

**MODIFIED CITY MANAGER-COUNCIL CHARTER<sup>1</sup>****TABLE OF CONTENTS<sup>2</sup>**

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<sup>1</sup>This compilation includes chapters 30--36 of Title 6, Tennessee Code Annotated, which contain the basic organizational provisions for this form of government. IMPORTANT NOTE: There are many other general laws affecting municipalities organized under this charter which have been omitted because they apply to all municipalities. These are found in various parts of the Tennessee Code Annotated. This compilation has been amended to reflect legislation passed in the 2016 session of the Tennessee General Assembly.

<sup>2</sup>If this city has adopted any related acts, those acts will follow the general law charter starting on page C-55.

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## CHAPTER 30

### MODIFIED CITY MANAGER-COUNCIL CHARTER--ADOPTION OR SURRENDER

#### SECTION

- 6-30-101. Alternative incorporation method.
- 6-30-102. Definitions.
- 6-30-103. Right of incorporation; minimum population; proximity to existing municipalities.
- 6-30-104. Adoption or surrender of charter; plan of services; hearing.
- 6-30-105. Construction.
- 6-30-106. Election to incorporate; notice; applicability.
- 6-30-107. Unconstitutional.
- 6-30-108. Municipal incorporation; tax revenues.

**6-30-101. Alternative incorporation method.** An alternative method whereby unincorporated territory may become an incorporated city is provided by chapters 30-36 of this title. [Acts 1957, ch. 238, § 1.01; modified; T.C.A., § 6-3001.]

**6-30-102. Definitions.** As used in chapters 30-36 of this title, unless the context otherwise requires:

- (1) "City" means any city or territory to be incorporated that may adopt the provisions of chapters 30-36 of this title;
- (2) "County" means the county in which any such city or territory to be incorporated under chapters 30-36 of this title is located, or in which the major portion of the population of any such city or territory to be incorporated is located as indicated by the last federal census; and
- (3) "This charter" refers to chapters 30-36 of this title. [Acts 1957, ch. 238, § 1.02; T.C.A., § 6-3002; Acts 1959, ch. 139, § 1.]

**6-30-103. Right of incorporation; minimum population; proximity to existing municipalities.** (a) The residents of any unincorporated territory that it is desired to incorporate shall have the right to adopt the provisions of chapters 30-36 of this title in the manner provided in these chapters; and thereafter such territory shall be and become incorporated and be governed as set forth in these chapters. No unincorporated territory shall be incorporated under the provisions of chapters 30-36 of this title unless such territory contains not less than five thousand (5,000) persons, who shall be actual residents of the territory.

(b) No unincorporated territory shall be incorporated within three (3) miles of an existing municipality or within five (5) miles of an existing

municipality of one hundred thousand (100,000) or more in population, according to the latest census certified by the department of economic and community development. "Existing municipality" and "existing municipality of one hundred thousand (100,000) or more in population" do not include any county with a metropolitan form of government with a population of one hundred thousand (100,000) or more, according to the latest census certified by the department of economic and community development.

(c) Notwithstanding subsection (a) or (b) to the contrary, a territory may be incorporated if the following conditions are fulfilled:

(1) The territory contains two hundred twenty-five (225) residents or more;

(2) The territory is composed of property that is one thousand six hundred feet (1,600 ) or more above sea level on the western border of the territory and contiguous with a county boundary on the eastern border of the territory;

(3) The territory is located within an area that is bordered on the west, north and east by the Tennessee River and on the south by the border between Tennessee and another state; and

(4) The territory is located within a metropolitan statistical area.

(d) Notwithstanding subsections (a)-(c) to the contrary, a territory may be incorporated that meets the following conditions:

(1) The territory contains three hundred (300) residents or more;

(2) The territory's western boundary is contiguous with the western boundary of the county in which it is located;

(3) The territory is located within an area bordered on the north by the Loosahatchie River and on the south by the Wolf River;

(4) The territory's eastern boundary is approximately parallel with the western boundary, but in no place is more than eight (8) miles from the western boundary; and

(5) The territory is located within a metropolitan statistical area.

(e) Notwithstanding the requirements of § 6-30-106, or any other provision of law to the contrary, the petition for incorporation of the territory described in this section may consist of a letter from a resident of the territory desiring to incorporate to the county election commission requesting that the question of incorporating the territory be placed on the ballot. The letter shall describe the exact boundaries of the proposed municipality, indicate the name of the proposed municipality, and indicate under which charter the territory desires to incorporate. The letter shall be treated as a petition meeting all the requirements of law. [Acts 1957, ch. 238, § 1.03; T.C.A., § 6-3003; Acts 1993, ch. 320, § 7; Acts 1996, ch. 666, §§ 3, 6.]

**6-30-104. Adoption or surrender of charter; plan of services; hearing.** (a) The adoption or surrender of the provisions of chapters 30-36 of this title shall be accomplished in the same manner as is provided in §§ 6-18-104(c), 6-18-105--6-18-113 and 6-30-106 for the adoption or surrender of the uniform city manager-commission charter; provided, that where those sections refer to chapters 18-22 of this title "the provisions of chapters 30-36 of this title" shall be substituted; that where the uniform city manager-commission charter is referred to "modified city manager-council charter" shall be substituted; and that where commissioners are referred to, "council members" shall be substituted.

(b) No unincorporated territory shall be allowed to hold a referendum on the question of whether or not to incorporate under this charter until a plan of services is documented, setting forth the identification and projected timing of municipal services proposed to be provided and the revenue from purely local sources to be payable annually. The plan of services shall be attached to the petition to incorporate when such petition is filed with the county election commission. The plan of services shall include, but not be limited to, police protection, fire protection, water service, sanitary sewage system, solid waste disposal, road and street construction and repair, recreational facilities, a proposed five-year operational budget, including projected revenues and expenditures, and the revenue from purely local sources to be payable annually. Municipalities that are first incorporated on or after July 1, 1993, that produce no local own-source revenues in any fiscal year, shall not receive any state-shared revenues during the next fiscal year.

(c) Prior to filing the petition with the county election commission, a public hearing on the referendum on the question of whether or not to incorporate under this charter and plan of services shall be conducted. The public hearing shall be advertised in a newspaper of general circulation for two (2) consecutive weeks. [Acts 1957, ch. 238, § 1.04; T.C.A., § 6-3004; Acts 1959, ch. 139, § 1; Acts 1983, ch. 33, § 6; Acts 1993, ch. 320, § 8.]

**6-30-105. Construction.** In the construction of any portion of this charter whose meaning or application is in dispute, it is intended that its phraseology shall be liberally construed to effect the substantial objects of chapters 30-36 of this title. [Acts 1957, ch. 238, § 9.01; T.C.A., § 6-3005.]

**6-30-106. Election to incorporate; notice; applicability.** (a) An election for the purpose of determining whether or not chapters 30-36 of this title shall become effective for any city shall be called by the county election commission or, if the area is in two (2) or more counties, jointly by the county election commissions of the affected counties, upon the petition in writing of twenty percent (20%) of the number of registered voters of the city or territory voting at the last general election, which petition shall state therein the proposed corporate name and shall designate therein in a sufficient manner the

boundaries of the proposed municipal corporation, which may be done by a general reference to the boundaries then existing if there is one, and the boundaries of the councilmanic districts, or shall have attached thereto a map of the area to be incorporated on which the councilmanic districts are shown.

(b) The county election commission shall, in addition to all other notices required by law, publish one (1) notice of the election in a newspaper of general circulation within the territory of the city or of the proposed city and post the notice in at least ten (10) places in the territory.

(c) Except for the provisions of chapters 30-36 of this title that are adopted by reference in other municipal charters, the provisions of chapters 30-36 of this title apply only to those cities that have adopted chapters 30-36 of this title by referendum as authorized by law. [Acts 1959, ch. 138, § 1; T.C.A., § 6-3006; Acts 1963, ch. 388, § 1; Acts 1972, ch. 740, § 4(48); Acts 1995, ch. 13, § 14; Acts 1997, ch. 98, § 6.]

**6-30-107. Unconstitutional.**

**6-30-108. Municipal incorporation; tax revenues.**

(a) Notwithstanding any other provision of law to the contrary, whenever a new municipality incorporates under any form of charter, the county or counties in which the new municipality is located shall continue to receive the revenue from all state and local taxes distributed on the basis of situs of collection, generated within the newly incorporated area, until July 1 following the incorporation, unless the incorporation takes effect on July 1.

(b) If the incorporation takes effect on July 1, then the municipality shall begin receiving revenue from such taxes generated within its corporate boundaries for the period beginning July 1.

(c) Whenever a municipality incorporates, the municipality shall notify the department of revenue of such incorporation prior to the incorporation becoming effective for the purpose of tax administration.

(d) Such taxes shall include the local sales tax authorized in § 67-6-103, the income tax on dividends authorized in § 67-2-102, and all other such taxes distributed to counties and municipalities based on the situs of their collection. [Acts 1998, ch. 651, § 3]

## CHAPTER 31

### ELECTIONS UNDER MODIFIED CITY MANAGER-COUNCIL CHARTER

#### Part 1--General Provisions

##### SECTION

- 6-31-101. Council members; election procedure.
- 6-31-102. Council members; election date.
- 6-31-103. Voter eligibility.
- 6-31-104. No partisan elections.
- 6-31-105. Council offices; eligibility.
- 6-31-106. Council nominations; deadline.
- 6-31-107. Council members; terms; staggered terms.
- 6-31-108. Prohibited campaign conduct; penalty.
- 6-31-109. Election results; certification; notice.
- 6-31-110. Election expenses.
- 6-31-111. Council members; taking of office; date and time.
- 6-31-112. Oath of office; filing; accompanying bond.

#### Part 2--Vacancies

- 6-31-201. Council vacancies; creation and filling.

#### Part 3--Recalls

- 6-31-301. Board of education; removal procedures.
- 6-31-302. Board of education; removal petition; amendment.
- 6-31-303. Board of education; recall of members; call to election.
- 6-31-304. Board of education; recall election.
- 6-31-305. [Obsolete.]
- 6-31-306. City council; removal procedure.
- 6-31-307. City Council; recall elections.

#### Part 1--General Provisions

**6-31-101. Council members; election procedure.** (a) All corporate, legislative, and other powers of the city, except as otherwise provided in chapters 30-36 of this title, shall be vested in a council, and the council shall be composed of members to be elected as provided in this section: One (1) member of the council shall be elected from each voting precinct of the incorporated area, to be voted on exclusively by the members of that particular voting precinct, and no person not a resident of the voting precinct shall be eligible to run for the

office of council member from that voting precinct. In the event the incorporated area takes in a portion or a part of a voting precinct, that portion or part shall be considered, so far as the provisions of this section are concerned, as a complete voting precinct. For the purposes of complying with chapter 30 of this title, each voting precinct shall be known as a councilmanic district.

(b) If an area to be incorporated, or that has been incorporated under chapters 30-36 of this title, lies in two (2) or more counties, the county election commissions of the counties in which the area lies shall jointly conduct elections under chapters 30-36 of this title.

(c) If the area to be incorporated includes inactive voting precincts or portions of inactive voting precincts, or both, the inactive voting precinct or portions of the inactive precincts, or both, shall be included in a contiguous voting precinct. An inactive precinct is one in which a general state election has not been held for five (5) years prior to the date of filing the petition for incorporation.

