

CHARTER OF MOUNTAIN CITY, TENNESSEE¹

CHAPTER NO. 133

HOUSE BILL NO. 2008

By Hawkins

Substituted for: Senate Bill No. 2005

By Burleson

AN ACT to delete in its entirety the present Charter of the Town of Mountain City, Tennessee, which is Chapter 193, Private Acts of 1955 and all acts amendatory thereto, and to replace it with the following Charter, which defines the rights and powers of the Town of Mountain City, Tennessee.

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

¹Priv. Acts 1986, ch. 133, is the current basic charter act for the Town of Mountain City, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2018 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 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.

TABLE OF CONTENTS

<u>Article</u>	<u>Page</u>
I. Deletion of 1955 charter	C-3
1. Charter of 1955 deleted	C-3
II. Corporate name and boundaries	C-3
1. Body politic, name and seal	C-3
2. Boundaries	C-4
III. Status of existing property, claims and debts, resolutions, ordinances, etc.	C-4
1. Legal claims, debts, etc. belonging to town assumed	C-4
2. Ordinances, resolutions, etc. under 1955 charter generally continue	C-4
IV. Board of mayor and aldermen and other town officers-- qualifications, elections, duties, vacancies, compensation	C-4
1. Mayor and alderman--election, term of office	C-5
2. Mayor and aldermen--qualifications	C-5
3. Tie vote for mayor and aldermen	C-5
4. Mayor and aldermen--oath	C-5
5. Mayor and aldermen--vacancies in office	C-6
6. Other town officers--appointment, term, qualifications	C-6
7. Compensation	C-6
V. Board of mayor and aldermen--meetings, quorum, ordinance requirements, etc.	C-6
1. Appointment of vice-mayor	C-6
2. Meetings of the board of mayor and aldermen	C-7
3. Mayor is member of the board of mayor and aldermen for all purposes	C-7
4. Rules of order	C-7
5. Ordination clause	C-7
6. Requisites for a valid ordinance	C-7
VI. Board of mayor and aldermen--general powers	C-8
1. Powers of the board of mayor and aldermen	C-8
VII. Duties of the mayor	C-10
1. Duties of the mayor	C-10

<u>Article</u>	<u>Page</u>
VIII. Office of recorder	C-11
1. Duties of the recorder	C-11
IX. Departments and employees	C-11
1. Departments	C-11
2. Employees	C-11
3. Town administrator	C-12
X. Property taxes	C-12
1. General	C-12
2. Tax due and delinquency dates	C-12
3. Collection of delinquent property taxes	C-12
XI. Fiscal administration	C-12
1. Fiscal year	C-12
2. Annual budget	C-12
3. City administrator	C-13
4. Public hearing	C-13
5. Action by board on budget	C-13
XII. Miscellaneous	C-13
1. Parts of act severable	C-13
2. Method of approval of act	C-14
3. Date of effect	C-14

ARTICLE I

DELETION OF 1955 CHARTER

Section 1. Charter of 1955 deleted. Be it enacted by the General Assembly of the State of Tennessee, That the Charter of the Town of Mountain City, in Johnson County, is hereby deleted and replaced in its entirety, and that the Town have in lieu thereof the Charter hereinafter granted. The present Charter, which is hereby deleted in its entirety, is embraced in Chapter 193 Private Acts of 1955 and all acts amendatory thereto.

ARTICLE II

CORPORATE NAME AND BOUNDARIES

Section 1. Body politic, name and seal. Be it further enacted, That the Town of Mountain City, in Johnson County, and the inhabitants thereof, are hereby constituted a body politic and corporate by the name and style of the

Town of Mountain City, and shall have perpetual succession; that by this name and style it shall sue and be sued; contract and be contracted with; grant, receive, purchase, and hold real, mixed and personal property, and dispose of the same for the benefit of the Town; and may have and use an official seal.

