

CHARTER OF THE CITY OF CLEVELAND, TENNESSEE¹

CHAPTER NO. 78

HOUSE BILL NO. 1649

By Representative Stockburger

Substituted for: Senate Bill No. 1633

By Senator Patten

AN ACT to amend in its entirety the present Charter of the City of Cleveland, Tennessee, which is Chapter 307 of the Acts of Tennessee of 1903 and Chapter 204 of the Acts of Tennessee of 1909, as amended by Chapter 286 of the Acts of Tennessee of 1909, Chapter 286 of the Private Acts of 1911, Chapter 124 of the Private Acts of 1913, Chapter 213 of the Private Acts of 1913, Chapter 165 of the Private Acts of 1915, Chapter 631 of the Private Acts of 1919, Chapter 705 of the Private Acts of 1921, Chapter 57 of the Private Acts of 1923, Chapter 459 of the Private Acts of 1923, Chapter 236 of the Private Acts of 1931, Chapter 409 of the Private Acts of 1933, Chapter 452 of the Private Acts of 1935, Chapter 450 of the Private Acts of 1937, Chapters 352, 527, 528, 530, 532 and 802 of the Private Acts of 1949, Chapters 187 and 196 of the Private Acts of 1953, Chapter 449 of the Private Acts of 1953, Chapter 201 of the Private Acts of 1955, Chapter 348 of the Private Acts of 1959, Chapter 400 of the Private Acts of 1961, Chapter 85 of the Private Acts of 1967, Chapter 156 of the Private Acts of 1969, Chapter 287 of the Private Acts of 1970, Chapter 176 of the Private Acts of 1971, Chapter 80 of the Private Acts of 1975, Chapter 116 of the Private Acts of 1977, Chapters 348 and 349 of the Private Acts of 1982, and all acts amendatory thereto.

WHEREAS, the City of Cleveland, Tennessee is incorporated by Chapter 307 of the Acts of Tennessee of 1903, as amended; and

¹Priv. Acts 1993, ch. 78, is the current basic charter act for the City of Cleveland, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2008 session of the Tennessee General Assembly. Sections of the charter which have been amended contain at the end of those sections the citation to the official act or acts constituting the amendment or amendments. No other changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the acts including the basic charter appears at the end of the charter.

WHEREAS, it now appears that the interest of the City of Cleveland will be served if the charter is further amended and consolidated; now, therefore,

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

SECTION 1. Chapter 307 of the Acts of Tennessee of 1903 and Chapter 204 of the Acts of Tennessee of 1909, as amended by Chapter 286 of the Acts of Tennessee of 1909, Chapter 286 of the Private Acts of 1911, Chapter 124 of the Private Acts of 1913, Chapter 213 of the Private Acts of 1913, Chapter 165 of the Private Acts of 1915, Chapter 631 of the Private Acts of 1919, Chapter 705 of the Private Acts of 1921, Chapter 57 of the Private Acts of 1923, Chapter 459 of the Private Acts of 1923, Chapter 236 of the Private Acts of 1931, Chapter 409 of the Private Acts of 1933, Chapter 452 of the Private Acts of 1935, Chapter 450 of the Private Acts of 1937, Chapters 352, 527, 528, 530 532 and 802 of the Private Acts of 1949, Chapters 187 and 196 of the Private Acts of 1953, Chapter 449 of the Private Acts of 1953, Chapter 201 of the Private Acts of 1955, Chapter 348 of the Private Acts of 1959, Chapter 400 of the Private Acts of 1961, Chapter 85 of the Private Acts of 1967, Chapter 156 of the Private Acts of 1969, Chapter 287 of the Private Acts of 1970, Chapter 176 of the Private Acts of 1971, Chapter 80 of the Private Acts of 1975, Chapter 116 of the Private Acts of 1977, Chapters 348 and 349 of the Private Acts of 1982, and all acts amendatory thereto are amended in their entirety to read as follows:

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ARTICLE I

Incorporation, Boundaries

Section 1. Incorporation. The Town of Cleveland in the County of Bradley, and the inhabitants thereof, are hereby constituted a body politic and corporate under the style and name of the "City of Cleveland", and under that name may have perpetual succession; may sue and be sued; plead and be impleaded in all the courts; may purchase, receive and hold real, personal and mixed property within or without such city, for municipal purposes, and may sell, lease, or dispose of the same for the benefit of such city; and may do all other acts touching the same as a natural person; and may have and use a common seal, which may be changed at its pleasure.