(d) In no event shall the membership of the council be less than seven (7), and in the event there are not sufficient voting precincts to elect a minimum of seven (7) members, the additional members of the council shall be elected at large. Council members from the city at large shall be voted on by the electors in all voting precincts.

(e) Any city operating under this charter may elect all such council members from the city at large, at its option. The option may be exercised by a private act of the general assembly providing for such when ratified as provided for by article XI, § 9 of the Constitution of Tennessee.

(f) Election to the board of education shall be as provided in chapter 36 of this title. [Acts 1957, ch. 238, § 3.01; T.C.A., § 6-3101; Acts 1959, ch. 321, § 1; Acts 1969, ch. 322, § 1; Acts 1972, ch. 740, § 4(49).]

**6-31-102. Council members; election date.** (a) The first election of council members in any city incorporating under chapters 30-36 of this title shall be had on the fourth Tuesday following the election at which the provisions of chapters 30-36 of this title have been adopted, and a regular municipal election shall be held biennially thereafter.

(b) (1) Any city operating under this charter may change the date of holding its regular biennial municipal election from the date provided in subsection (a) to the first Tuesday after the first Monday in November, to coincide with the election of members of the general assembly and representatives in the congress of the United States, as provided in § 2-3-203 or to coincide with the August general election. This option may be exercised by ordinance duly adopted in accordance with § 6-32-202. The ordinance changing the election date shall provide for the extension of the terms of council members necessary to meet the election date, but no term may be extended for more than two (2) years beyond its regular expiration date.



(2) Nothing in subdivision (b)(1) shall be construed to remove any incumbent from office or abridge the term of any incumbent prior to the end of the term for which an elected official was selected.

(3) If the council changes the date of municipal elections pursuant to subdivision (b)(1), the council may at a later date change the election date back to what such date was prior to moving the election date to coincide with the August or November general election. The council may only make an election date change under this subdivision (b)(3) one (1) time. Terms of incumbent council members shall not be abridged to accomplish an election date change under this subsection (b); however, council members elected at a date change pursuant to this subsection (b) may take office at a later date so as to not abridge terms of incumbent council members. If such council members take office at a later date, their term may be abridged due to such members having to take office at the later date. [Acts 1957, ch. 238, § 3.02; T.C.A., § 6-3102; Acts 1971, ch. 69, § 1; Acts 2010, ch. 1008, § 3.]

**6-31-103. Voter eligibility.** In any election under this charter, registered voters of the city or territory may vote. [Acts 1957, ch. 238, § 3.03; T.C.A., § 6-3103; Acts 1972, ch. 740, § 4(50).]

**6-31-104. No partisan elections.** All elections shall be nonpartisan. [Acts 1957, ch. 238, § 3.04; T.C.A., § 6-3105; Acts 1959, ch. 139, § 1; Acts 1972, ch. 740, § 4(51).]

**6-31-105. Council offices; eligibility.** Any qualified voter of the city is eligible for election to the office of council member; provided, that such voter has been a resident of the city for one (1) year next preceding the day of election; and provided further, that before taking office, the voter resigns any state, county, or other municipal office or position of employment that is filled by public election or that is remunerative, except as a notary public or member of the national guard. [Acts 1957, ch. 238, § 3.05; T.C.A., § 6-3106.]

**6-31-106. Council nominations; deadline.** The deadline for filing nominating petitions for the first councilmanic election after incorporation is thirty-five (35) days before the councilmanic election will be held. [Acts 1957, ch. 237, § 3.06; T.C.A., § 6-3107; Acts 1961, ch. 267, § 1; Acts 1972, ch. 740, § 4(52).]

**6-31-107. Council members; terms; staggered terms.** The terms of council members elected at this and all succeeding elections for the office of council shall be four (4) years. However at the option of the council, an ordinance may be adopted by two thirds (2/3) of the entire membership of the council prescribing and fixing staggered terms for members of the council, and the

ordinance may shorten or extend the terms of current members of the council for the sole purpose of staggering the terms, but otherwise the terms of office shall be four (4) years. [Acts 1957, ch. 238, § 3.07; T.C.A., § 6-3108; Acts 1959, ch. 139,; Acts 1993, ch. 353, § 4.]

**6-31-108. Prohibited campaign conduct; penalty.** If a candidate or any person on such candidate's behalf directly or indirectly gives or promises to any person or persons any office, employment, money, benefit, or anything of value in connection with such candidate's candidacy, upon conviction thereof such person shall be punished by a fine of not more than fifty dollars (\$50.00), and shall thereafter be ineligible to hold any office or position of employment in the city government for a period of five (5) years. [Acts 1957, ch. 238, § 3.08; T.C.A., § 6-3109.]

**6-31-109. Election results; certification; notice.** The county election commission or county election commissions shall determine and declare the results of the election and shall certify the results of the election. The chair of the county election commission or the chairs shall by mail send notices of election to the elected candidates, indicating the term to be served by each. A notice of the certification shall be published in a newspaper of general circulation in the city. [Acts 1957, ch. 238, § 3.09; T.C.A., § 6-3110; Acts 1963, ch. 389, § 1; Acts 1972, ch. 740, § 4(53).]

**6-31-110. Election expenses.** All expenses of the election shall be borne and paid by the city within six (6) months after the election. [Acts 1957, ch. 238, § 3.10; T.C.A., § 6-3111.]

**6-31-111. Council members; taking of office; date and time.** Persons elected to the office of council member shall take office the second Tuesday after the election at twelve o'clock (12:00) noon. [Acts 1957, ch. 238, § 3.11; T.C.A., § 6-3112.]

**6-31-112. Oath of office; filing; accompanying bond.** (a) Every officer or employee before taking any office in the city government shall take, subscribe to and file with the city clerk the following oath or affirmation:

"I solemnly swear (or affirm) that I possess all the qualifications prescribed for the office (or position) of \_\_\_\_\_, as prescribed by this charter, and that I will support the Constitution and will obey the laws of the United States and of the state of Tennessee, that I will, in all respects, observe the provisions of the charter and ordinances of the city of \_\_\_\_\_, and that I will faithfully discharge the duties of the office (or position) of \_\_\_\_\_."

(b) Any bond that may be required by law shall be filed with the oath or affirmation in subsection (a) in the office of the city clerk; provided, that the first seven (7) council members elected shall file the oath with the county mayor of the county wherein the city is located. Failure to comply with this section within ten (10) days from the date of election or appointment shall vacate the office involved, unless the council shall, by resolution, extend the time for qualifying. [Acts 1957, ch. 238, § 3.12; T.C.A., § 6-3113; impl. am. Acts 1978 ch. 934, §§ 16, 36.]

## Part 2--Vacancies

**6-31-201. Council vacancies; creation and filling.** (a) A vacancy shall exist if a council member:

- (1) Resigns;
- (2) Dies;
- (3) Moves the member's residence from the district in which the council member was elected;
- (4) Has been continuously disabled for a period of six (6) months so as to prevent the council member from discharging the duties of such office;
- (5) Fails to attend sixty percent (60%) of regular council meetings in any period of six (6) consecutive months;
- (6) Accepts any state, county or other municipal office or position of employment that is filled by public election or that is remunerative, except as a notary public or member of the national guard; or
- (7) Is convicted of malfeasance or misfeasance in office, a felony, a violation of the charter, or a violation of the election laws of the state.

(b) A vacancy shall be filled within thirty (30) days, by an affirmative vote of a majority of the remaining council members, the appointee to serve until the next regular city or county election, whichever is first held. If a tie vote by the council to fill a vacancy is unbroken for thirty (30) days, the mayor shall appoint a qualified person to fill the vacancy. No appointment to fill a vacancy shall be made within sixty (60) days prior to any regular city election. [Acts 1957, ch. 238, § 3.13; T.C.A., § 6-3114; Acts 1959, ch. 139, § 1; Acts 1972, ch. 494, § 1; Acts 1974, ch. 755, § 1.]

### Part 3--Recalls

**6-31-301. Board of education; removal procedures.** (a) Any member of the board of education of the city elected or appointed to fill a vacancy under this charter may be removed from office by the registered voters of the city.

(b) The procedure to effect such removal shall be as follows:

(1) A petition, signed by registered voters equal in number to at least sixty-six percent (66%) of the total vote cast for the candidate for the board of education receiving the highest number of votes at the last regular election, demanding the recall of the person sought to be removed shall be filed with the county election commission, and notice given by the commission of such filing by publication at least once in the official city newspaper, which petition shall contain a general statement of the grounds upon which the removal is sought. The signatures to the petition need not all be appended to one (1) paper, but each signer shall sign such signer's name, and shall place thereon, after such signer's name, the date of signing and such signer's place of residence by street and number or by other customary designation;

(2) To each petition paper there shall be attached a sworn affidavit by the circulator thereof stating the number of signers thereto and that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant;

(3) Such petition shall be filed with the county election commission, which shall, within fifteen (15) days, canvass the signatures thereon to determine the sufficiency thereof;

(4) A separate petition shall be filed for each person sought to be removed; and

(5) The county election commission shall attach to such petition its certificate showing the result of the examination. [Acts 1957, ch. 238, § 3.14; T.C.A., § 6-3115; Acts 1959, ch. 139, § 1; Acts 1972, ch. 740, § 4(54).]

**6-31-302. Board of education; removal petition; amendment.** If, by the certificate, the petition is shown to be insufficient, it may be amended within ten (10) days from the date of the certificate. The county election commission shall, within fifteen (15) days after such amendment, make the same examination as provided in § 6-31-301 of the amended petition, and, if its certificate shall hold the same to be insufficient, such petition shall be returned to the persons filing it. [Acts 1957, ch. 238, § 3.15; T.C.A., § 6-3116.]

**6-31-303. Board of education; recall of members; calling to election.** If the county election commission's certificate shows that the petition

is sufficient, the commission shall call an election on the question of recall. [Acts 1957, ch. 238, § 3.15; T.C.A., § 6-3117; Acts 1972, ch. 740, § 4(55).]

**6-31-304. Board of education; recall election.** At such election, the voter shall vote either "for recall" or "against recall." If sixty-six percent (66%) of those voting vote "for recall," the person named shall be declared removed from office and the office declared vacant. Such vacancy shall be filled as directed in § 6-36-107. The method of removal shall be cumulative and additional to the methods heretofore existing by law. No more than one (1) election for the purpose of recall shall be held in any six-month period, and no such election shall be held within a period beginning ninety (90) days before and ending ninety (90) days after a regular municipal election. [Acts 1957, ch. 238, § 3.16; T.C.A., § 6-3118; Acts 1959, ch. 139, § 1; Acts 1972, ch. 740, § 4(56).]

**6-31-305. [Obsolete.]**

**6-31-306. City council; removal procedure.** (a) Any council member of the city elected or appointed to fill a vacancy under this charter may be removed from office by the voters.