Section 2. Boundaries. Be it further enacted, That the boundaries of the Town hereby incorporated shall be the same as its boundaries under Chapter 193 Private Acts of 1955 as have been, or in the future may be, expanded by annexation.¹

ARTICLE III

STATUS OF EXISTING PROPERTY, CLAIMS AND DEBTS, RESOLUTIONS, ORDINANCES, ETC.

Section 1. Legal claims, debts, etc. belonging to town assumed. Be it further enacted, That all the real and personal property and all legal claims, fines and forfeitures belonging to the Town of Mountain City under Chapter 193 Private Acts of 1955 and all acts amendatory thereto shall hereafter belong to the Town of Mountain City, and that all legal debts, bonds, claims, and demands now existing against the Town of Mountain City under Chapter 193, Private Acts of 1955 and all acts amendatory thereto be assumed and paid by the Town of Mountain City, hereby incorporated, and constitute legal and valid claims against it.

Section 2. Ordinances, resolutions, etc. under 1955 charter generally continue. Be it further enacted, That all ordinances and resolutions heretofore enacted by the Board of Mayor and Aldermen of the Town of Mountain City under Chapter 193, Private Acts of 1955 and all acts amendatory thereto as they now exist, not in conflict with this charter and not repealed and rescinded by it, shall remain in full force and effect in the Town of Mountain City, until modified and repealed by the Board of Mayor and Aldermen.

ARTICLE IV

BOARD OF MAYOR AND ALDERMEN AND OTHER TOWN OFFICERS-- QUALIFICATIONS, ELECTIONS, DUTIES, VACANCIES, COMPENSATION

¹See the following annexation ordinances of record in the office of the recorder: 855, 873, 874.

Section 1. Mayor and Aldermen--election, term of office. Be it further enacted, that the governing body of the Town of Mountain City shall be a mayor and four (4) aldermen elected by popular vote in the November general election. The mayor and two (2) aldermen elected in March of 2011, shall have their terms extended until their successors are duly elected and qualified until the first Tuesday after the first Monday in November 2016, to coincide with the November general election date. Furthermore, the two (2) aldermen elected in March of 2013, shall have their terms extended until their successors are duly elected and qualified on the first Tuesday after the first Monday in November of 2018. Thereafter, all regular city elections will be held in conjunction with the November general election, held on the first Tuesday after the first Monday of November of even numbered years. The aldermen so elected shall serve terms of four (4) years. The terms of the mayor and aldermen shall begin on the first Monday in December following their election. Any person who is a qualified voter for members of the Tennessee General Assembly, and who is a resident of the Town of Mountain City under the election laws of the state, and any person who is a resident of Johnson County, Tennessee, and who has owned a freehold within the corporate limits of the Town of Mountain City for at least sixty (60) days immediately preceding the election, shall be entitled to vote in municipal elections. [As amended by Priv. Acts 1998, ch. 154, § 1, and replaced by Priv. Acts 2014, ch. 52]

Section 2. Mayor and aldermen--qualifications. Be it further enacted, That no person shall be eligible to the office of mayor or alderman unless he or she has been for at least one (1) year next before the election a citizen of Tennessee and an actual resident of the Town of Mountain City, and is at least twenty-five (25) years of age. No person shall be eligible to the office of mayor or of alderman who holds any kind of an office - executive, judicial or legislative - under the United States, the State of Tennessee, Johnson County or the Town of Mountain City.

Section 3. Tie vote for mayor and aldermen. Be it further enacted, That if in any election there should be a tie in the votes cast for any two candidates for mayor, the aldermen elected between whom there is no tie vote shall choose from among the two candidates by a majority vote at their first meeting. If in any election there should be a tie in the votes cast for any of two candidates for aldermen, the mayor and aldermen elected between whom there is no tie vote shall choose from among the two candidates by a majority vote at their first meeting.

Section 4. Mayor and aldermen--oath. Be it further enacted, That the mayor and aldermen before entering upon their duties shall take an oath that they will honestly and faithfully discharge the duties of their offices without partiality or favor.

