

CHARTER OF THE CITY OF MCKENZIE, TENNESSEE¹

CHAPTER NO. 128

HOUSE BILL NO. 2118

By Herron, Ridgeway

Substituted for: Senate Bill No. 2438

By Hamilton

AN ACT to continue the corporate existence of the City of McKenzie, to establish a new charter for such city, and to repeal Chapter 317 of the Private Acts of 1923; Chapter 271 of the Private Acts of 1925; Chapter 697 of the Private Acts of 1929; Chapter 109 of the Private Acts of 1931 (E.S.); Chapters 785 and 847 of the Private Acts of 1937; Chapters 45 and 46 of the Private Acts of 1939; Chapter 245 of the Private Acts of 1947; Chapter 39 of the Private Acts of 1957; Chapters 21 and 22 of the Private Acts of 1963; Chapter 25 of the Private Acts of 1965; Chapter 413 of the Private Acts of 1968; and Chapter 271 of the Private Acts of 1974.

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

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¹Priv. Acts 1990, ch. 128, is the current basic charter act for the City of McKenzie, 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 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 Private Acts."

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

(1) "Board" or "Board of Mayor and Councilmen" means the Mayor and the six (6) Councilmen of the City of McKenzie; and

(2) "City" or "municipality" means the City of McKenzie;

(3) "Council" or "City Council" means the six (6) Councilmen of the City of McKenzie.

(4) "County" means the county or counties in which the city of McKenzie is located.

SECTION 2. The city of McKenzie, Tennessee, shall continue as a body politic and corporate by the name and style of McKenzie, Tennessee, and this act shall constitute its complete charter. The City of McKenzie 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.

SECTION 3. The boundaries¹ of the city shall be those fixed by Chapter 317 of the Private acts of 1923, all acts amendatory thereof, and annexations made pursuant to general law.

SECTION 4. The territory within such municipal corporation shall be divided into six (6) wards, which are defined by a map adopted by the city council at its regular meeting on December 9, 1993. This map shall be amended by council resolution as necessary to comply with the voting rights laws of the United States government. [As replaced by Priv. Acts 1994, ch. 126, § 1]

SECTION 5. The city shall have power:

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

(b) To levy and collect privilege taxes on businesses, privileges, occupations, trades, and professions, and to levy and collect any other kind of tax not prohibited to cities by the constitution or general law.

(c) To levy and collect registration fees on motor vehicles domiciled within the city.

(d) To appropriate and borrow money and to authorize the expenditure of money for any municipal purpose.

(e) To acquire land, including improvements thereon, easements, or limited property rights thereto, by purchase, gift or condemnation, for public use, for present or future use by the 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.

¹The boundaries of the city have been amended by Ords. #279, 282, 300, 301, 335, 336, 359, 362, 382, and 391.

(f) To grant franchises or make contracts for public utilities and public services, not to exceed a period of forty (40) 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.

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

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

(i) To make regulations to secure the general health of the inhabitants and to prevent, abate, and remove nuisances, including but not limited to old or dilapidated buildings which are so out of repair as to be unsafe, unsanitary, or unsightly.

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

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

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

(m) 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.

(n) 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.

(o) 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.

(p) To provide that the violation of any ordinance, rule, regulation or order shall be punishable by a fine levied by the Municipal Court not to exceed fifty dollars (\$50.00), and any costs. Higher fines may be imposed by the City only if authorized by general law.

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

(r) 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 1994, ch. 126, § 2, and Priv. Acts 2019 ch. 12, § 1]

SECTION 6. There shall be a Mayor, who may reside in any portion of the city and who shall be elected for a term of office of four (4) years. This election shall be held on the first Tuesday after the first Monday in November, 1994, and every four (4) years thereafter.

There shall be six (6) Councilmen, each who will reside in a separate ward as defined by the map adopted by the city council; such Councilmen shall be elected for a term of four (4) years. The present Councilmen shall serve until the end of their respective terms and they or their replacements shall be elected to serve a four (4) year term. Councilmen to represent wards 2, 3 and 5 shall be elected on the first Tuesday after the first Monday in November, 1994, for four (4) year terms. Councilmen to represent wards 4 and 6 shall be elected on the first Tuesday after the first Monday in November, 1996, for four (4) year terms.