Section 2. Boundaries. The boundaries of the City of Cleveland, shall be as fixed by Section 1 of Chapter 286 of the Acts of Tennessee of 1909, as amended, and any annexations¹ or detachments of territory made pursuant to law.

ARTICLE II

Powers

Section 1. General Powers. The city council shall have the management and control of the city finances and all property of the corporation, real, personal and mixed, and shall have the power by ordinance to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

¹Annexation ordinances are of record in the office of the city clerk.

- (3) Make special assessments for local improvements;
- (4) Contract and be contracted with;
- (5) Incur debts by borrowing money or otherwise and give any appropriate evidence thereof in the manner hereinafter provided;
- (6) Issue and give, sell, pledge or in any manner dispose of negotiable or non-negotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality in accordance with state law;
- (7) Expend the money of the municipality for all lawful purposes;
- (8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein within or without the municipality or state;
- (9) Condemn property, real or personal, or any easement, interest or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the term and provisions of state law;
- (10) Take and hold property within or without the municipality or state upon trust and administer trusts for the public benefit;
- (11) Acquire, construct, own, operate and maintain or sell, lease, mortgage, pledge or otherwise dispose of public utilities and telecommunications systems or any estate or interest therein, or any other utility or service to the municipality, its inhabitants or any part thereof; and, further, may issue debt for these purposes under the Local Government Public Obligations Act or other pertinent state law;
- (12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities, telecommunications systems, and public services to be furnished both inside and outside the municipality and inhabitants therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation. Franchises may be granted for a period of time to be fixed by the city council, but not to exceed twenty (20) years. The council may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and may also apply to any or all

subsequent modifications to the corporate limits, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, telecommunications systems, and public services to be furnished both inside and outside the municipality and inhabitants therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty (20) years or less, but not longer. The council may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, may also apply to any or all subsequent modifications to the corporate limits, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and telecommunications systems, compel reasonable extensions of facilities for these services, and assess fees for the use of, or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within or without the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions provided by the general laws of the state;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within and without the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, state law;

(17) Assess against abutting property within and without the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the council;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements inside and outside the municipality;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal inside and outside the municipality, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefor, and provide standards of weights, tests and measures;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and

safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person convicted in the city court of offenses against the laws and ordinances of the municipality who fails to secure the fine imposed upon such person, or contract with the county to keep these persons in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse so provided until the fines are paid;

(28)

(A) Enforce any ordinance by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction; and

(B) No fine, forfeiture or penalty may exceed fifty dollars (\$50.00) or the maximum allowable under general state law, whichever is greater, for violation of municipal ordinances;

(29) Establish, maintain and operate a complete educational system within the municipality, establish and determine the membership of a board of education and endow that board with all authority to operate the school system pursuant to state statute and this charter, review annually the operating budget of the school system and appropriate revenue to support the approved budget, purchase or otherwise acquire land for school buildings, playgrounds and other purposes necessary to the operation of the school system, purchase or erect all buildings, and do all other acts necessary for the establishment of such educational system;

(30) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(31) Call elections as herein provided;

(32) By ordinance, assess, impose, levy and collect impact fees from new land developments within the municipal limits, provided that the impact fees are limited to the reasonably anticipated costs of public improvements generated

by such developments, and provided that the impact fee system and formula is prescribed by ordinance; and

(33) To make regulations to secure the general health, safety and welfare of the inhabitants, and to require the owners of property to keep, maintain and repair their property in a manner both safe and conducive to the good health, safety and welfare of the citizens of the city. For that purpose the city shall have the right to adopt ordinances requiring property owners at their expense to repair, close or demolish unsafe and unhealthy structures on their property and requiring property owners at their expense to remove from their property unsafe and unhealthy man-made and natural material, including junk motorized and non-motorized vehicles and carriages of every kind and description, debris, trash, litter and garbage, and growth of vegetation, including weeds, trees, vines, grass and underbrush, and upon the failure or refusal of any property owner to comply with such ordinances, to repair, close or demolish such structures, or to remove from the property such man-made and natural material at the city's expense. The city shall file with the register of deeds in the county where the property lies notice of the city's expense, which notice shall be a lien on the property in favor of the city, second only to liens of the state, county and city for property taxes, any lien of the city, for special assessments, and any valid lien, right or interest in such property duly recorded or perfected, prior to the filing of such notice, and the expenses shall be collected by the city's tax collector at the same time and in the same manner as property taxes are collected.