Section 5. Mayor and aldermen--vacancies in office. Be it further enacted, That a vacancy shall exist on the Board of Mayor and Aldermen if the mayor or an alderman resigns, dies, moves his residence from the Town, is convicted of a felony, or is removed from office pursuant to the laws of the State of Tennessee, or fails to attend any meetings of the Board of Mayor and Aldermen for a period of ninety (90) days for any reason whatsoever, and the Board of Mayor and Aldermen may, by resolution, declare a vacancy to exist. By a majority vote the Board of Mayor and Aldermen may appoint another person to fill the vacancy for the remainder of the unexpired term.

Section 6. Other Town Officers-Appointment, Term, Qualifications. Be it further enacted that the other officers in the Town shall be the Town Recorder, Chief of Police, and Superintendent of Public Works. These Officers shall be appointed by the Board of Mayor and Alderman for the terms as follows and may be removed at any time for good cause: The officers appointed by the present board for terms of two (2) years shall complete their terms of office, which are extended until December of 2019. The Board shall in its first regular meeting in December of 2019, appoint the Officers to terms that shall expire on the date of the first regular meeting in December of 2021; the Board shall at its first regular meeting in December of 2021, and in each and every succeeding odd-numbered year appoint the Officers to terms that expire at the Board's first regular meeting in December two (2) years from that date. If for any reason an Officer is not appointed at the first meeting in December of the year prescribed, the existing Officers shall hold over in that office until his successor is appointed and qualified. However, in no case will an Officer removed for cause hold over in office. [As amended by Priv. Acts 1994, ch. 146, § 1; and Priv. Acts 1998, ch. 154, § 2, and replaced by Priv. Acts 2018, ch. 46]

Section 7. Compensation. Be it further enacted, That the salaries and other compensation of the Board of Mayor and Aldermen and the other officers of the Town shall be fixed by the Board. However, no increases in salary or other compensation of the Board of Mayor and Aldermen shall be effective during any existing term of the Board of Mayor and Aldermen. The salaries and other compensation of other officers of the Town may take effect at the will of the Board of Mayor and Aldermen.

ARTICLE V

BOARD OF MAYOR AND ALDERMEN--MEETINGS, QUORUM, ORDINANCE REQUIREMENTS, ETC.

Section 1. Appointment of vice-mayor. Be it further enacted, That the Board of Mayor and Aldermen at its first regular meeting after its election shall elect one of its members vice-mayor, who, in the absence of the mayor, shall

preside over all meetings of the Board. The vice-mayor shall serve in that capacity at the will and pleasure of the Board of Mayor and Aldermen.

Section 2. Meetings of the board of mayor and aldermen. Be it further enacted, That the Board of Mayor and Aldermen shall act only as a body. Regular meetings shall be held at such time and place fixed by ordinance, but shall be held at least once each month. Special meetings of the Board may be called by the mayor or by any two (2) aldermen at any time upon at least forty-eight (48) hours written notice to all members of the Board. The notice shall state the object or objects for which the meeting has been called, and no matter or matters not mentioned in the notice shall be considered in such meeting. A quorum for either a regular or special meeting shall be three members of the Board of Mayor and Aldermen. A majority of a quorum shall be necessary for the passage of any ordinance, resolution or motion, unless by law a greater number is required.

Section 3. Mayor is member of the board of mayor and aldermen for all purposes. Be it further enacted, That the mayor shall be a member of the Board of Mayor and Aldermen for all purposes. He shall have the same right to vote on any question before the Board as do aldermen, and his presence shall count in the calculation of whether there is a quorum of the Board. He shall have the right to introduce motions, resolutions and ordinances and to speak on any matter in meetings of the Board.

Section 4. Rules of order. Be it further enacted, That the Board of Mayor and Aldermen shall by ordinance adopt a set of rules of order by which meetings shall be conducted.

Section 5. Ordination clause etc. Be it further enacted, That all ordinances shall begin with an enacting cause as follows: "Be it ordained by the Town of Mountain City, Tennessee" and shall at the end contain the following provision: "This ordinance shall take effect from and after its passage, the welfare of the Town requiring it."