The Councilman from ward 1 shall be elected for a two (2) year term at the election on the first Tuesday after the first Monday in November, 1994, and again will be elected at the election on the first Tuesday after the first Monday in November, 1996, for a period of four (4) years. Thereafter all Councilmen will be elected for four (4) year terms. The mayor and six (6) Councilmen shall be designated as the "Board of Mayor and Councilmen".

To be eligible for the office of Councilman, a person must be twenty-one (21) years of age or older and have been a resident of the City of McKenzie for at least one (1) year immediately preceding an election and reside in the ward for which such person seeks election.

To be eligible for the office of Mayor, a person must be twenty-one (21) years of age or older and have been a resident of the City of McKenzie for at least one (1) year immediately preceding the election in which the Mayor is elected.

The Mayor and Councilmen shall take the following oath before entering into the duties of their respective offices:

"I do solemnly swear (or affirm) that I will support the Constitution and laws of the United States and of the State of Tennessee, and the ordinances and resolutions of this municipality, and will faithfully discharge the duties of my office without favor or fear, along for the public good, so help me God."

The compensation of the Mayor and each Councilman is to be set and changed only by ordinance; provided, however, that if compensation is changed, the change in compensation shall not become effective during the current term of the Mayor or during the current term of a Councilman. [As replaced by Priv. Acts 1994, ch. 126, § 3, and Priv. Acts 2019, ch. 12, § 2]

SECTION 7. The first Tuesday after the first Monday in November in each even-numbered year shall be the day fixed for the nonpartisan election of the Councilmen. Every qualified voter who resides within the City or who owns real property located within the City is entitled to vote in the election. If a nonresident owns property in more than one (1) ward, then the non-resident shall declare, upon registration, which ward the person's vote will be cast. This shall not change unless the non-resident disposes of the property in the ward that the resident chose.

The candidate for Mayor and the candidate for each ward Councilman position who receive the highest number of votes of all candidates for each position shall be declared elected. Their terms of office shall begin at ten o'clock

(10:00 a.m.) on the next Tuesday after the election results have been certified by the election commission and shall continue for their term or until their successors are elected and qualified. In case of a tie vote for any candidate to such offices, a special election between the tied candidates will be held within the period of time necessary for the election commission to call the election.

A vacancy shall exist if the Mayor or a Councilman resigns, dies, is convicted of malfeasance or misfeasance in office, a felony, a violation of this charter, the election laws of the state or a crime involving moral turpitude, or for failure to attend any meetings of the Council for a period of ninety (90) days with no extenuating circumstances. A vacancy shall also exist if a Councilman moves his or her residence from the ward in which they were elected or if the Mayor moves his or her residence from the City.

If a vacancy in the office of Mayor occurs, the Vice-Mayor shall fill the vacancy for the remainder of the unexpired term or until the next regular biennial City election, whichever shall occur first. If the Vice-Mayor fills a vacancy in the office of Mayor, the Vice-Mayor's position on the Council shall become vacant and the Board shall fill the vacancy as hereinafter provided and shall select another of their number to serve as Vice-Mayor. If a vacancy in the office of Councilman occurs, the Board of Mayor and Councilmen shall, within a period of ninety (90) days from the date of the occurrence of a vacancy, elect a qualified person to fill the vacancy for the remainder of the unexpired term or until the next regular biennial City election, whichever shall occur first. If the next regular biennial City election occurs prior to the expiration of a term, an election shall be held to fill the remainder of the unexpired term.

No candidate for office under this act shall directly or indirectly give or promise any person or persons anything of value, or any office, employment, benefit or money for the purpose of influencing or obtaining political support, aid, or vote for any candidate in any municipal election. A violation of this provision shall be a bar to such person holding office for a period of six (6) years. [As replaced by Priv. Acts 1994, ch. 126, § 4, Priv. Acts 2018, ch. 55, § 1, and Priv. Acts 2019, ch. 12, § 3]

SECTION 8. The Board of Mayor and Councilmen shall have authority in public assembled session with a quorum present, either regular, special, or called, to exercise all expressly granted and implied powers. The Mayor does not have a right to vote except to break a tie vote. Four (4) Councilmen constitute a quorum; however, a smaller number may adjourn from time to time and compel the attendance of absent members.