(b) The procedure to effect the removal of the incumbent shall be as follows:

(1) A petition, by registered voters equal in number to at least sixty-six percent (66%) of the total vote cast for the office held by the incumbent at the last regular election, demanding the recall of the person sought to be removed shall be filed with the county election commission, and notice given by the commission of such filing by publication at least once in the official city newspaper, which petition shall contain a general statement of the grounds upon which the removal is sought. The signatures to the petition need not all be appended to one (1) paper, but each signer shall sign such signer's name, and shall place thereon, after such signer's name, the date of signing and such signer's place of residence by street and number, or by other customary designation;

(2) To each petition paper there shall be attached a sworn affidavit by the circulator thereof stating the number of signers thereto, that each signature thereon is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant;

(3) Such petition shall be filed with the county election commission, which shall, within fifteen (15) days, canvass the signatures thereon to determine the sufficiency thereof;

(4) A separate petition shall be filed for each person sought to be removed; and

(5) The county election commission shall attach to such petition its certificate showing the result of the examination.

(c) If the county election commission's certificate shows that the petition is sufficient, the commission shall call an election on the question of recall. [Acts 1959, ch. 140, § 1; T.C.A., § 6-3120; Acts 1972, ch. 740, § 4(57).]

**6-31-307. City council; recall elections.** At such election, voters shall vote either "for recall" or "against recall." If sixty-six percent (66%) of those voters vote "for recall," the person named shall be declared removed from office and the office declared vacant. Such vacancy shall be filled as directed in § 6-31-201. The method of removal shall be cumulative and additional to the methods heretofore existing by law. No more than one (1) election for the purpose of recall shall be held in any six-month period and no such election shall be held within a period beginning ninety (90) days before and ending ninety (90) days after a regular municipal election. [Acts 1959, ch. 140, § 1; T.C.A., § 6-3121; Acts 1972, ch. 740, § 4(58).]

## CHAPTER 32

### COUNCIL AND MAYOR UNDER MODIFIED CITY MANAGER-COUNCIL CHARTER

#### Part 1--Council and Mayor Generally

##### SECTION

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- 6-32-103. Open meetings required.
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- 6-32-107. Mayor pro tempore.
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#### Part 1--Council and Mayor Generally

##### **6-32-101. Bimonthly regular meetings; dates; monthly meetings.**

The council shall hold regular meetings at least twice monthly. These meetings shall be held on the second and fourth Tuesdays of each month unless otherwise provided by ordinance; provided, that if a regular meeting date falls on a legal holiday, the meeting shall be held the following day. The council shall provide by resolution for the time of day and place of its meetings. However at the option of the council, an ordinance may be adopted by a two-thirds (2/3) vote of its entire membership to hold regular council meetings once monthly. [Acts 1957, ch. 238, § 4.01; T.C.A., § 6-3201; Acts 1993, ch. 353, § 1.]

**6-32-102. Special meetings.** Special meetings shall be called by the clerk on the written request of the mayor, the manager, or any two (2) council



members by providing each council member with twenty-four (24) hours written notice served personally or left at each of such council member's usual place of residence. Any special meeting at which all members of the council are present or have waived notice thereof in writing shall be a legal meeting for all purposes. Business transacted at any special meeting shall be limited to subjects recited in the notice of such meeting. [Acts 1957, ch. 238, § 4.02; T.C.A., § 6-3202.]

**6-32-103. Open meetings required.** All council meetings shall be open to the public and citizens shall have a reasonable opportunity to be heard. The council shall exercise its powers only at public meetings. [Acts 1957, ch. 238, § 4.03; T.C.A., § 6-3203.]

**6-32-104. Quorum.** At least one half (1/2) of the members of the council shall be a quorum for the transaction of business at all council meetings, but, in the absence of a quorum, three (3) members may adjourn the meeting to a later date or may compel the attendance of absent members. [Acts 1957, ch. 238, § 4.04; T.C.A., § 6-3204.]

**6-32-105. Meetings; conduct and attendance.** The council may enforce orderly conduct and compel the attendance of its members and other city officers at its meetings. Any member of the council or other officer of the city who refuses to attend meetings when served with notice or acts in a disorderly manner at such meetings commits misconduct in office. Upon council request, the manager shall designate a police official or officer to serve as the sergeant-at-arms of the council. [Acts 1957, ch. 238, § 4.05; T.C.A., § 6-3205.]

**6-32-106. Mayor; election.** (a) The council, at its first regular meeting following a regular city election, shall elect one (1) of its members mayor for a term of two (2) years. Whenever a vacancy occurs in the office of the mayor, the council shall elect one (1) of its members to serve until its first regular meeting following the next regular city election.

(b) The mayor shall:

- (1) Preside at meetings of the council;
- (2) Have a vote on all matters but no veto power;
- (3) Be the ceremonial head of the city;
- (4) Sign ordinances and resolutions on their final passage;
- (5) Sign deeds, bonds and contracts when authorized by the council to do so;
- (6) Be the officer to accept process against the city;
- (7) Not have any regular administrative duties; and
- (8) Perform only such duties as shall be specifically conferred or required by law. [Acts 1957, ch. 238, § 4.06; T.C.A., § 6-3206.]

**6-32-107. Mayor pro tempore.** The council shall choose one (1) of its members mayor pro tem who shall act in the temporary absence or disability of the mayor. [Acts 1957, ch. 238, § 4.07; T.C.A., § 6-3207.]

**6-32-108. Council rules and order of business.** The council shall determine its own rules and order of business subject to the following provisions:

(1) The affirmative vote of at least one half (1/2) of the members of the council shall be required to make any authorized appointment or remove such appointees;

(2) All other actions, except those listed in §§ 6-32-102 and 6-32-104, may be passed by the affirmative vote of a majority of those present when there is a quorum;

(3) There shall be a journal of the proceedings of all council meetings, signed by the mayor and clerk and to which the public shall have access at all reasonable times;

(4) A summary of council proceedings shall be published in the official city newspaper within fifteen (15) days after a meeting, showing the substance of each council action;

(5) A vote upon all proposed ordinances and resolutions shall be taken by "yea" and "nay" vote and the vote of each council member entered upon the journal, except that where the vote is unanimous it shall be necessary only to so state;

(6) The journal shall also report the names of the council members present and absent, each motion considered, and the title of each ordinance or resolution considered; and

(7) There shall be no standing committee of the council. [Acts 1957, ch. 238, § 4.08; T.C.A., § 6-3208.]

**6-32-109. Council powers.** The council may by resolution subpoena and examine witnesses, order the production of books and papers, and shall have the same powers as a circuit court to punish for refusal to obey such an order or subpoena or for disorderly or contemptuous behavior in the presence of the council. Its presiding officer may administer oaths to witnesses. [Acts 1957, ch. 238, § 4.09; T.C.A., § 6-3209.]

**6-32-110. Compensation.** (a) Each member of the council shall be compensated at the rate of five dollars (\$5.00) per meeting attended but not to exceed one hundred twenty dollars (\$120) per year. At the option of the council, an ordinance may be adopted by a two-thirds (2/3) vote of its entire membership to fix the compensation of members of the council at an amount not exceeding one hundred fifty dollars (\$150) per month, and the council person serving as mayor not exceeding two hundred dollars (\$200) per month, to take effect at the end of the term of the council person whose term last expires.

(b) The mayor shall receive the sum of ten dollars (\$10.00) per month, in addition to the mayor's compensation as council member.

(c) All members of the council may be reimbursed for actual and necessary expenses incurred in the conduct of their official duties; provided, that such expenses are approved by the council at one of its regular meetings. [Acts 1957, ch. 238, § 4.10; T.C.A., § 6-3210; Acts 1993, ch. 353, § 5.]

## Part 2--Ordinances and Regulations

**6-32-201. Scope and form.** Any action of the council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this charter, shall be done only by ordinance. Each ordinance shall relate to a single subject, which shall be expressed in a title, and upon passage shall be further identified by a number and, if desirable, a short title. The enacting clause of all ordinances shall be: "Be it ordained by the Mayor and Council members of the City of (here insert name)." Other actions may be accomplished by resolutions or motions. Each motion, resolution and ordinance shall be in written form before being introduced. [Acts 1957, ch. 238, § 5.01; T.C.A., § 6-3211.]

**6-32-202. Reading; effective date; publication; amendment and repeal.** (a) Each ordinance, before being adopted, shall be read at two (2) meetings not less than one (1) week apart, and shall take effect ten (10) days after its adoption; provided, that, where an emergency exists and the public safety and welfare requires it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by a majority of the members of the council on two (2) readings on successive days. As used in this subsection (a), "read" means the reading of the caption of the ordinance.

(b) At least the title and a brief summary of each ordinance, except an emergency ordinance, shall be published in the official city newspaper at least one (1) week before final passage, either separately or as part of the published proceedings of the council.

(c) Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection, or subsections in their amended form.

(d) An ordinance may be repealed by reference to its number and title only and publication of the ordinance may be similarly limited. [Acts 1957, ch. 238, § 5.02; T.C.A., § 6-3212; Acts 1993, ch. 353, § 2.]

**6-32-203. Public inspection.** Every proposed ordinance granting any permit or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose or granting any franchise, exclusive contract or other special privilege shall remain on file with the clerk for public inspection for at least two (2) weeks before its final adoption in the complete form in which it is finally passed. [Acts 1957, ch. 238, § 5.03; T.C.A., § 6-3213.]

**6-32-204. Recordation and publication.** (a) All ordinances and their amendments shall be recorded by the clerk in a book to be known as the "ordinance book," and it shall be the duty of the mayor and clerk to authenticate such records by their official signatures. A separate record shall be maintained

for resolutions. The original copies of all ordinances, resolutions, and motions shall be filed and preserved by the city clerk.

(b) At least an abstract of the essential provisions of each ordinance shall be published once in the official city newspaper within ten (10) days after its adoption, except that only the title shall be so published of any technical code adopted by reference. [Acts 1957, ch. 238, § 5.04; T.C.A., § 6-3214.]

**6-32-205. Codification of certification.** The council shall, within one (1) year after the adoption of this charter, and every ten (10) years thereafter, arrange for the codification of all ordinances and resolutions having a regulatory effect or of general application that are to be continued in force. Current loose-leaf editions of the official code shall be maintained and be made available for purchase by the public at a reasonable fee established by the council. The code shall carry notes and cumulative references indicating prior amendments to any section thereof. Copies of the official code may be certified by the city clerk, and when so certified shall be competent evidence in all courts and legally established tribunals as to the matters contained therein. [Acts 1957, ch. 238, § 5.05; T.C.A., § 6-3215.]

**6-32-206. Rules and regulations.** The council may by ordinance authorize the city manager to formulate and promulgate formal rules and regulations having regulatory effect or of general application on various matters, subject to such restrictions and standards of guidance as the council may prescribe. No such formal rule or regulation shall take effect until it is filed with the city clerk, who shall file and preserve the original copy in such clerk's office. Such rules and regulations shall be included as a separate section of the city code. Amendments of such rules and regulations shall be accomplished only by setting forth complete sections or subsections in their amended form. [Acts 1957, ch. 238, § 5.11; T.C.A., § 6-3216.]

**6-32-207. Rules of construction; severability.** In the construction of the ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the council. If any portion of an ordinance or the application thereof to any person or circumstances is found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the ordinance that can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and to this end ordinances are declared to be severable. [Acts 1957, ch. 238, § 5.12; T.C.A., § 6-3217.]

**6-32-208. "Blue Laws"; repeal by referendum.** (a) Any municipality having an ordinance prohibiting retail sales or deliveries of merchandise on Sunday may repeal the same by a referendum election for the ratification or rejection of the ordinance. The mayor and council by resolution may request the

county election commission to hold a special or regular referendum election for the ratification or rejection of the Sunday ordinance; provided, the county election commission receives the necessary resolution requesting the election at least thirty (30) days before the date on which the election is scheduled to be held.