Section 6. Requisites for a valid ordinance. Be it further enacted, That no ordinance shall become effective until it shall have been passed at two (2) separate meetings of the Board of Mayor and Aldermen, the final passage or adoption thereof being at least one week after the first passage. Only the caption of ordinances shall be required to be read at both meetings. During the time between the first and second readings of an ordinance, the ordinance shall be kept on file in the office of the town recorder for public inspection. After final passage of an ordinance it shall be signed in open meeting by the mayor, and the minutes of the meeting shall reflect that it was so signed, together with the date of the signature. The vote on every ordinance shall be solely by voice vote, and

the town recorder shall show in the minutes how each member of the Board voted. The recorder shall keep a set of ordinances signed by the mayor in a separate and permanent book readily accessible to the public.

ARTICLE VI

BOARD OF MAYOR AND ALDERMEN--GENERAL POWERS

Section 1. Powers of the board of mayor and aldermen. Be it further enacted That the Board of Mayor and Aldermen of the Town of Mountain City are hereby empowered:

- (1) To enact such ordinances, resolutions and motions as may be necessary to preserve the health, quiet, peace, morals, convenience, safety, general good order, and general welfare of the citizens of the Town.
- (2) To fix the compensation of all officers, employees and agents of the Town.
- (3) To declare what is a nuisance and prevent and abate the same .
- (4) To levy and collect taxes on all property within the corporate limits, taxable by law for municipal purposes.
- (5) To appropriate money and provide for the debts and running expenses of the Town.
- (6) To license and tax all privileges, occupations and property taxable by the laws of the State of Tennessee.
- (7) To regulate, prohibit, or suppress theatrical and motion picture shows, carnivals, circuses, or other exhibitions.
- (8) To regulate and suppress gaming and gambling houses, disorderly houses, bawdy houses and houses of ill fame.
- (9) To suppress and prevent the carrying of concealed weapons.
- (10) To regulate or prohibit the storage, sale, or use of firecrackers and all other fireworks and explosives and combustibles.
- (11) To impose fines, forfeitures, and penalties for the breach of ordinances adopted under this charter and a means for their recovery, and to provide for the arrest of any party or parties breaching those ordinances and their punishment, provided that no fine shall exceed fifty dollars (\$50.00).
- (12) To erect or keep a town jail in which to confine persons violating town ordinances and who refuse to pay fines levied for violations of those ordinances.
- (13) To provide by contract with Johnson County for a workhouse for the commitment of any person who refuses to pay any fine assessed against him for the violation of any town ordinance.

(14) To regulate or prohibit the running at large in the Town of dogs and other animals.

(15) To designate in the Town certain districts as fire districts or limits, and to provide for the character of buildings that may be built within those districts or limits, and to regulate the same.

(16) To provide for the establishment of a police and fire department and such other municipal departments as are necessary to accomplish the business of the Town.

(17) To lay the Town out in any number of wards and change the same from time to time.

(18) To pass all ordinances necessary for the health, peace, safety, convenience and good order of the Town and for the suppression and prohibition of any and all acts and things made criminal by the laws of the State of Tennessee, and to provide a punishment for a breach of the same.

(19) To exercise the right of eminent domain for any lawful public purpose, and to pay all legal damages occurring in connection with property condemned or taken by the Town.

(20) To keep up the street, alleys, and sidewalks of the Town and to fix the grades of the same; to open others, abolish, sell, widen, or extend the same, and to pass all necessary ordinances requiring the owners of lots to make stone, plank, concrete, or other sidewalks in front of their property along any street, and if the owners refuse, to provide a remedy and create a lien on the property of the same.

(21) To make suitable regulations for the preservation of life and property from fire and other casualties and to pass ordinances requiring all parties before erecting or remodeling any buildings in the Town to obtain written permission from a building inspector which may be appointed by the Town.