The City Council shall have authority:

- (1) To determine its rules of procedure and to provide for their enforcement;
- (2) To select, after each regular biennial election, a Vice-Mayor from its membership, who shall have the powers and duties of Mayor during the absence, disability, or vacancy in the office of Mayor;
- (3) To determine the place, date, and hour of its meetings;
- (4) To adjourn or call meetings and prescribe how "called" meetings shall be called;
- (5) To confirm the appointment of the City Clerk, the City Judge, the City Attorney, and all department heads; to fix wages, salaries and hours of work for all employees; and to approve bonds and contracts;
- (6) To provide and keep all necessary books, accounts, statements, and minutes of its own proceedings;
- (7) To take proof, either oral or by deposition, and administer oaths or affirmances in cases of trials or hearings held before it;
- (8) To levy taxes and declare privileges, and make assessments;
- (9) To do, carry on, execute, perform, create positions or offices, approve or reject, elect and confirm such measures and persons as may be necessary for the general welfare; and
- (10) The Council may, by two-thirds (2/3) majority vote, appoint a City Administrator who shall be under the control and direction of the Council, The City Administrator shall report and be responsible to the Council. The Council may, by ordinance, require the City Administrator to perform any or all of the following duties:
 - (a) Make recommendations to the Council for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the municipality;
 - (b) Keep the Council fully advised as to the conditions and needs of the municipality;
 - (c) Report to the Council on the condition of all property, real and personal, owned by the municipality and recommend repairs or replacements as needed;

(d) Recommend to the Council and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the municipality;

(e) Recommend to the Council specific personnel positions as may be required for the needs and operations of the municipality, and propose personnel policies and procedures for the approval of the Council; and

(f) Perform such other duties as may from time to time be designated or required by the Council. [As replaced by Priv. Acts 2019, ch. 12, § 4]

SECTION 9. No ordinance shall be adopted without having first been passed on two (2) separate readings, and no more than one (1) reading shall be had on any one (1) day. All ordinances must be in written form upon introduction. An ordinance may pass first reading on the day on which it is introduced. An ordinance may be amended prior to second reading. Upon final passage of an ordinance, the vote shall be taken by ayes and nays, and the names of the Council persons voting for and against the ordinance shall be entered in the minutes.

Within five (5) days, exclusive of Sundays and holidays, after final passage of an ordinance, the Mayor shall indicate his or her approval by signing (or his or her disapproval by vetoing) the ordinance. If the Mayor neither signs nor vetoes the ordinance during the five (5) day period, the ordinance becomes effective without his or her signature.

If the Mayor vetoes an ordinance, his or her reasons for doing so shall be stated in writing and the ordinance and the veto shall be presented to the City Council for its action. The City Council may pass the ordinance over the Mayor's veto by an affirmative vote of four (4) of its members. [As replaced by Priv. Acts 1994, ch. 126, § 5, and Priv. Acts 2019, ch. 12, § 5]

SECTION 10. The Mayor shall have the duties and powers of a business manager, supervision and control of all administrative affairs of the municipality, and be the chief executive. The Mayor shall have access to all of the books, records, offices, and papers of every kind pertaining to the City's business, and require their proper and safe keeping. The Mayor shall present, in writing or verbally to the City Council, recommendations of the needs of the municipality at any time the Mayor deems advisable.

Unless otherwise provided by this Charter, the Mayor shall have authority to make appointments, promotions, and transfers, and to make demotions, suspensions and removals of officers and employees.

The Mayor shall take all proper measures for the preservation of public order, suppression of riots, and the preservation of peace, and he or she may call upon the Governor for military aid. The Mayor shall see that all agreements with the City are carried out. The Mayor shall have authority to call special meetings of the City Council to consider any matter for the welfare of the municipality. Such special meetings shall be called by notifying the individual Council members of the meeting time and providing public notice of such meeting as required by state law.