(34) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated. [As amended by Priv. Acts 1994, ch. 165, § 1; and Priv. Acts 2001, ch. 24]

ARTICLE III

Elections

Section 1. Date of general city election. A general city election shall be held on the same date as the regular August election in 1996 and each even-numbered year thereafter. [As replaced by Priv. Acts 1994, ch. 165, § 2]

Section 2. General election laws apply. All elections shall be conducted by the commissioners of elections of Bradley County in accordance with the general election laws of the state and this charter.

Section 3. Voter qualification requirements. Persons meeting the residency requirements prescribed by the election laws of the State of Tennessee

and persons owning at least fifty percent (50%) fee simple interest in a parcel of real property of at least five thousand (5,000) square feet within one (1) of the councilmanic districts of the City of Cleveland for a period of six (6) months prior to an election and who are otherwise qualified to vote in State elections shall be eligible to vote in city elections, provided the person is properly registered in accordance with the applicable laws of the State of Tennessee. Non-resident property owners who own property in more than one (1) councilmanic district must declare both the district in which the owner elects to vote, and the piece of property being utilized to provide such voting privilege, and such declaration shall be permanent unless the owner sells the property in the district. The city council may authorize the ballots for these non-resident property owners be cast by mail. [As amended by Priv. Acts 1997, ch. 12, § 1 and ch. 85, § 1]

Section 4. Election and transition procedure. At the first regular city commission meeting in September, 1993, following the general city election held on August 5, 1993 the two commissioners elected in that general city election and the incumbent two commissioners and the mayor shall be officially known and designated as the city council of the City of Cleveland. The two (2) council members elected in the general city election held on August 5, 1993 shall have their term of office extended until their successors are elected in the general city election held on the first Thursday following the first Tuesday of August of 1998. The mayor and the two council members whose terms of office are scheduled to end when their successors are elected in the general city election held on the first Thursday of August of 1995, shall have their term of office extended until their successors have been elected in the general city election held on the first Thursday following the first Tuesday of August of 1996.

Following the action of the mayor and council members at the first council meeting in December, 1993, to establish and adopt councilmanic districts, the city council shall consist of a mayor and seven (7) council members. The mayor and two (2) council members shall be elected at large and five (5) council members shall be elected from their respective councilmanic districts; the term of office for the mayor and council members shall be four (4) years and shall be staggered. Districts shall be reviewed and adjusted decennially by ordinance following each national census. The mayor and four (4) council members who hold office on the date of the first regular council meeting in September, 1993 shall define and adopt councilmanic district descriptions by November 1, 1993. Following the establishment and adoption of five (5) councilmanic districts, the mayor and four (4) council members shall, at the first regular council meeting in December, 1993, appoint three (3) additional council members, one (1) each respectively from councilmanic district numbers 1, 2, and 3, who shall immediately take office and become council members, and who shall serve until their successors have been elected in the general city election in August, 1996. The two (2) council members elected in the general city election held on August

5, 1993 shall be designated the council members at large and the other two council members who were elected in the general city election held in August, 1991, shall be designated council members for councilmanic districts 4 and 5 respectively.