(b) At any such election, the only question submitted to the voters shall be in the following form:

"For ordinance prohibiting sale or delivery of retail merchandise on Sunday.

Against ordinance prohibiting sale or delivery of retail merchandise on Sunday."

(c) The election commission shall certify the result to the mayor and council of the municipality. If a majority of those voting in the referendum favor repeal, the ordinance thereby shall be repealed. If a majority of those voting in the referendum oppose repeal, the ordinance shall continue in effect until legally amended or repealed.

(d) A referendum on this subject shall not be held more than once every twelve (12) months from the date of election. [Acts 1984, ch. 592, § 1.]

## CHAPTER 33

### POWERS AND OFFICES UNDER MODIFIED MANAGER-COUNCIL CHARTER

#### SECTION

- 6-33-101. Statutorily enumerated powers; additional powers.
- 6-33-102. Judge; term; compensation; vacancy; special judge.
- 6-33-103. Court; jurisdiction.
- 6-33-104. Judge; removal.
- 6-33-105. Personnel advisory boards; other advisory boards.
- 6-33-106. Planning commissions; rules and regulations; capital improvement programs; compensation.
- 6-33-107. Additional powers; contracts and cooperative action.
- 6-33-108. Additional powers; exercise.
- 6-33-109. Public officer liability; contracts and cooperative actions.
- 6-33-110. Contracts and cooperative actions; receipts; deposit and disbursement.
- 6-33-111. Public utility franchises; granting and revocation.
- 6-33-112. Official city newspaper; designation.
- 6-33-113. City attorney; appointment and duties.

#### **6-33-101. Statutorily enumerated powers; additional powers.**

(a) Every territory incorporating under the provisions of chapters 30-36 of this title has all the powers and authority enumerated in §§ 6-2-201, 6-19-101 and 6-19-102.

(b) In addition to the powers granted in subsection (a), any city incorporated under chapters 30-36 of this title has the power to:

(1) Purchase, acquire, construct, own, operate, maintain, extend, improve, repair, equip and dispose of community antenna television systems or microwave multi-point distribution systems, or both, for the benefit of the citizens of the city. The city may operate any such system as a department or part of a department of the city or place its operation in a separate board or in an existing electric or utility board, as provided by ordinance; and

(2) Borrow money to purchase, acquire, construct, extend, improve, repair or equip any such system and issue its bonds or notes therefor, including refunding bonds, in such form and upon such terms as it may determine. Any such bonds or notes shall be issued pursuant to the procedures set forth in and shall be governed by title 9, chapter 21, including provisions dealing with covenants permitted in bond resolutions, security and remedies of bondholders, and the system described in this subdivision (b)(2) shall be deemed to be a "public works

project," as defined in title 9, chapter 21. [Acts 1957, ch. 238, § 2.01; T.C.A., § 6-3301; Acts 1989, ch. 193, §1.]

**6-33-102. Judge; term; compensation; vacancy; special judge.**

(a) The city judge shall be a person licensed to practice law in the state of Tennessee and shall be elected by popular vote at the same time as provided for election of the governing body of such corporation, and in the same manner as provided for election to the board of education.

(b) Such judge shall be elected for a term of four (4) years.

(c) The city council shall by ordinance provide for the compensation of the city judge and other employees of the court, except that the judge shall be authorized to appoint, promote, suspend, remove or to take any other established personnel action with respect to the court clerk and other court employees consistent with the provisions of this charter. The compensation fixed for the judge and court employees shall in no way be related to the amount of moneys collected by the court, and the compensation so fixed shall be in lieu of all fees, fines, penalties, forfeitures, or other moneys collected by the court.

(d) A vacancy shall exist if the city judge resigns, dies, or has been continuously disabled for a period of three (3) months so as to prevent the city judge from discharging the duties of office; and such vacancy shall be filled by a majority vote of the city council, the appointee to serve until the next regular city or county election, whichever is first held, at which election a duly qualified person shall be elected to fill the unexpired term of the office.

(e) Whenever the city judge finds it necessary to be absent from holding court, the city judge may designate in writing, to be filed with the clerk of the city court, a name of a special judge to hold court in the city judge's place and stead. The special judge shall be a person who has the qualifications of city judge and the special judge shall take the same oath and have the same authority as the regular city judge to hold court for the occasion. [Acts 1957, ch. 238, § 6.01; T.C.A., § 6-3302; Acts 1959, ch. 318, § 1; Acts 1965, ch. 331, § 1; Acts 1973, ch. 57, § 1.]

**6-33-103. Court; jurisdiction.** A city court is created to be administered and presided over by a city judge. The judge of the city court shall have jurisdiction in and over all cases for the violation of and all cases arising under the laws and ordinances of the city. The city judge, in all cases heard or determined by such city judge for offenses against the corporate laws and ordinances, shall set and collect municipal court costs in accordance with § 16-18-304, and shall levy and collect the litigation tax in accordance with § 16-18-305. In all cases where the offender is committed to the jail or workhouse for failure to pay fines, costs or forfeitures, the offender shall be credited with two dollars (\$2.00) for each day's imprisonment. The city judge shall be vested with the jurisdiction formerly exercised by justices of the peace in all cases of violation of the criminal laws of the state within the limits of the



city. Warrants, subpoenas, orders and other processes of the court shall be executed by the police officers of the city who for such purposes shall have the same powers and authority of a sheriff in executing process of a circuit court. The council may authorize any officer or employee of the court to accept pleas of guilty and to fix fines in cases of minor traffic violations, as defined by the city council, and to issue warrants and accept bail bonds. All fines, penalties, forfeitures, and money collected by the court, or the officers and employees thereof, shall be promptly turned over to the city treasury. The council shall require an audit of the accounts of the court at least annually. The records of the court shall be prescribed by ordinance. [Acts 1957, ch. 238, § 6.02; T.C.A., § 6-3303; Acts 1978, ch. 909, §§ 1, 2; impl. am. Acts 1979, ch. 68, § 3; modified; Acts 2004, ch. 914, § 6; Acts 2009, ch. 146, § 1.]

**6-33-104. Judge; removal.** The city judge shall be subject to removal from office for the same causes and in the same manner as provided for the removal of public officers by title 8, chapter 47. In case of the absence or inability of the judge to serve, the city council may appoint and fix the compensation of an acting city judge who may be removed at any time without cause. Except as provided in this chapter, officers and employees of the court are also subject to § 6-35-403. [Acts 1957, ch. 238, § 6.03; T.C.A., § 6-3304; Acts 1959, ch. 318, § 2.]

**6-33-105. Personnel advisory boards; other advisory boards.** The council shall by ordinance create a personnel advisory board and may create such other boards advisory to the council and manager with respect to specific municipal functions as it may deem necessary, prescribing in each case the number, manner of appointment, length of term, and advisory duties of members of such boards who shall serve without compensation but may be reimbursed for necessary expenses incurred in official duties. [Acts 1957, ch. 238, § 6.13; T.C.A., § 6-3305.]

**6-33-106. Planning commission; rules and regulations; capital improvement programs; compensation.** The council shall establish a planning commission, and may by ordinance within the framework of this charter, exercise authority in the fields of planning, zoning, subdivision control and related activities as provided by general laws of the state. The rules and regulations of the planning commission shall have no force or effect unless approved by the council. No later than ninety (90) days prior to each fiscal year, the planning commission shall submit to the city manager a long-term capital improvement program with recommendations as to the priority of individual projects and the methods of financing them. The members of the planning commission shall serve without compensation, but may be reimbursed for necessary expenses incurred in official duties. [Acts 1957, ch. 238, § 6.14; T.C.A., § 6-3306.]

**6-33-107. Additional powers; contracts and cooperative action.**

(a) In addition to other powers granted in this charter, the city council has the power to contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof, or with any duly authorized agency of the federal or state government for:

- (1) The planning, development, construction, acquisition, or operation of any public improvement, utility, or facility;
- (2) A common public service;
- (3) Having the same individuals serve as officers or employees in more than one (1) political subdivision or federal or state agency, or any of these subdivisions or agencies, on a part-time basis in each;
- (4) The construction or operation of federally-owned utilities and other property on behalf of the federal government;
- (5) The acquisition by gift or by transfer or by purchase of federal property and if by purchase for the financing of its acquisition;
- (6) Entering into contracts relating to acceptance of payments in lieu of taxes or state, federal, or other contributions; and
- (7) The furnishing of services to the federal government and its designees, outside the city limits as well as within.

(b) The subject and purpose of any such contract or cooperative action made and entered into by the council shall be within the scope of the powers of the city. [Acts 1957, ch. 238, § 6.15; T.C.A., § 6-3307.]

**6-33-108. Additional powers; exercise.** (a) The city council may exercise the powers conferred in § 6-33-107 by ordinance setting out the terms agreed upon by the parties to such a contract or cooperative action. The parties to such a contract or cooperative action, or any of them, may acquire, by gift or purchase, or by the power of eminent domain exercised by one (1) or more of the parties, the lands, buildings, and other property necessary or useful for the purposes of the contract or cooperative action, either within or without the corporate limits of one (1) or more of the contracting parties, and shall have the power to hold or acquire such lands as tenants in common. The city may provide for the financing of its share or portion of the cost or expenses of such a contract or cooperative action in the same manner and by the same procedure for the financing by the city of the subject and purposes of the contract or cooperative action as if acting alone and on its own behalf.

(b) Such contract also may provide for the establishment and selection of a joint commission, officer, or officers to supervise, manage, and have charge of such joint service or project, and may provide for the powers and duties, terms of office, compensation, if any, and other provisions relating to the members of such joint commission, officer, or officers. Such contract may include and specify terms and provisions relative to the termination or cancellation of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be

given of such termination or cancellation; provided, that such termination or cancellation shall not relieve any party participating in such contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such termination or cancellation. [Acts 1957, ch. 238, § 6.16; T.C.A., § 6-3308.]

**6-33-109. Public officer liability; contracts and cooperative actions.** All public officers acting under the authority of a contract or cooperative action under § 6-33-107 or § 6-33-108 are deemed to be subject to the same liabilities to which they would have been subjected for actions occurring entirely within their own territorial limits. [Acts 1957, ch. 238, § 6.17; T.C.A., § 6-3309.]

**6-33-110. Contracts and cooperative actions; receipts; deposit and disbursement.** All money received pursuant to any such contract or cooperative action, under § 6-33-107 or § 6-33-108, unless otherwise provided by law, shall be deposited in the appropriate fund or funds and disbursed in accordance with the provisions of such contract or cooperative action. [Acts 1957, ch. 238, § 6.18; T.C.A., § 6-3310.]

**6-33-111. Public utility franchises; granting and revocation.**

(a) No franchise or grant for the operation of a water, electric, telephone, steam, or public transportation or other utility that is not revocable at the will of the council shall be granted or become operative, except by ordinance. Such ordinance shall become effective thirty (30) days after its adoption by the council unless twenty percent (20%) of the qualified electors of the city sign a petition and present it to the council during such thirty-day period requesting that the ordinance be referred to the electors, in which case it must receive the approval of a majority of the electors voting thereon at a municipal election, and all renewals, extensions and amendments thereof shall be granted only in the same manner.