The Mayor shall have control over all municipal improvements, municipal property, agents, works, services, and enterprises for the public welfare. The Mayor shall have exclusive power to make all expenditures within the budget after the same have been appropriated by the City Council, subject to such restrictions as may be established by ordinance. [As replaced by Priv. Acts 2019, ch. 12, § 6]

SECTION 11. The City government shall be organized into departments of finance and general government, police, fire, streets and sanitation, parks, and water and sewer, unless otherwise provided by ordinance. The City Council shall determine, by ordinance, the functions and duties of all departments and offices. The City Council, by ordinance, may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the City, may provide that the same person 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 state law.

The City Council may, from time to time, as it may deem advisable, employ experts for assistance, aid, or advice in the undertaking of any municipal purpose or improvement, and the compensation of such experts shall be fixed by the City Council. [As replaced by Priv. Acts 2019, ch. 12, § 7]

SECTION 12. The City Clerk shall faithfully perform his or her duties to keep all records and books safely, and to handle and account for all moneys belonging to the municipality that may come into the City Clerk's hands, or for which he or she may be responsible.

The City Clerk's duties shall be to act as Clerk of the Board of Mayor and Councilmen, to keep its records and minutes, and to look after the publication

of its ordinances and advertisements, and to do such other duties pertaining and incident to the office, as may be directed by the Mayor and the City Council. The City Clerk shall: be accessible to the taxpayers and citizens during the business hours of the day; keep the records of the City, its papers, and its contracts; receive and transmit the necessary information for the operation of the City's enterprises, improvements and works, to the proper officers and agents of the City; and preserve its archives, insurance policies, prepare its advertisements, and keep such statistics and statements of the affairs and property of the City as may be required incident to the office of City Clerk.

The City Clerk shall: be Comptroller of the City, and see that its collections are properly entered, warrants issued, receipts delivered to taxpayers, and the funds of the City honestly, faithfully, and economically distributed; sign all warrants for any expense of the municipality, and such warrants shall likewise be signed by the Mayor or other designated officer of the municipality before they shall be paid; and sign and attest such papers as required and directed to do by ordinance or law. The City Clerk shall give the information pertaining to the City's finances to the Mayor and City Council if the Mayor or City Council requests such information. The City Clerk shall deposit the moneys and revenues received by the City Clerk on behalf of and belonging to the municipality in such depository as the Board shall direct.

The City Clerk shall act as Tax Collector and issue tax receipts for taxes collected, and receipt for the tax book, and enter on the tax books the payment of taxes on the date in which they are collected, unless the City Council decides to use the County Trustee for tax collection. [As replaced by Priv. Acts 2019, ch. 12, § 8]

SECTION 13. There shall be a City Judge who shall be appointed by the Mayor and confirmed by the City Council. The judge of the City court shall have the exclusive power to impose fines for the breach of any City ordinance, and shall have such authority as provided for City court judges under state law. All process issued by the judge for the violation of a City ordinance shall be issued in the name of the City of McKenzie. The City Judge shall keep a record of the cases made and tried in the City Judge's court and the disposition of such case.

The City Judge shall have the power to punish any person for any contempt committed in the presence of the court, and shall have power to impose a fine not to exceed fifty dollars (\$50.00). [As replaced by Priv. Acts 1994, ch. 126, § 6, and Priv. Acts 2019, ch. 12, § 9]

SECTION 14. The Mayor, with the approval of the City Council, may employ a City Attorney upon such terms and conditions as they may fix and provide.

SECTION 15. The Mayor or any officer or employee or person entrusted with the collection or disbursement of the funds of the municipality who shall create, or take part in creating, any liability against the municipality beyond the expenses fixed in the budget or who shall divert funds thus appropriated, except in accordance with the terms of this act, shall be civilly liable to the municipality upon complaint of taxpayers of the City, for the excess and loss to the City, together with the principal and interest and reasonable expenses of collection.