(22) To make regulations for the repair, rehabilitation or demolition of unsafe dilapidated structures within the Town, and upon the refusal of the owners of the same to repair, rehabilitate or demolish the same, for the Town to do such work and assess the cost for the same against the owner.

(23) To prevent trains and engines from blocking the streets and alleyways of the Town, and to regulate their speed through the Town.

(24) To provide for the establishment and operation of systems of public utilities of every kind, and to regulate and fix the prices to be paid by the consumers of their services; to appoint officers and employees to operate such utility systems; and to pass and enforce all necessary and proper regulations pertinent to them.

(25) To establish a municipal court to hear violations committed against ordinances of the Town and to provide for the appointment or a

municipal judge and regulations governing the operation of the municipal court.

(26) To enact such zoning ordinances and regulations as deemed necessary or advisable by the Board.

(27) To employ a city attorney and fix his compensation.

(28) To regulate, license and tax motor vehicles.

(29) To grant exclusive franchises to utility companies, including, but not limited to, gas, water, electricity, and telephone companies, and to cable television companies.

(30) To collect and dispose of drainage, sewage, ashes, garbage and refuse, or to license and regulate their collection and disposal.

(31) To make special assessments for local improvements.

(32) To regulate and license taxicabs and buses.

(33) To acquire, construct, own, operate and maintain or sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility or service.

(34) To borrow money for all lawful public purposes in the manner and in the amounts prescribed by the laws of the State of Tennessee.

(35) To accept and receive, unconditionally or upon conditions, absolutely or in trusts gifts, grants, bequests, and devises of any kind of property, real or personal, for educational, charitable or other public purposes; and to do all the things and acts necessary to carry out the purposes of the same.

ARTICLE VII

DUTIES OF THE MAYOR

Section 1. Duties of the mayor. Be it further enacted, That the mayor shall preside at all meetings of the Board of Mayor and Aldermen. He shall see that all the ordinances and resolutions of the Town are enforced, and shall have such other authority and duties as the Board may from time to time give him. The mayor shall have the power of general supervision over all town employees. He shall have the power to make temporary appointments to fill employee vacancies and to suspend any employee, reporting his reasons for either action to the next meeting of the Board of Mayor and Aldermen, by whom the final action on the temporary appointment or suspension shall be taken. The mayor shall have the right to delegate his power of general supervision over all town employees and his power to make temporary employee appointments and suspensions to the town recorder. However, if the Board of Mayor and Aldermen establishes an employee management system or hires a city administrator in accordance with Article VIII of this Charter, it may alter or abolish the mayor's power of general supervision over town employees and his

power to make temporary employee appointments and suspensions, consistent with the provisions or the employee management system or the employee management powers it grants to the city administrator. The mayor shall sign checks, contracts, bonds, deeds, notes and other legal instruments of the Town.

ARTICLE VIII

OFFICE OF RECORDER

Section 1. Duties of the recorder. Be it further enacted, That the recorder shall have the following duties: To keep and preserve all official records of the Town not required by law to be kept elsewhere; to attend all meetings of the Board of Mayor and Aldermen, and to maintain accurate minutes of such meetings, including, but not limited to, members of the Board present and absent, each motion, resolution, or ordinance considered, and the vote of each member of the Board on each question; to countersign all checks signed by the mayor; to prepare and certify copies of official records in his custody; to serve as the head of the department of finance or as city administrator if appointed to either position by the Board; to perform such other duties as the Board may require consistent with this Charter; to serve as the town judge, unless the Board has appointed another person to fill that position.

ARTICLE IX

DEPARTMENTS AND EMPLOYEES

Section 1. Departments. Be it further enacted, That the Town shall be organized into such departments as exist at the time of the adoption of this Charter. The Board of Mayor and Aldermen may by ordinance or resolution establish, merge, consolidate, reorganize and abolish departments and offices within them as it may in the future deem advisable, and by the same manner provide that the same employee fill any number of departmental offices or positions of employment, or may transfer employees, redefine or change their functions find the duties of their offices and positions of employment, except as otherwise provided in this Charter. The powers and duties of the mayor and of the aldermen established under other provisions of this Charter are exempt from this section.