(b) All public utility franchises granted under this charter shall be subject to the following rights of the city; provided, that this enumeration is not to be construed as being exclusive or as impairing council authority to impose any condition that may be in the municipal interest and within the power of the city to impose or require:

- (1) To revoke for misuse, or nonuse, or for failure to comply with the provisions thereof;
- (2) To require proper and adequate provision, extension, and maintenance of plant and service at the highest practicable standard of performance;
- (3) To establish reasonable standards of service and prevent unjust discrimination in service or rates;

(4) To require uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; and

(5) To impose such other regulations as may be determined by the council to be necessary to the health, safety, welfare, and accommodation of the public.

(c) The council may institute such actions or proceedings as may be necessary to enforce a franchise and may revoke, cancel, or annul all franchises that have become inoperative, illegal, or void and not binding upon the city. Subject to state law, all public utility franchises shall prescribe the manner of fixing rates, fares, and charges, and the readjustments thereof at reasonable intervals at the discretion of the city. The value of the property of the utility used as a basis for fixing such rates, fares, and charges shall in no event include a value predicated upon the franchise, good will, or prospective profits.

(d) This section shall not be construed to repeal, abridge, modify or supersede any statute or law of the state pertaining to the Tennessee regulatory authority or the regulation of public utilities which are subject to its jurisdiction, and subdivisions (b)(2), (3), and (4) shall not apply to any public utility over which the authority exercises regulatory authority. [Acts 1957, ch. 238, § 6.35; T.C.A., § 6-3311; Acts 1995, ch. 305, § 72.]

**6-33-112. Official city newspaper; designation.** The council by resolution shall designate a newspaper of general circulation in the city as the official city newspaper. [Acts 1957, ch. 238, § 9.03; T.C.A., § 6-3312.]

**6-33-113. City attorney; appointment and duties.** (a) The council shall appoint a city attorney, together with such assistant city attorneys as the council shall determine are required.

(b) The city attorney shall:

(1) Be responsible for representing and defending the city in all litigation in which the city is a party;

(2) Be the prosecuting officer in the city court;

(3) Attend all meetings of the council;

(4) Advise the council, city manager and other officers and employees of the city concerning legal aspects of the city's affairs;

(5) Approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and

(6) Perform such other duties as may be prescribed by the council or city manager. [Acts 1961, ch. 255, § 2; T.C.A., § 6-3313.]

**CHAPTER 34**

**TAXATION AND ISSUANCE OF OBLIGATIONS UNDER MODIFIED  
MANAGER-COUNCIL CHARTER**

**Part 1--Equalization Board**

**SECTION**

- 6-34-101. Establishment.
- 6-34-102. Powers; compensation.
- 6-34-103. Work schedule.
- 6-34-104. Reports.

**Part 2--Assessment and Levy**

- 6-34-201. City, joint, or county assessments.
- 6-34-202. Notices of hearing and decision; appeals.
- 6-34-203. Levy, due date, and delinquencies; schedule.
- 6-34-204. School budget levy.
- 6-34-205. Continuation of previous levy.

**Part 3--Notes and Bonds**

- 6-34-301-- 6-34-317. [Repealed.]

**Part 1--Equalization Board**

**6-34-101. Establishment.** The council shall establish an equalization board, and shall appoint each year three (3) persons who are property owners and qualified voters of the city for a one-year term. [Acts 1957, ch. 238, § 6.05; T.C.A., § 6-3402.]

**6-34-102. Powers ; compensation.** (a) The equalization board may increase assessments made, and may add assessments omitted by the city assessing officer, but it may decrease individual assessments or strike erroneous assessments from the assessment roll only on appeals from interested parties. It may increase or decrease the assessment of all property or of any class of property by a uniform percentage, in which case the requirement of notice and hearing shall not apply, but a notice of such blanket increase or decrease shall be inserted once in the official city newspaper.

(b) The members of the board may receive such compensation on a per diem basis for each day of duty as provided by ordinance. [Acts 1957, ch. 238, § 6.06; T.C.A., § 6-3403.]

**6-34-103. Work schedule.** The equalization board shall begin and end its work at times to be prescribed by ordinance, which times shall be so established that the assessment roll may be completed and tax bills may be prepared before the tax due date. [Acts 1957, ch. 238, § 6.07; T.C.A., § 6-3404.]

**6-34-104. Reports.** The equalization board, upon completion of its work, shall submit a written report to the council, including total increases and decreases made by it and the final total assessment of each class of property. [Acts 1957, ch. 238, § 6.08; T.C.A., § 6-3405.]

## Part 2--Assessment and Levy

**6-34-201. City, joint, or county assessments.** The council may, by ordinance, provide for the assessment, by city assessing personnel, of property lying within the corporate limits, or may enter into any necessary agreements with the appropriate county officials for joint assessments by the city and county, or may elect to use county assessments. There shall be added to any county assessment any property omitted from such assessments. [Acts 1957, ch. 238, § 6.04; T.C.A., § 6-3401.]

**6-34-202. Notices of hearing and decision; appeals.** (a) Every owner of property liable for taxes based on increased or new assessment shall be sent the notice thereof by ordinary mail or by personal service. If the owner of such property is unknown, or is a nonresident of the state with no known agent in the state, a notice stating the time and place when the taxpayer may be heard shall be posted on the property at least ten (10) days in advance of the date set for the hearing.

(b) A notice of the board's decision shall be mailed to the taxpayer within five (5) days after the hearing.

(c) Thereafter appeals may be taken as provided by general law.

(d) If the taxpayer fails to appear at such hearing, or does not file an appeal within the time allowed by general law, the assessment shall stand. [Acts 1957, ch. 238, § 6.09; T.C.A., § 6-3406.]

**6-34-203. Levy, due date, and delinquencies; schedule.** Unless otherwise provided by ordinance, the schedule for levy, due date and delinquencies shall be the same as provided by general law for counties; provided, that the tax levy shall be set by council not later than sixty (60) days preceding the new fiscal year, except as provided in § 6-34-204. [Acts 1957, ch. 238, § 6.10; T.C.A., § 6-3407.]

**6-34-204. School budget levy.** In the event a tax levy for the fiscal year is found to be insufficient to meet the requirements of a school budget increased by reason of a referendum provided for in § 6-36-114, the council shall have authority to amend the tax levy ordinance so as to raise the levy contained therein in an amount sufficient to cover the deficiency. [Acts 1957, ch. 238, § 6.11; T.C.A., § 6-3408.]

**6-34-205. Continuation of previous levy.** If no levy is made at the time fixed for the levy, the previous year's levy shall continue in effect. [Acts 1957, ch. 238, § 6.12; T.C.A., § 6-3409.]

**Part 3--Notes and Bonds**

**6-34-301 -- 6-34-317. [Repealed.]**



**CHAPTER 35****CITY MANAGER--ADMINISTRATION OF CITY AFFAIRS**  
**UNDER MODIFIED MANAGER-COUNCIL CHARTER****Part 1--General Provisions****SECTION**

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- 6-35-413. Prohibited political activity; penalty.

### **Part 1--General Provisions**

**6-35-101. Organization by departments; plan amendments; administrative regulations.** (a) Within the framework established by this charter, the administrative organization of the city shall be organized into departments of general government, finance, and such other departments necessary to provide health, welfare, police, recreation, fire, library, public works, utilities and other municipal services as shall be provided in a plan of administrative organization to be developed by the city manager and submitted to the council for approval and adoption by ordinance.

(b) The council may by ordinance amend the plan of administrative organization only after receiving the written recommendations of the city manager.

(c) Administrative regulations governing the operations and relationships of departments, agencies, and offices within the administrative organization shall be prepared and issued by the city manager; provided, that the authority to prepare and issue departmental rules and regulations may be delegated to designated subordinates. [Acts 1957, ch. 238, § 7.06; T.C.A., § 6-3505.]

**6-35-102. Disposal of utility property; voter approval required.**

(a) The city shall not sell, exchange, lease, or in any way alienate or dispose of the property, easements, or other equipment, privileges or assets that are essential parts of any utility that it may acquire, unless and except the proposition for such purpose shall first have been submitted and approved by a majority vote of the electors voting thereon at a municipal election in the manner provided in this charter.

(b) All contracts, negotiations, licenses, grants, leases, or other forms of transfer in violation of this provision shall be void and of no effect as against the city.

(c) This section shall not, however, be interpreted to preclude the sale, exchange, or other disposal to the advantage of the city, of parts of a utility's property and assets that are not essential to continued effective utility service and the disposal of which will not prejudice municipal interests. [Acts 1957, ch. 238, § 7.36; T.C.A., § 6-3536.]

## Part 2--City Manager

**6-35-201. Appointment; selection; eligibility.** (a) The council shall appoint a chief administrative officer of the city who shall be the city manager, and who shall serve at the pleasure of the council.

(b) (1) The manager shall be selected on the basis of training, experience, and other administrative qualifications for the office and without regard to such person's political or religious preference or such person's place of residence at the time of appointment.

(2) No council member shall be eligible for the position of manager within two (2) years after the expiration of the member's latest councilmanic term. [Acts 1957, ch. 238, § 7.01; T.C.A., § 6-3501.]

**6-35-202. Manager pro tempore.** The council may designate a qualified administrative officer of the city to assume the duties and authority of the manager during periods of vacancy in the office, temporary absences or disability of the manager. [Acts 1957, ch. 238, § 7.02; T.C.A., § 6-3502.]

**6-35-203. Relations between manager and counsel.** (a) The manager shall be responsible to the council for the administration of all units of the city government under the manager's jurisdiction and for carrying out policies adopted by the council.

(b) (1) Except for the purpose of inquiry, the council and its members shall deal with the administrative officers and employees solely through the manager.

(2) Neither the council nor any member thereof shall give orders to the manager's subordinates or otherwise interfere with managerial functions through such means as directing or requesting the appointment or removal of any of the manager's subordinates, or the making of particular purchases from, or contracts with, any specific organization.

(c) The office of any council member violating any provision of this section shall immediately become vacant upon such person's conviction in a court of competent jurisdiction. [Acts 1957, ch. 238, § 7.03; T.C.A., § 6-3503.]

**6-35-204. Duties.** The manager shall:

(1) Supervise the administrative affairs of the city;

(2) Be charged with the preservation of the public peace and health, the safety of persons and properties, and the enforcement of the laws, ordinances, and franchises, and the development and utilization of the city's resources;

(3) Make such reports and recommendations as the manager may deem desirable and perform such other duties as may be prescribed by this charter or required by the manager by ordinance or resolution of the council not inconsistent with this charter; and

(4) Have the right to take part in the discussion of all matters coming before the council, but not the right to vote. [Acts 1957, ch. 238, § 7.04; T.C.A., § 6-3504.]

**6-35-205. Purchases and contracts; competitive bidding procedures; other public improvements.** (a) Except as provided in § 6-36-115, the manager shall be responsible for all city purchasing but may delegate such duty to any subordinate appointed by the manager.

(b) (1) Competitive prices for all purchases and public improvements shall be obtained whenever practicable and in accordance with regulations established by ordinance, and the purchase made from or the contract awarded to the lowest responsible bidder; provided, that the city shall have the power to reject any and all bids.