SECTION 16. Each and every officer appointed by the Mayor and confirmed by the City Council shall be required to subscribe to the same oath or affirmation taken by the Mayor and City Council.

SECTION 17. The fiscal year of the city government shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding year.

SECTION 18. An annual budget shall be prepared and adopted in accordance with the requirements of the general laws governing municipal budgets.

Neither the Mayor, nor any other officer, official, agent, nor servant of the City, shall divert any special tax levy from the purpose for which it was levied. [As replaced by Priv. Acts 2019, ch. 12, § 10]

SECTION 19. All property subject to taxation shall be subject to the property tax levied by the City.

The Council 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. If the Council fails to do so within that time frame the prior year's tax rate will continue in effect.

The due dates for the payment of property taxes shall be fixed by ordinance. The City shall send tax bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax, penalty, or interest thereon. Property taxes shall become delinquent March 1, at which time penalties and interest will be assessed as permitted by general law.

No officer or employee of the City shall have the authority to excuse taxes,

penalties, interest, special assessments, or other charges due the City, but errors may be corrected when authorized by majority vote of the Council. [As replaced by Priv. Acts 2019, ch. 12, § 11]

SECTION 20. Contracts of the City of McKenzie shall be executed in the name of the City of McKenzie, signed by the Mayor, with the seal of the municipality attached thereto, and attested by the City Clerk.

Whenever it is proposed to make alterations in the plans or specifications of any contract with the municipality involving an extra cost, such alterations shall not be made or the municipality be bound therefor unless the price to be paid for the alteration or extra work shall have been agreed upon in advance of doing the work, and the alteration shall be evidenced in writing, and signed by the contractor, and in the name of the municipality by the Mayor, and attested by the City Clerk; and such extra allowance shall not in any case exceed the sum fixed by such written agreement. The City Clerk shall not pay out or allow the payment made for any extra work or alteration unless the above provision shall have been complied with.

SECTION 21. The streets, highways, alleys, public squares, and sidewalks and parks are held in trust for public use; the public and municipal buildings are property belonging to the municipality, shall be used exclusively and alone for the purposes for which they are set apart by the municipality, and for none other.

SECTION 22. The Mayor, the City Council, and each and every other officer or agent of the city is prohibited from using or employing or appropriating the revenues, assets, property or taxes of the municipality for any purpose except for strictly municipal and local purposes, and in accordance with the provisions of this act. Said officers and agents are prohibited to subscribe for stock or other corporate property in any corporation, or to buy its bonds, or to loan the credit, money or property of the municipality to any person or corporation; and this municipality shall sell its property only for a fair, reasonable market value thereof, and it shall not sell, lease, mortgage or dispose of its public utility plant until an ordinance authorizing such sale, lease or mortgage shall have been introduced for at least ninety (90) days before its final passage and published once a month for three (3) times before it is finally passed by the City Council and approved by the Mayor.

SECTION 23. Upon the taking effect of this act, all officers and employees of this municipality shall continue in office and in the performance of their duties until such time as their successors are selected and qualified.

SECTION 24. In the construction of any portion of this act whose meaning or application is in dispute, it is intended that its phraseology shall be liberally construed to effect the substantial objects of the act.

SECTION 25. Chapter 317 of the Private Acts of 1923, Chapter 271 of the Private Acts of 1925, Chapter 697 of the Private Acts of 1929, Chapter 109 of the Private Acts of 1931 (E.S.), Chapters 785 and 847 of the Private Acts of 1937, Chapters 45 and the 46 of the Private Acts of 1939, Chapter 245 of the Private Acts of 1947, Chapter 39 of the Private Acts of 1957, Chapters 21 and 22 of the Private Acts of 1963, Chapter 25 of the Private Acts of 1965, Chapter 413 of the Private Acts of 1968, and Chapter 271 of the Private Acts of 1974, are repealed.

SECTION 26. 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 provision of this act are declared to be severable.

SECTION 27. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the City of McKenzie within sixty (60) days after passage of this act. Its approval or nonapproval shall be proclaimed by the Mayor and certified by him to the Secretary of State.

SECTION 28. 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 27.

