfeasance or nonfeasance, drunkenness or any other misconduct in office, and enforce the same. Two-thirds (2/3) of the entire remaining members of the Council to concur may expel a member for misfeasance, malfeasance, nonfeasance, drunkenness or other misconduct, which vacancy shall be provided for as in other cases. A less number than a majority can adjourn from day to day, and may by ordinance compel the attendance of absent members by fines and penalties. [As amended by Priv. Acts 1993, ch. 53, § 2]

ELECTION AND/OR APPOINTMENT OF CHIEF OF POLICE AND OTHER OFFICERS: COMPENSATION OF OFFICERS

Section 8. The Mayor and Board of Aldermen of the Town of Carthage, acting as a Council, are hereby authorized, empowered, and directed to appoint some suitable person of lawful age who may not be a member of said Council, Recorder of said town. Such person shall hold office at the will of said Council, shall be paid compensation as shall be fixed by said Council, and before assuming the duties of his office, shall execute bond in an amount to be determined by the Council, but not less than ten thousand (\$10,000) dollars. They shall also at said times elect a Chief of Police, and such other officers and Supervisors as they deem necessary, and may provide by ordinance and shall have power to prescribe the duties of the same, and fix the bonds of all the officers of the town. Each Alderman of the town shall receive a salary to be determined by the Council for serving as an Alderman. The Council shall fix the

salary of the Chief of Police. If other officers are appointed or elected under the authority given in this Act, the Council shall have full power to provide for and fix the amount of their compensation.

COMPENSATION OF MAYOR

Section 8. (a) The town of Carthage is authorized and empowered to fix and allow compensation to the Mayor for his service in the discharge of his duties as such. The Mayor's salary may not be reduced during his term of office.

TAX ASSESSMENTS: ENUMERATED POWERS OF TOWN COUNCIL

Section 9. The Council shall have power by ordinance to assess property within the corporate limits for taxation, to levy and collect taxes for municipal purposes upon all property and privileges not exempt from taxation under the Constitution of the state; to create, define and grant licenses for the exercise of privileges, prescribe regulations for the good order, peace, health, safety, comfort, convenience and good morals of the town; to provide water works to supply the town and inhabitants with water; to open, establish, extend, repair, alter and abolish streets, alleys, lanes, sidewalks, pavements and other necessary ways; to provide for lighting alleys, streets and other ways and buildings within the corporate limits; to establish and regulate markets and market houses; to rent, lease or erect all necessary public buildings for the use of the town; to provide, regulate and maintain burial grounds for the dead, and to condemn and take such land belonging to any person or persons, said land to be condemned and acquired in the manner now provided by law for the taking of private property for works of internal improvement; to establish parks and enclose, improve and beautify and preserve them; to prohibit, suppress and abate nuisances, public and private; to provide for the prevention of fires by the organization of fire companies, providing engines and necessary attachments and appliances, and for their operation, and by regulating or prohibiting the erection of wooden buildings at places where they would endanger other property; to regulate the storage of gunpowder and other explosives, and noisome or offensive substances; to condemn and remove any unsafe or insecure buildings so located as to be dangerous to the public or other property; to regulate or prevent the running at large of any kind of livestock or animals on the streets of the town; to condemn and take land or other property for corporate uses or purposes; for restraining gambling houses, houses of ill-fame and bawdy houses; to impose, collect and dispose of fines, forfeitures and penalties imposed for the violation of laws and ordinances of the town; to build and maintain a safe calaboose or lock-up for the safekeeping of prisoners before trial for violation of the town laws and ordinances; to regulate and prohibit the use of firearms; to provide for planting and protecting shade trees along the streets, alleys and ways or on public grounds within the town limits; to lease or erect and maintain

a work house and house of correction, and to regulate punishment of the unnecessary abuse of or cruelty to animals; to regulate or prevent the use of fireworks, shooting firecrackers, roman candles, toy pistols, torpedoes, guns or pistols within the town; to provide for public schools within the town and fix the grade thereof; to provide for the arrest and confinement until trial of all violations of riotous and disorderly persons; to prohibit disorderly, noisy or boisterous assemblages of persons within the town limits; to prohibit and punish vagrancy; to define offenses against the corporation and citizens thereof and provide for the punishment thereof, and pass all lawful ordinances and bylaws that may be necessary to carry out the full intent of and purpose of the act.