Section 2. Employees. Be it further enacted, That the Board of Mayor and Aldermen shall have the power to appoint such employees as it deems necessary to carry on the business of the Town, which employees shall serve at the will and pleasure of the Board. However, the Board shall have the power by ordinance or resolution to establish an employment management system providing for the hiring, promotion, discipline, termination and other personnel

actions respecting employees of the Town, and may under such system give employees of the Town such rights it considers advisable.

Section 3. Town administrator. The Board of Mayor and Aldermen shall have the power at any time to hire a town administrator to conduct the business of the Town and to delegate to him as much of the Board's personnel and other administrative authority as it desires to give him consistent with this Charter and any employee management system which may be in effect during his term of office. The town administrator shall be required to become an actual resident to the Town of Mountain City within thirty (30) days of his appointment.

ARTICLE X

PROPERTY TAXES

Section 1. General. Be it further enacted, That all property subject to taxation under the laws of the State of Tennessee shall be subject to the property tax levied by the Town. No officer or employee shall have the authority to excuse taxes, penalties, interest or any other charges due the Town.

Section 2. Tax due and delinquency dates. Taxes shall be due on Fifteenth Day of July each and every year for which levied, and delinquent on the First Day of September of the same year unless such dates are changed by ordinance. Interest and penalties due on delinquent property taxes shall be the same as interest and penalties prescribed for the collection of delinquent county property taxes under the general laws of the State or Tennessee.

Section 3. Collection of delinquent property taxes. Delinquent property taxes shall be referred to the Trustee of Johnson County for collection as provided by the general laws of the State of Tennessee for the collection of delinquent property taxes.

ARTICLE XI

FISCAL ADMINISTRATION

Section 1. Fiscal year. Be it further enacted, That the fiscal year of the Town 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.

Section 2. Annual budget. Be it further enacted, That not later than the Fifteenth Day of May of each year, the mayor shall submit to the Board of Mayor and Aldermen a proposed budget for the next fiscal year, showing separately for the general fund 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 fiscal year, and (e) any other information and data, such as work programs and unit costs, justifying recommended expenditures. The mayor may recommend and estimate receipts from additional revenue sources, provided such estimates are separated clearly from normal revenue estimates. The mayor may, if he chooses, submit with the budget a message containing a statement of the general fiscal policies of the Town, the important features of the budget, explanations of major changes recommended for the ensuing fiscal year, a general summary of the budget, and such other comments and information as he deems pertinent. A copy of the mayor's budget and budget message shall be filed with the town recorder for public inspection and a copy shall be furnished to each alderman. Any member of the public requesting a copy of the mayor's budget and budget message shall also be furnished one.

Section 3. City administrator. In the event a city administrator is appointed by the Board of Mayor and Aldermen, the Board may relieve the mayor of his fiscal responsibilities under this article and impose them on the city administrator.

Section 4. Public hearing. Be it further enacted, That after receiving the mayor's proposed budget, the Board of Mayor and Aldermen shall fix a time and place for a public hearing on the same, a public notice of which shall be published in a newspaper of general circulation in the Town at least ten (10) days in advance of the hearing. The public hearing shall be held before the Board of Mayor and Aldermen, and all persons present shall be given a reasonable opportunity to be heard on the proposed budget.

Section 5. Action by board on budget. Be it further enacted, That after the public hearing and before the beginning of the new fiscal year the Board of Mayor and Aldermen shall by ordinance adopt a budget and a tax levy based on the mayor's proposed budget, with such modification as the Board considers necessary or advisable. Appropriations need not be in more detail than a lump sum for each department or agency, but shall be in such additional detail as the Board requires.

ARTICLE XII

MISCELLANEOUS

Section 1. Parts of Act severable. Be it further enacted, That in the event any section or part of any section of this Act is held to be invalid by any court,

the remainder of the Act shall not be invalidated but shall remain in full force and effect.