(2) Formal sealed bids shall be obtained in all transactions involving the expenditure of ten thousand dollars (\$10,000) or more, and the transaction shall be evidenced by written contract submitted to and approved by the council; provided, that in cases where the council indicates by formal unanimous resolution of those present at the meeting, based upon the written recommendation of the manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts.

(3) The council may also authorize the making of public improvements or the performing of any other city work by any city department or agency without competitive bidding.

(c) Purchasing and contract procedures not prescribed by this charter or other law may be established by ordinance. [Acts 1957, ch. 238, § 7.19; T.C.A., § 6-3518; Acts 1993, ch. 353, § 3; Acts 2002, ch. 543, § 1.]

**6-35-206. City property and equipment; management; leases for city services.** (a) The management of all city property and equipment, except school property and equipment, shall be the responsibility of the city manager who shall prepare for the approval of the council regulations governing the acquisition, custody, use and disposal of all such property and equipment. Such regulations shall provide for a regular inventory, appraisal and marking of all such property and shall require that the disposal of any city property and equipment shall be by sale, with sealed bids taken or public auction held on such property and equipment valued at more than five hundred dollars (\$500); provided, that any sale for more than one thousand dollars (\$1,000), or any sale of real estate shall be subject to the approval of the city council.

(b) (1) The mayor and city council may by ordinance authorize the city to enter into contracts for city services and may lease machinery, equipment, and real property belonging to the city to such contractors to provide for city services. The contracts shall contain such terms and conditions as may be agreed upon by the city and the contractor;

provided, that any contract shall be performed within the term of the mayor and city council authorizing it. The contractor shall be paid for the service from reasonably anticipated taxes or other revenue. Notwithstanding the provisions of § 6-35-205, no contract for a city service or the leasing of machinery, equipment, or real property by the contractor shall be subject to competitive bids.

(2) Subdivision (b)(1) apply only to cities with populations greater than eleven thousand eight hundred twenty-five (11,825) but less than twelve thousand twenty-five (12,025), according to the 1970 federal census or any subsequent federal census, and that are located in counties with populations greater than twenty-nine thousand nine hundred (29,900) but less than thirty thousand (30,000), according to the 1970 federal census or any subsequent federal census.

(3) Subdivision (b)(1) are applicable only to garbage collection and fire protection services. [Acts 1957, ch. 238, § 7.20; T.C.A., § 6-3519; Acts 1981, ch. 496, §§ 1, 2.]

### Part 3--Financial Matters

**6-35-301. Tax collection methods.** The city manager or administrative personnel appointed by the city manager shall make use of every method provided by general law to ensure the collection of taxes due the city, and shall also be authorized to use and shall use, if necessary, the methods now available to cities organized under the uniform city manager-commission charter, §§ 6-22-110 -- 6-22-115. [Acts 1957, ch. 238, § 7.09; T.C.A., § 6-3508.]

**6-35-302. Administration.** The city manager or an officer appointed by the city manager shall have charge of the administration of the financial affairs of the city. There shall be maintained such accounting controls over the finances of the city and such financial reports as may be required by this charter, by ordinance, or by the manager. The manager shall provide for the auditing, approving and payment of all claims against the city. [Acts 1957, ch. 238, § 7.10; T.C.A., § 6-3509.]

**6-35-303. Fiscal year.** The fiscal year of the city shall begin on July 1 and shall end on June 30 of the succeeding year, but another fiscal year may be fixed by ordinance for the entire city government or for any utility. [Acts 1957, ch. 238, § 7.11; T.C.A., § 6-3510.]

**6-35-304. Proposed budget; time of submission and contents.**

(a) On or before a date fixed by the council, but not later than ninety (90) days prior to the beginning of the fiscal year, the manager shall submit to the council a proposed budget for the next fiscal year.

(b) The budget shall present a complete financial plan for the ensuing year, including at least the following information:

(1) Detailed estimates of all proposed expenditures for each department, board, office or other agency of the city, showing in addition the expenditures for corresponding items for the last preceding fiscal year, appropriations and anticipated expenditures for the current fiscal year, and reasons for recommended departures from the current expenditure pattern;

(2) Statements of the bonded and other indebtedness of the city, including the debt redemption and interest requirements, the debt authorized and unissued, and the condition of the sinking funds;

(3) Detailed estimates of all anticipated revenues of the city from all sources, including current and delinquent taxes, nontax revenues and proceeds from the sale of any bonds, with a comparative statement of the amounts received by the city from each of such sources for the last preceding fiscal year, the current fiscal year, and the coming fiscal year;

(4) A statement of the estimated balance or deficit, as of the end of the current fiscal year; and

(5) Such other supporting schedules as the council may request, or are otherwise required by law. [Acts 1957, ch. 238, § 7.12; T.C.A., § 6-3511.]

**6-35-305. Capital projects; budgeting.** As a part of the annual budget, the city shall include a statement of pending capital projects and proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts, if any, proposed to be raised therefor by the issuance of bonds during the fiscal year. The city manager shall also include in the message, or attach thereto, a program of proposed capital projects for the five (5) fiscal years next succeeding the budget year, prepared by the planning commission, together with the city manager's comments thereon and any estimate of costs. [Acts 1957, ch. 238, § 7.13; T.C.A., § 6-3512.]

**6-35-306. Budget hearing.** (a) A public hearing on the budget shall be held before its final adoption by the council, at such time and place as the council shall direct, and notice of such public hearing shall be published ten (10) days in advance of the date of the hearing. All persons present shall be given a reasonable opportunity to be heard for or against the estimates of any item in the budget.

(b) The budget and budget message and all supporting schedules shall be a public record in the office of the city clerk, open to public inspection by anyone.

(c) The city manager shall cause sufficient copies of the budget and budget message to be prepared for distribution to interested persons at least ten (10) days before the hearing. [Acts 1957, ch. 238, § 7.14; T.C.A., § 6-3513.]

**6-35-307. Appropriation ordinance; adoption.** (a) Before the beginning of the next fiscal year, the council shall adopt an appropriation ordinance, based on the city manager's budget with such modifications as the council considers necessary or desirable; provided, that modifications in the school budget as submitted by the board of education shall be subject to the limitations of § 6-36-113.

(b) Appropriations need not be in more detail than a lump sum for each fund.

(c) The council shall not make any appropriations in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city and declared by a unanimous vote of all members of the council present, when there is a quorum.

(d) If for any reason an appropriation ordinance is not adopted prior to the beginning of the next fiscal year, the appropriations for the last fiscal year shall become the appropriations for the next fiscal year, until the adoption of the new appropriation ordinance.



(e) The appropriation ordinance, insofar as it relates to the appropriation for schools, shall be further subject to the provisions of § 6-36-114. [Acts 1957, ch. 238, § 7.15; T.C.A., § 6-3514.]

**6-35-308. Appropriation amendments.** Amendments may be made to the original appropriation at any time during a current fiscal year after a public hearing before the council on five (5) days' notice published once in the official city newspaper; provided, that increased appropriations may be made only after the city manager has certified in writing that a sufficient amount of unappropriated revenue will be available, except for emergency appropriations as provided in § 6-35-307. [Acts 1957, ch. 238, § 7.16; T.C.A., § 6-3515.]

**6-35-309. Lapse of unspent appropriations.** Any portion of an annual appropriation remaining unexpended and unencumbered at the close of a fiscal year shall lapse and be credited to the general fund, except that any balance remaining in any other fund at the end of a fiscal year may remain to the credit of that fund and be subject to further appropriation. [Acts 1957, ch. 238, § 7.17; T.C.A., § 6-3516.]

**6-35-310. Quarterly data; appropriations reductions; exceptions.** At the beginning of each quarterly period during the fiscal year, and more often if required by the council, the manager shall submit to the council data showing the relation between the estimated and actual revenues and expenditures to date. If it shall appear that the revenues are less than anticipated, the council may reduce the appropriations, as prescribed in § 6-35-308, except amounts required for debt and interest charges, and with the further exception that reductions in school appropriation shall be as to total amount only, to such a degree as may be necessary to keep expenditures within the receipts. The manager may provide for monthly or quarterly allotments of appropriations to all departments, agencies or activities within the manager's jurisdiction under such rules as the manager shall prescribe, and make transfers between departments, agencies, or activities within each fund, and when authorized by the city council, from one (1) fund to another; provided, that any transfer of moneys from the city school fund to any other fund shall be made only with the concurrence of the board of education. [Acts 1957, ch. 238, § 7.18; T.C.A., § 6-3517.]

**6-35-311. Yearly audits.** At the end of each fiscal year, an audit shall be made of the accounts and funds of the city covering the operations of the past fiscal year, by a certified public accountant selected by the council. The council may employ certified public accountants to audit all or any of its accounts and funds at the time it takes office or at any time it may deem expedient to assure correctness thereof. [Acts 1957, ch. 238, § 7.21; T.C.A., § 6-3520.]

**6-35-312. Fees.** All fees received in handling city business by any officer or employee shall belong to the city and shall be paid promptly into the city treasury, except fees received by school officers and employees which shall be paid into the city school fund. [Acts 1957, ch. 238, § 7.22; T.C.A., § 6-3521.]

**6-35-313. City funds; depositories; security for deposits.** (a) The council shall designate a commercial bank or banks as depository or depositories for city funds and shall provide for the regular deposit of all city moneys.

(b) The council shall require any city funds deposited with a financial institution to be secured by collateral in the same manner and under the same conditions as state deposits, under title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under title 9, chapter 4, part 5. [Acts 1957, ch. 238, § 7.23; T.C.A., § 6-3522; Acts 1994, ch. 752, § 6.]

**6-35-314. Utilities; financial and accounting records.** Separate financial and accounting records shall be maintained for each utility in accordance with accepted principles of utility accounting and as may be required by the city council, without impairing the authority of the city to manage and operate the utilities with the same personnel and equipment. [Acts 1957, ch. 238, § 7.35; T.C.A., § 6-3535.]

**6-35-315. Annual operating budget; publication; comparisons.**

(a) Notwithstanding the provisions of any other law to the contrary, the governing body shall publish the annual operating budget and budgetary comparisons of the proposed budget with the prior year's actual figures and the current year's estimated figures, which information shall include the following:

(1) Revenues and expenditures for the following governmental funds: general, streets/public works, general purpose school and debt service;

(2) Revenues for each fund shall be listed separately by local taxes, state of Tennessee, federal government and other sources;

(3) Expenditures for each fund shall be listed separately by salaries and other costs;

(4) Beginning and ending fund balances shall be shown for each fund; and

(5) The number of full-time equivalent employee positions shall be shown for each fund.

(b) The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget. [Acts 1991, ch. 484, § 10; Acts 1992, ch. 760, § 6.]

## Part 4--Officers and Employees

**6-35-401. City clerk; duties.** The city manager shall appoint a city clerk, together with such deputy city clerks as may be authorized by ordinance. The city clerk shall be responsible for keeping and preserving the city seal and all records of the council, attending meetings of the council and keeping a journal of proceedings at such meetings, preparing and certifying copies of official records in the city clerk's office, for which fees may be prescribed by ordinance, and performing all other duties as are prescribed by the council or city manager. [Acts 1957, ch. 238, § 7.08; T.C.A., § 6-3507.]