Said Council shall have power to pass such regulations or ordinances for the improvement of the streets, sidewalks, and public ways and grounds within the said town as they may deem proper, and to require the owners of property fronting on any of said streets or adjoining the same to erect and maintain sidewalks of such material and in such manner as said Council may prescribe, and to fix a lien on said property for failure on the part of the owners to comply with said requirements; to prescribe regulations for the construction, maintenance, and placing by the owners of property adjoining said sidewalks of any cellar doors, trap doors, steps, or other obstructions on any of the sidewalks of the town, and to fix a lien on the property of said owner or owners for failure to comply with said requirements, and to prescribe additional penalties for the violations of any of the provisions of this act. Said Council shall have power to pass ordinances for the removal of old and dilapidated buildings, which are deemed unsightly, dangerous, insecure, unsafe, or a nuisance to the well-being and welfare of said town, and for the suppression of any business, building or vocation on which is deemed injurious to the health, morals, or welfare of said town, or such as constitute a nuisance or materially increase the risk of fire to the locality in which located in said town, and to prescribe the limits or streets in which or on which any business, vocation, or calling shall be conducted. Provided, all the liens which are provided by the provisions of this section shall be charged against the party against whom declared, and shall become alien in the same manner and of the same force and collected in the same way as the taxes of said town are levied and collected.

EXTRATERRITORIAL JURISDICTION OF POLICE

Section 9. (a) The jurisdiction and police authority of said town shall extend to a distance of one (1) mile beyond the corporate limits for the suppression and punishment of all disorderly acts and practices forbidden by the laws of the state and the ordinances of said town.

TOWN COUNCIL MEETINGS

Section 10. The Council shall fix their regular times and places of meeting, and they shall meet not less than once in each month.

GENERAL DUTIES OF MAYOR

Section 11. It shall be the duty of the Mayor to lay before the board any information needed, and recommend such measure as he may deem expedient; to examine all bills passed before affixing his signature, and should any such not meet his approval, he shall, at the next regular meeting of the Council, return the same with his objections in writing, and no law so vetoed shall go into effect unless the same be again passed by a two-thirds (2/3) majority vote of the Council present; no ordinance shall become law unless the same shall be considered on two (2) separate days and be passed by approval on each of the two (2) days by majority of the members present unless by unanimous consent of the Council earlier action is deemed necessary and until the same shall have been signed by the Mayor, unless he fails to veto the same by the next regular meeting, and in case of such failure, the same shall become a law without his signature; the Mayor shall be the chief executive officer in charge of supervision of all officers of the municipality and see that all laws or ordinances be enforced; the Mayor may make temporary appointments to fill temporary vacancies, and he shall likewise have the power to make special deputies; to increase temporarily the police force; and he shall call special meetings of the Council when in his judgment the good of the town requires it; he shall say to the Council, in writing, the purpose of such meeting which, together with the action of the Council, shall be spread on the minutes of the regular minute book; he shall have the power to suspend any city officer for misconduct or dereliction of duty in office, reporting such action, with his reasons therefor, in writing, to an immediate special meeting of the board; he shall have all the powers formerly exercised by the justice of the peace within the municipality for the purpose of keeping the peace and trying offenses against any ordinance or the laws of the state; shall countersign all warrants drawn upon the treasurer by the recorder or secretary, and sign all contracts to which the municipality is a party; shall have the power to bid on property for the town at all tax and judicial sales when the town is a party. [As amended by Priv. Acts 1993, ch. 53, § 3; and Priv Acts. 2017, ch. 12, § 1]

JUDICIAL AUTHORITY OF THE MAYOR: TOWN COUNCIL MAY APPOINT CITY JUDGE

Section 12. The office of the municipal judge shall have power to assess fines against defendants found guilty of violation of laws and regulations of said town.

The town Council shall appoint a city judge who shall serve at the pleasure of the Council and have all the judicial powers and duties hereinbefore given to the Mayor. All fines and costs collected by the city judge shall be paid over to the town and he shall receive such compensation as the Council shall prescribe.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the municipal legislative body of Carthage. 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 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 2.

PASSED: MAY 23, 1991

s/Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

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

APPROVED this 3rd day of June 1991

s/Ned McWherter
NED McWHERTER, GOVERNOR

RELATED ACTS

PAGE

Priv. Acts 2003, ch. 43,
Relative to hotel/motel tax C-11

CHAPTER NO. 43

HOUSE BILL NO. 2108

By Representative Buck

Substituted for: Senate Bill No. 2031

By Senator Beavers

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

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

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

1. "City" means the City of Carthage, Tennessee.
2. "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.
3. "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
4. "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.
5. "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

6. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit.
7. "Tax collection official" means the City Recorder or other official designated by the legislative body of the City of Carthage to collect the taxes levied by this act.
8. "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of the City of Carthage is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

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

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

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

SECTION 5.

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

transient, then the obligation due to the City of Carthage shall be that of the operator.

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

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

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

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

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

SECTION 9. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax

due and payable to the city. The tax collection official has the right to inspect such records at all reasonable times.

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

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

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

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

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

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

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

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

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring

CHARTER AND RELATED ACTS FOR THE TOWN OF
CARTHAGE, TENNESSEE

YEAR	CHAPTER	SUBJECT
1991	112	Basic Charter Act.
1993	53	Amended § 3, swearing in after certification of election; § 7, conduct and removal of officers; and § 11, ordinance readings.
2003	43	Related act relative to hotel/motel tax.
2017	12	Amended § 11, ordinance readings.