Section 2. Method of approval of Act. Be it further enacted, That this Act shall not take effect until and unless the same shall have been approved by a two-thirds vote of the Board of Mayor and Aldermen of the Town of Mountain City, Tennessee at a regular meeting held after its passage by the General Assembly and approval by the Governor of the State of Tennessee.¹ Its local approval or failure shall be certified by the mayor to the Tennessee Secretary of State.

Section 3. Date of effect. For the sole 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 of this Article.

PASSED: March 13, 1986

s/Ned McWherter
SPEAKER OF THE HOUSE OF REPRESENTATIVES

s/John S. Wilson
SPEAKER OF THE SENATE

APPROVED this 24th day of March, 1986

s/Lamar Alexander
GOVERNOR

¹According to records in the office of the Secretary of State, this act was locally approved in accordance with its provisions, on April 15, 1986.

RELATED ACTS

PAGE

Priv. Acts 1989, ch. 55,
"Hotel/Motel Tax." C-16

CHAPTER NO. 55

HOUSE BILL NO. 335

By Hawkins

Substituted for: Senate Bill No. 591

By Greer

AN ACT to authorized the Town of Mountain City to levy a privilege tax on the occupancy of hotels and motels, to regulate collection of the tax, and to provide for the application of the tax revenue.

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

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

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

(4) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days.

(5) "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.

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

(7) "Collection officer" means the municipal or county official as may be charged by ordinance of the Board of Mayor and Aldermen with collection of this tax.

SECTION 2. The Board of Mayor and Aldermen (hereinafter legislative body) of the Town of Mountain City is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed 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 by this act.

SECTION 3. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his 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 town.

When a person has maintained occupancy for ninety (9) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the town.

SECTION 4. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the town to the collection officer or such other officer as may by ordinance of the legislative body be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligations to the town entitled to such tax shall be that of the operator.

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

SECTION 5. The collection officer shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the collection officer by the operator with such numbers of copies thereof as the collection officer 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 collection officer and approved by the legislative body prior to use. The collection officer shall audit each operator in the town at least once per year and shall report on the audits made on a quarterly basis to the legislative body. The

legislative body is hereby authorized to adopt ordinances to provide reasonable rules and regulations for the implementation of the provisions of this act.

SECTION 6. 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 7. Taxes collected by an operator which are not remitted to the collection officer on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and shall be 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 hereby declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

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

SECTION 9. The collection officer 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 county clerks.

For his services in administering and enforcing the provisions of this act, the collection officer shall be entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, Chapter 1, parts 7 and 9, it being 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 collection officer shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this act and to direct the refunding of same. Notice of any

tax paid under protest shall be given to the collection officer and the ordinance authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

SECTION 10. The collection officer is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund or such other fund as the legislative body may specify by ordinance.

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

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the Town of Mountain City. Its approval or nonapproval shall be proclaimed by the presiding officer of the Board of Mayor and Aldermen and shall be certified by him to the Secretary of State.

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

PASSED: April 5, 1989

s/Ed Murray
ED, MURRAY, SPEAKER
HOUSE OF REPRESENTATIVES

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

APPROVED this 18th day of April 1989

s/Ned McWherter
NED McWHERTER, GOVERNOR

ACTS COMPRISING THE CHARTER OF
MOUNTAIN CITY, TENNESSEE

YEAR	CHAPTER	SUBJECT
1986	133	Repealed and replaced Priv. Acts 1955, ch. 193 in its entirety.
1989	55	Related act authorized a privilege tax on the occupancy of hotels and motels.
1994	146	Replaced art. IV, § 6, Other town officers.
1998	154	Amended art. IV, § 1, Mayor and aldermen--election, term of office; and art. IV, § 6, Other town officers.
2014	52	Replaced art. IV, § 1, Mayor and aldermen--election, term of office.
2018	46	Replaced art. IV, other town officers.