**6-35-402. Personnel actions; delegation of authority.** The manager has the power to appoint, promote, suspend, transfer, and remove, or to take any other established personnel action consistent with the provisions of §§ 6-35-403 -- 6-35-411 with regard to all administrative officers and employees of the city responsible to the manager; or the manager may, at the manager's discretion, authorize the head of a department or office responsible to the manager to take such actions regarding subordinates in such department or office. The manager shall appoint such heads of administrative offices, organization units, and activities as the manager may deem necessary. The manager may combine, or personally hold, any such administrative offices established pursuant to this section or otherwise established, or may delegate parts of the duties of the manager's office to designated subordinates. [Acts 1957, ch. 238, § 7.05; T.C.A., § 6-3523.]

**6-35-403. Merit system; establishment and scope.** (a) The policy of the city shall be to employ those persons best qualified to carry out the functions of the city. To this end, the council shall, by ordinance, establish a merit system providing for the appointment and promotion of city officers and employees solely on the basis of competence and fitness.

(b) All officers and employees shall be included in such merit system, except:

- (1) Council members;
- (2) Members of boards who are not city employees;
- (3) The manager and the manager's secretary;
- (4) Department heads; and
- (5) Organizations and their employees and other persons who are engaged by the city on a contractual basis. [Acts 1957, ch. 238, § 7.24; T.C.A., § 6-3524.]

**6-35-404. Merit system; administration.** (a) The manager shall be responsible for the administration of the merit system. The manager shall:

- (1) With the advice of the personnel advisory board, develop, maintain, and apply suitable provisions for the classification of positions

and for the recruitment, compensation, training, promotions and disciplinary and related aspects of personnel management; and

(2) Develop and revise, as necessary, a comprehensive pay plan and personnel rules setting forth employment conditions.

(b) The personnel advisory board shall review such plans and rules and proposed revisions thereof, and submit them to the council with recommendations for adoption. [Acts 1957, ch. 238, § 7.25; T.C.A., § 6-3525.]

**6-35-405. Personnel advisory board; investigation of complaints regarding personnel actions.** (a) The personnel advisory board shall investigate complaints made to it in writing by any officer or employee who is included in the merit system and who is suspended or removed from such officer's or employee's position or otherwise adversely affected by a personnel action.

(b) (1) If, in the opinion of the board, the procedures established for such personnel action were not complied with, the board shall make decisions that shall be binding on the administrative officer of the city.

(2) In all other cases, the board shall report its findings and recommendations, which shall be advisory in nature, in writing to the manager, and the decision of the manager shall be final. In all such cases any such officer or employee shall have the right to common law certiorari to review the action of the board and the manager. [Acts 1957, ch. 238, § 7.26; T.C.A., § 6-3526.]

**6-35-406. Personnel advisory board; assistance to city manager.** The personnel advisory board shall assist the manager in other personnel matters as may be set forth by ordinance and may investigate and make recommendations and reports to the council and manager on improvements in conditions of municipal employment and on significant violations of the principles of sound personnel administration. [Acts 1957, ch. 238, § 7.27; T.C.A., § 6-3527.]

**6-35-407. Compensation restrictions.** Except as otherwise provided in this charter, the compensation of all officers and employees of the city shall be fixed by the manager within the limits of budget appropriations and in accordance with a comprehensive pay plan adopted by the council. [Acts 1957, ch. 238, § 7.28; T.C.A., § 6-3528.]

**6-35-408. Compensation in lieu of fees and commissions.** The compensation of officers and employees as fixed or otherwise provided for by this charter shall be in full payment for all official services of such officers or employees, and shall be in lieu of any and all fees, commissions, and other compensation that may be receivable by such officers in performance of the duties of their offices. Such fees, commissions and compensation shall belong to

the city, be collected and accounted for by such officers, and be paid over to the city. [Acts 1957, ch. 238, § 7.29; T.C.A., § 6-3529.]

**6-35-409. Benefits.** The council may provide for the retirement of the city's nonelective officers and employees and make available to them any group, life, hospital, health, or accident insurance, either independently of, or as a supplement to, any retirement or other employee welfare benefits otherwise provided by law. [Acts 1957, ch. 238, § 7.30; T.C.A., § 6-3530.]

**6-35-410. Resignation procedures.** The council shall prescribe by ordinance appropriate procedures with respect to resignations of officers and employees and with respect to the orderly transfer of records, assets, and other effects in the custody of such officers and employees to their successors or supervisors. [Acts 1957, ch. 238, § 7.31; T.C.A., § 6-3531.]

**6-35-411. Bonds.** All city officers or employees receiving, disbursing or responsible for city funds shall be bonded. The council may require any officer or employee to give a bond, approved by and in such amount as the council shall determine. All such bonds shall be corporate surety bonds, and the premiums thereon shall be paid by the city. No such bond shall be issued for a term exceeding four (4) years. No bond required by this section shall be renewed upon its expiration or in the event of the reappointment of any officer or employee to a position for which a bond is required, but a new bond shall be furnished. The resignation, removal, or discharge of any officer or employee of the city shall not, nor shall the election or appointment of another to such officer's or employee's office or employment, exonerate such officer or employee or such officer's or employee's sureties from liability incurred by such officer's or employee's, or such officer's or employee's sureties. [Acts 1957, ch. 238, § 7.32; T.C.A., § 6-3532.]

**6-35-412. Personal financial interests prohibited.** (a) No officer or employee of the city shall have any financial interest other than the common public interest in the profits of any contract, service, or other work performed for the city; or personally profit directly or indirectly from any contract, purchase, sale, or service between the city and any person or company; or personally as an agent provide any surety, bail, or bond required by law or subject to approval by the council.

(b) No officer or any employee shall accept any free or preferred services, benefits or concessions from any person or company, except that free transportation may be provided for police officers and firefighters on official duty.

(c) Any officer or employee who violates the provisions of this section commits misconduct of office. [Acts 1957, ch. 238, § 7.33; T.C.A., § 6-3533.]

**6-35-413. Prohibited political activity; penalty.** (a) No officer or employee of the city, other than council members, or members of the board of education, shall continue in the employment of the city after becoming a candidate for nomination or election to any public office nor hold office in any political activity.

(b) No officer or employee of the city shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose from any officer or employee of the city.

(c) No officer or employee of the city, other than council members or board of education members, shall make any contribution to the campaign funds of any candidate in any city election, nor shall such person take part in the management, affairs or political campaign of any city election, other than in the exercise of such person's rights as a citizen to express such person's opinions and to cast such person's vote.

(d) (1) Any person who alone or with others willfully or corruptly violates any provision of this section commits a Class C misdemeanor.

(2) Any person who is convicted under this section shall be ineligible to hold any office or position of employment in the city government for a period of five (5) years thereafter and, if such person is an officer or employee at the time of conviction, shall immediately forfeit and vacate the office or position held. [Acts 1957, ch. 238, § 7.34; T.C.A., § 6-3534; Acts 1989, ch. 591, § 113.]

## CHAPTER 36

### PUBLIC SCHOOLS UNDER MODIFIED CITY MANAGER-COUNCIL CHARTER

#### SECTION

- 6-36-101. Board of education; member terms.
- 6-36-102. Board of education; member nomination, election, and recall.
- 6-36-103. Board of education; first election and member terms; subsequent elections.
- 6-36-104. Chair and vice chair; duties.
- 6-36-105. Board powers and duties.
- 6-36-106. Board meetings; rules of conduct; regular and special meetings; quorum.
- 6-36-107. Board vacancies.
- 6-36-108. No board compensation.
- 6-36-109. Superintendent; board interference; salary; service as board secretary.
- 6-36-110. Superintendent; powers and duties.
- 6-36-111. Officers and employees; employment terms and conditions.
- 6-36-112. Funds; deposits and withdrawals; yearly audits.
- 6-36-113. Budget; estimates of revenues and expenditures.
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- 6-36-115. Purchases and contracts.
- 6-36-116. Disbursements; countersignature.
- 6-36-117. City school system; transfer to county.
- 6-36-118. County schools; takeover agreement.

**6-36-101. Board of education; member terms.** (a) (1) If a city incorporated under this charter is authorized, pursuant to general law, to establish and operate a school system, the control and management of the schools of the city shall be the responsibility of the board of education, which shall consist of five (5) qualified voters of the city, meeting the requirements of §§ 6-31-105 and 6-31-112.

(2) By ordinance adopted by a two-thirds (2/3) vote of the entire membership of the city council, the board of education may be increased to seven (7) qualified voters of the city, meeting the requirements of §§ 6-31-105 and 6-31-112. The two (2) additional board members authorized by this subdivision (a)(2) shall be elected at-large and shall be voted on by the electors in all voting precincts of the city. This subdivision (a)(2) shall only apply within counties having a population of not less than thirty-one thousand five hundred (31,500) nor more than thirty-one thousand eight hundred (31,800), according to the 1990 federal census or any subsequent federal census.

(b) Except as provided in § 6-36-103, the board members shall hold office for a term of four (4) years from twelve o'clock (12:00) noon of the second Wednesday next following the regular city election at which they are elected, or until their successors are elected and qualified. [Acts 1957, ch. 238, § 8.01; T.C.A., § 6-3601; Acts 2000, ch. 959, § 1; Acts 2011, ch. 453, § 9.]

**6-36-102. Board of education; member nomination, election, and recall.** (a) The members of the board of education shall be nominated by petition and elected at the same time and places as provided in this charter for elections of the members of the city council, except that in the first election the manner of election shall be that provided in § 6-36-103.

(b) The members of the board shall be subject to the provisions of this charter with regard to recall as provided in §§ 6-31-301 -- 6-31-304.

(c) Each candidate to the board or any person acting in the candidate's behalf shall be subject to § 6-31-108. [Acts 1957, ch. 238, § 8.02; T.C.A., § 6-3602; Acts 1959, ch. 137, § 1.]

**6-36-103. Board of education; first election and member terms; subsequent elections.** (a) The first election of board of education members shall be held at the same time and place as the first election of city council members. Eligibility requirements for voters shall be the same as § 6-31-103. At this election, each voter shall be entitled to vote for not more than five (5) candidates for the board of education.

(b) The two (2) candidates for the board of education who receive the two (2) highest number of votes shall be declared elected for a four-year term beginning at twelve o'clock (12:00) noon on the second Wednesday next following the election at which they were elected. The three (3) candidates for the board of education who receive the third, fourth and fifth highest number of votes respectively shall be declared elected for a two-year term beginning at twelve o'clock (12:00) noon on the second Wednesday next following the election at which they were elected.

(c) For any board of education increased to seven (7) members pursuant to § 6-36-101(a)(2), the initial election of the additional two (2) members shall be held at the first November general election occurring more than forty-five (45) days following adoption of the ordinance required to expand board membership. To ensure staggered terms, the at-large candidate receiving the highest number of votes shall be declared elected for a four-year term beginning at twelve o'clock (12:00) noon on the second Wednesday next following the election; and the at-large candidate receiving the second highest number of votes shall be declared elected for a two-year term beginning at the same date and time.

(d) Subsequent elections shall be held biennially for election of board members to four-year terms. [Acts 1957, ch. 238, § 8.03; T.C.A., § 6-3603; Acts 1959, ch. 137, § 1; Acts 2000, ch. 959, § 2.]



**6-36-104. Chair and vice chair; duties.** (a) At the first meeting after each regular biennial election, the board shall elect a chair and vice chair.