In the general city election held on the first Thursday following the first Tuesday of August 1996 the mayoral candidate and the council candidates from each of the five councilmanic districts receiving the highest number of votes shall be declared to be elected; the mayor and the council members elected from councilmanic districts 1 and 2 shall serve for a term of two (2) years. The council members elected from councilmanic districts 3, 4, and 5 shall be elected for a term of four (4) years. However, at each and every city election thereafter the successors to the office of mayor and councilmanic district members shall be elected for a term of four (4) years, unless they are being elected to fill an unexpired term. In the general city election held on the first Thursday following the first Tuesday of August 1998, the council member candidate at large receiving the highest number of votes shall be elected for a term of four (4) years and the council member candidate at large receiving the second highest number of votes shall be elected for a term of two (2) years. However, at each and every city election thereafter, the successors to the office of council member at large shall be elected for a term of four (4) years, unless they are being elected to fill an unexpired term. Any mayor and council member shall be eligible for re-election. Nothing in this act shall be construed as having the effect of removing an incumbent from office or abridging the terms of any official prior to the end of the term for which such incumbent was elected. The mayor and council members elected in any general city election shall commence their term by taking their oath of office at the beginning of the first regular council meeting in September following the regular city election or at 3:00 p.m. on the second Monday of September following the regular city election, whichever occurs first. At the first regular city council meeting in September following the regular city election in August 1993, the city clerk shall become acting city manager and shall hold such position until a city manager has been appointed or until the city council appoints a different person as acting city manager. The city council shall proceed with the recruitment and appointment of a city manager and shall have made such appointment by March 31, 1994. During the period of transition the mayor shall retain his right to vote as a member of the city council and shall forfeit his veto power until the five (5) councilmanic districts have been established and the three (3) additional council members have been appointed.

ARTICLE IV

City Council

Section 1. Composition. In accordance with Article III, Section 4, paragraphs 2 and 3, the governing body of Cleveland shall consist of the mayor and seven (7) council members elected by the voters of Cleveland pursuant to the provisions of this charter, and shall be known as the city council. As provided herein, the mayor and two (2) council members shall be elected from the city at-large and the remaining five (5) council members shall be elected from their respective councilmanic districts. The term of office for the mayor and all council members shall be four (4) years; and as herein provided their terms shall be staggered.

Section 2. Election of vice-mayor. The city council, at the first regular meeting in October, 1993, and at the first regular meeting in October following the general city election in every even numbered year thereafter, shall elect one of their number as vice-mayor to carry out the duties of mayor in his/her absence, for a term of two (2) years. If the office of mayor shall become vacant, the vice-mayor shall automatically become mayor for the remainder of the unexpired term; and in the latter event, the council shall elect another of its members to the office of vice-mayor to serve during the remainder of the unexpired term. The council shall, in accordance with the provisions of Section 7 of this article, fill the vacancy in the council created by the vice-mayor becoming mayor.

Section 3. Qualifications for office. The mayor and council members shall be qualified voters of the city at least twenty-one (21) years of age, and shall hold no other elected public office. No other person shall be eligible for the office of mayor or council member at large unless he shall have been for at least one (1) year next preceding his election a resident of the City of Cleveland. Candidates shall be permitted to file a nominating petition for only one office in any general city election. No person shall be eligible to the district office of council member unless he shall have been for at least one (1) year next preceding his election a resident of the councilmanic district in which he seeks election. No person shall become mayor or council member who has been convicted of malfeasance in office or a crime involving moral turpitude. A mayor or a council member who files a nominating petition for mayor or a council position other than his own and whose own position is not up for re-election must resign his current position as mayor or council member at least thirty (30) days prior to the filing deadline for nominating petitions for the next general city election.

Section 4. Salaries. The city council may set the annual salary of the city council by ordinance, but no ordinance establishing or increasing such salary shall become effective until the expiration of the current terms of the mayor and all council members; provided, however, that until said salaries are so set the salary of the mayor and each council member shall be four hundred dollars (\$400) per month.¹ The council shall adopt an ordinance or resolution authorizing and regulating the reimbursement of municipal officers and employees for the expenses they incur in the performance of the duties of their offices or employment. The mayor and council members shall be entitled to reimbursement under the provisions of that ordinance or resolution.

Section 5. Time and place of meetings. The city council shall, by ordinance, fix the time and place at which the regular meetings of the city council shall be held. Until otherwise provided by ordinance, the regular meeting of the city council shall be held at 3:00 p.m. on the second and fourth Monday of each month. When such day falls on a legal holiday, the meeting shall be on the next following day unless otherwise prescribed by the city council. Whenever in the opinion of the mayor or any three (3) council members, the welfare of the city demands it, the city manager shall call a special meeting of the city council.