PASSED: FEBRUARY 12, 1990

s/Ed Murray
ED MURRAY, SPEAKER
HOUSE OF REPRESENTATIVES

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

APPROVED this 16th day of February 1990

s/Ned McWherter
NED MCWHERTER, GOVERNOR

RELATED PRIVATE ACTS

Priv. Acts 1998, ch. 127

"Hotel/Motel Tax" C-18

PRIVATE ACTS, 1998

CHAPTER NO. 127

HOUSE BILL NO. 3371

By Representative Maddox

Substituted for: Senate Bill No. 3371

By Senator Carter

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

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

SECTION 1. For the purposes of this act:

(1) "City" means the incorporated City of McKenzie, Tennessee, the boundaries of which lie wholly within Carroll County, Tennessee.

(2) "Clerk" means the City Clerk of McKenzie, Tennessee, or such other person appointed by the City Legislative Body of McKenzie, Tennessee by ordinance to act as collector of the tax imposed by this act.

(3) "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.

(4) "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.

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

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

(7) "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 entity, or any other group or combination acting as a unit.

(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 City Council of the City of McKenzie, Tennessee, is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, by ordinance of the City Legislative Body, in the amount up to five percent (5%) of the rate 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 of the tax authorized by this act shall be allocated to and placed in the city general fund, to be designated and used for such purposes as specified by ordinance of the City Legislative Body.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his or her hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the clerk as provided in Section 5(b).

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, or spaces in hotels within the city, to the clerk or such other officer as may by ordinance be charged with the duty of collection thereof, said tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the said tax from the transient at the time of the presentation of the invoice for said occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator.

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

SECTION 6. The clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the clerk by the operator with such number of copies thereof as the clerk 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 clerk and approved by the City Legislative Body prior to use. The clerk shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the City Legislative Body.

The City Legislative Body is hereby authorized to adopt ordinances 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 clerk 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; provided, however, that such penalty shall not exceed a maximum of twenty-five (25%) percent. 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 hereby declared to be 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 as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the city, which records the clerk shall have the right to inspect at all reasonable times.

SECTION 10. The clerk in administering and enforcing the provisions of this act shall have 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 the 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 clerk under authority of this act shall be refunded by the clerk.

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

SECTION 11. 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 12. The collection of the tax authorized by this act shall begin on the first day of the month occurring thirty (30) or more days after this act is officially ratified by the City Legislative Body of McKenzie, Tennessee.

SECTION 13. The provisions of this act are hereby declared to be severable. 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.

SECTION 14. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the Legislative Body of McKenzie, Tennessee. Its approval or non-approval shall be proclaimed by the Presiding Officer of the City Legislative Body and certified by the Presiding Officer of the City Legislative Body to the Secretary of State.

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

PASSED: March 5, 1998

s/Jimmy Raifeh
Jimmy Raifeh, Speaker
House of Representatives

s/John S. Wilder
John S. Wilder
Speaker of the Senate

APPROVED this day of 1998

Don Sundquist, Governor

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 3371 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.

PRIVATE ACTS COMPRISING THE CHARTER AND RELATED ACTS
OF THE CITY OF MCKENZIE, TENNESSEE

YEAR	CHAPTER	SUBJECT
1990	128	Basic charter act.
1994	126	Replaced § 4 relative to wards; amended § 5(p), relative to powers of city; replaced § 6 relative to qualifications of mayor and councilmen; replaced § 7 relative to elections; replaced § 9 relative to ordinances; and replaced § 13 relative to city judge.
1998	127	An act relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients. (See Related Private Acts following the charter.)
2018	55	Replaced § 7 relative to elections.
2019	12	Amended § 5(p) relative to powers of city; replaced § 6 relative to qualifications of mayor and councilmen; replaced § 7 relative to elections; replaced § 8 relative to city council - authority; replaced § 9 relative to ordinances; replaced § 10 relative to mayor, bond, powers; replaced § 11 relative to departments - city government may organize; replaced § 12 relative to city clerk, bond, duties; replaced § 13 relative to city judge; replaced § 18 relative to budget; and replaced § 19 relative to taxation.