(b) The chair shall preside at the meetings of the board and may vote as any other member but shall have no power of veto. The chair shall perform the duties imposed upon the chair by the rules of the board.

(c) The vice chair shall perform the duties of the chair in case of the chair's absence or inability to act.

(d) In the event of a permanent vacancy in the office of chair, a new chair shall be elected. [Acts 1957, ch. 238, § 8.04; T.C.A., § 6-3604.]

**6-36-105. Board powers and duties.** The board of education has the power and duty to:

(1) Appoint and remove a director of schools as provided in § 6-36-109;

(2) Establish schools, determine the attendance areas of the various schools, and determine the policies and programs of the city school system, subject to the availability of school funds;

(3) Determine the number of teachers and other employees in the city school system subject to availability of school funds, after considering the written recommendations of the director of schools;

(4) Review, revise and approve budget estimates prepared by the director of schools and submit such estimates to the city manager, in accord with budget control procedures described in § 6-35-310;

(5) Initiate, review, revise and approve plans for the erection or improvement of buildings and facilities to be used for educational purposes, and transmit copies of all such plans that bear on the long range development of the schools to the city planning commission for incorporation as part of the capital improvement program;

(6) Purchase or otherwise acquire land for school buildings, playgrounds and other purposes connected with the city school system; purchase, construct, operate and regulate the use of all buildings, required for purposes of the city school system; and do any and all other acts necessary to establish, maintain, and operate a complete public educational system within the city, including adult education, subject to the availability of school funds;

(7) Review, revise and act upon any recommendation by the director of schools relating to the operation and maintenance of school buildings;

(8) Cooperate with the city council, city manager and other officials of the city government, and with the officials of other governmental jurisdictions, in programs leading to improvements and economies in the public services provided the residents and taxpayers;

(9) Make any investigation that the board may consider desirable concerning administration of the city school system; and

(10) Exercise any and all powers not specifically stated in chapters 30-36 of this title but given to boards of education by general law, except those that are inconsistent with the provisions of chapters 30-36 of this title. [Acts 1957, ch. 238, § 8.05; T.C.A., § 6-3605.]

**6-36-106. Board meetings; rules of conduct; regular and special meetings; quorum.** (a) The board shall adopt rules governing the conduct of its business and meetings; provided, that regular meetings shall be held on the second Wednesday of each month unless another day is set by the board; and provided further, that if a regular meeting date falls on a legal holiday, the meeting shall be held on the following day. The board shall provide by resolution for the time of day and place of all its meetings.

(b) A majority of the board constitutes a quorum and the affirmative vote of at least three (3) members shall be required to approve any action; however, if the board consists of seven (7) members, then an affirmative vote of at least four (4) members shall be required to approve any action.

(c) A special meeting shall be called by the chair, by any two (2) members of the board, or by the director of schools, by a written notice delivered at least twenty-four (24) hours in advance of the meeting, either personally or left at the usual place of residence of the members and director of schools. Such notice shall set forth the character of business to be discussed at the meeting, and no other business shall be considered at such meeting.

(d) All board meetings shall be open to the public, and citizens shall have a reasonable opportunity to be heard. The board shall exercise its powers only at public meetings. [Acts 1957, ch. 238, § 8.06; T.C.A., § 6-3606; Acts 2000, ch. 959, § 3.]

**6-36-107. Board vacancies.** (a) A vacancy shall exist if a board member:

- (1) Resigns;
- (2) Dies;
- (3) Moves the member's residence from the city;
- (4) Has been continuously disabled for a period of six (6) months so as to prevent the member from discharging the duties of office;
- (5) Accepts any state, county, or other municipal office or position of employment, except as a notary public or member of the national guard; or

(6) Is convicted of malfeasance or misfeasance in office, a felony, a violation of this charter, or a violation of the election laws of the state.

(b) A vacancy shall be filled within thirty (30) days by an affirmative vote of a majority of the remaining board members, the appointee to serve until the next regular election at which time a successor shall be elected to fill the unexpired term in the manner specified in § 6-31-201, except that the term "chair of the board" shall be read for references to the term "mayor." If a tie vote

by the board to fill a vacancy is unbroken for thirty (30) days, the chair shall appoint a qualified person to fill the vacancy. No appointment to fill the vacancy shall be made within sixty (60) days prior to any regular city election. The candidates in such an election to fill the vacancy shall be nominated by petition as provided in § 6-36-102. [Acts 1957, ch. 238, § 8.07; T.C.A., § 6-3607.]

**6-36-108. No board compensation.** The members of the board of education shall receive no compensation but may be reimbursed for actual and necessary expenses incurred in the conduct of their duties; provided, that such expenses are approved by the board at a regular meeting. [Acts 1957, ch. 238, § 8.08; T.C.A., § 6-3608.]

**6-36-109. Superintendent; board interference; salary; service as board secretary.** (a) The board of education shall appoint a director of schools who shall be the administrative head of the city school system. The director shall be subject only to the board of education and all orders of the board relating to the management of the schools shall be given through the director. Except for the purpose of inquiry, the board and its members shall deal with administrative officers, principals, teachers and other employees solely through the director. Neither the board nor any member thereof shall give orders to the director's subordinates or otherwise interfere with the director's functions through such means as the making of particular purchases from, or contracts with, any specific individual or organization.

(b) The office of any board member violating any provision of this section shall immediately become vacant upon the member's conviction in a court of competent jurisdiction.

(c) The board of education shall fix the director's salary. The director shall serve at the pleasure of the board as provided by the director's contract of employment. The director has the right to take part in the discussion of all matters coming before the board, but not the right to vote.

(d) The director, or other employee designated by the board on the recommendation of the director, shall serve as secretary to the board. [Acts 1957, ch. 238, § 8.09; T.C.A., § 6-3609.]

**6-36-110. Superintendent; powers and duties.** The director of schools has the power and duty to:

(1) Manage and direct the city school system in accordance with the policies and programs of the board of education;

(2) Appoint, promote, transfer, retire, and remove and take any other established personnel action with regard to all teachers, and other employees in the city school system consistent with the provisions of this chapter, policies and programs adopted by the board of education and the general laws of the state;

(3) Prescribe, control and correlate the courses of study, textbooks, and educational apparatus and equipment, consistent with the school laws of the state, and the policies and programs adopted by the board of education;

(4) Prepare and issue rules and regulations for the administration and execution of the policies, plans, and programs adopted by the board;

(5) Prepare budgets for the city school system for approval by the board of education and submission to the city manager for final consideration by the city council;

(6) Make periodic allotments of funds appropriated for city school purposes;

(7) Make purchases and contracts subject to the limitations of this charter and such policies as may be prescribed by the board of education;

(8) Prepare for approval by the board of education salary schedules for teachers and other employees of the city school system as provided in § 6-36-111;

(9) Prepare, for approval by the board of education, plans for constructing, enlarging or improving school buildings and other school facilities; and

(10) Exercise such other powers and perform such other duties not inconsistent with this charter or other general laws, as may be prescribed by the board of education. [Acts 1957, ch. 238, § 8.10; T.C.A., § 6-3610.]

**6-36-111. Officers and employees; employment terms and conditions.** All of the officers and employees of the city school system shall be subject to §§ 6-35-407 -- 6-35-413 of this charter, with the school system standing in the stead of the city, with the board of education in the stead of the city council, board members in the stead of council members, chair in the stead of the mayor, and the director of schools in the stead of the city manager and the city clerk, and that on actions taken under this chapter, the rules and regulations of the board shall have the same force and effect as an ordinance of the city council. [Acts 1957, ch. 238, § 8.11; T.C.A., § 6-3611.]

**6-36-112. Funds; deposits and withdrawals; yearly audits.** (a) All school moneys appropriated by the city council, all state and county funds received for the city school system, and all other moneys, fees, revenues or income that are received by the city school system or that heretofore or hereafter are granted or permitted to the city school system shall be deposited in a city school fund to be withdrawn only upon the order of the board of education; provided, that a full estimate thereof shall have been summarized in each school

budget; and provided further, that those portions of such funds derived from city appropriation ordinances shall be subject to §§ 6-35-308 and 6-35-310.

(b) The board of education shall establish such school funds as are required by general law or as it considers necessary for the operation of the school system.

(c) At the end of each fiscal year an audit shall be made of the accounts and funds of the school system covering the operations of the last fiscal year by certified public accountants selected by the board. The board of education may employ certified accountants to audit all or any of the school funds and accounts at any time it may deem expedient to assure the correctness of the accounts and funds.

(d) Section 6-35-313 shall apply with the board of education standing in the stead of council. [Acts 1957, ch. 238, § 8.12; T.C.A., § 6-3612.]

**6-36-113. Budget; estimates of revenues and expenditures.** The city school budget submitted by the board of education through the city manager to the city council shall include estimates of all school revenues, as well as estimates of expenditures necessary for the operation of the school system for the next fiscal period. Neither the city manager nor the city council shall have any authority to modify or delete any item of the school estimates, and the council shall have the power to modify only the total amount of the school budget, except that in no event shall a reduction in the school budget exceed the total sum requested by the board of education from current city tax revenues. Such budget estimates shall not include any requests for the purchase of land, and the purchase, construction, reconstruction, or major alteration of any building for school purposes. Requests for such improvements shall be transmitted to the planning commission for review and incorporation into the capital improvement program. [Acts 1957, ch. 238, § 8.13; T.C.A., § 6-3613.]

**6-36-114. Appropriations; notice.** The adoption by the city council of an appropriation ordinance for the next fiscal year, or the allowance of a continuation of the appropriation for the last fiscal year, shall serve as notice to the board of education of the total amount of the school appropriation for the next fiscal period. [Acts 1957, ch. 238, § 8.14; T.C.A., § 6-3614.]

**6-36-115. Purchases and contracts.** (a) All materials, supplies and equipment shall be purchased by the director of schools in accordance with procedures approved by the board of education, except that centralized purchasing with the city administration may be utilized where it is mutually agreed upon by the council and board or their delegated representatives.

(b) The board of education or director of schools, in making purchases and contracts, shall be subject to the provisions of this charter relating to purchases and contracts by the city council and city manager, with the board of

education standing in the stead of the council and the director of schools standing in the stead of the city manager.

(c) No purchase, expenditure or contract shall be made in excess of available school funds. [Acts 1957, ch. 238, § 8.15; T.C.A., § 6-3615.]

**6-36-116. Disbursements; countersignature.** All disbursements of moneys from the city school funds or other established school funds for the city school system shall be made by checks countersigned by the director of schools or by other school personnel designated by the board of education upon recommendation of the director. [Acts 1957, ch. 238, § 8.16; T.C.A., § 6-3616.]

**6-36-117. City school system; transfer to county.** The city school system or any part thereof may be transferred to the county upon the adoption of a resolution by the city council after considering the written recommendations of the board of education; provided, that all such transfers must first be approved by a majority of the qualified voters voting in a referendum held for that purpose. [Acts 1957, ch. 238, § 8.17; T.C.A., § 6-3617.]

**6-36-118. County schools; takeover agreement.** The city council, after considering the written recommendations of the board of education, may enter into an agreement with the county for the city school system to take over ownership, management and control of that part of the county school system within the city, including land, buildings and all other school property, equipment, and facilities. [Acts 1957, ch. 238, § 8.18; T.C.A., § 6-3618.]