Section 6. The office of mayor. The mayor shall preside at all meetings of the city council at which he is present, and in his absence, the vice-mayor shall preside, and in the absence of the mayor and vice-mayor, the city council shall designate one of their number to preside. The mayor shall be the ceremonial head of the city. The mayor shall have a voice but no vote, and shall have veto power over all actions of the city council except the appointment of a vice-mayor, the appointment to fill a vacancy on the city council, or the declaration of a vacancy. The mayor must exercise said veto within five (5) days of final adoption by the city council. He shall notify each council member, if available, of his actions, together with his reasons therefor within the five (5) day period. The council shall have thirty (30) days or until the next regular council meeting, whichever comes first, to override said veto. It shall require an affirmative vote of at least five (5) members of the council to override the mayor's veto. Abstentions shall be counted neither as a yes or a no vote.

Section 7. Vacancies. A vacancy shall exist, and the city council shall declare the same, by resolution, if the mayor or a council member either resigns, dies, moves their residence from the city or respective councilmanic district, is

¹Ordinance of Sept. 2, 1998 sets the salary of the mayor at \$12,000.00 per annum, payable at \$1,000.00 per month, and the salary for each council member at \$7,200.00 per annum, payable at \$600.00 per month.

convicted of malfeasance or misfeasance in office, a felony, a violation of this charter or election laws of the state, or a crime involving moral turpitude, or fails to attend three (3) consecutive meetings of the city council without being excused by a majority vote of the city council present and voting. Abstentions shall be counted neither as a yes nor a no vote. Provided, however, that no member of the city council can resign his/her position for the purpose of being appointed to a longer term on the city council. Any vacancy in the city council or the office of mayor shall be filled by appointment made by the remaining members thereof, and the council member so appointed shall be a qualified resident of his or her respective councilmanic district for district positions or the City of Cleveland for the at large positions or the office of mayor and shall serve until the next general city election. The successor elected in the general city election shall serve the remainder of the unexpired term. In the event of the occurrence of any vacancy in the city council or the office of mayor which may, under the provisions of this section, be filled by appointment by the remaining council members, and such remaining council members shall fail or neglect to fill such vacancy within thirty (30) days of its occurrence, it shall be the duty of the election commissioners of Bradley County, upon certification of such facts to them by the mayor or any council member, to call and cause to be held, as hereinabove provided, a special election for the purpose of filling such vacancy for the remainder of the unexpired term, provided such certification be made to the election commissioners for Bradley County within sufficient time to permit the holding of such special election at least one hundred eighty (180) days prior to the general city election. [As amended by Priv. Acts 2004, ch. 86]

Section 8. Oath of office. The mayor, council members, and city judge before entering upon their duties, shall each take and subscribe and file with the city manager an oath or affirmation that they will support the Constitution of the United States and of the State of Tennessee and the charter and ordinances of the City of Cleveland, and that they will faithfully discharge the duties of their office.

Section 9. Quorum, attendance, and adjournment. A majority of all the members of said council, excluding vacancies, shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of the absentees in such manner and under such penalties as the city council may provide. A regular meeting at which a quorum is present may be adjourned by a majority vote, either from day to day, or from time to time; but no such adjournment shall be taken to a date beyond the next regular meeting; and any adjourned meeting shall continue as a regular meeting throughout such adjournment.

Section 10. Style and passage of ordinances. The style of all city ordinances shall be: "Be it ordained by the city council of the City of Cleveland."

Each ordinance shall be passed at two separate meetings on two separate days before the same is operative. However, at least thirteen (13) days shall have lapsed between the first and final passage of any ordinance. A reasonable number of written copies of ordinances shall be available to the public at the meetings and at city hall before the second and final passage by the city council. Ordinances, resolutions and other measures of the city council shall be passed by an affirmative vote of a majority of the council members present and voting. Abstentions shall be counted neither as a yes nor a no vote.

ARTICLE V

City Manager

Section 1. City manager appointment, salary, removal. The city council shall appoint and fix the salary of the city manager, who shall serve at the will of the city council. The city manager shall be appointed by virtue of experience and/or educational qualifications for this position. Neither the mayor nor any member of the city council shall be eligible for appointment as city manager until two (2) years has elapsed after such member shall have ceased to be mayor or a member of the city council.

Section 2. Residence. Residence in the city at the time of appointment of a city manager shall not be required as a condition of the appointment, but within ninety (90) days after reporting for work, the city manager must become a resident of the City of Cleveland.

Section 3. Absence of the city manager. In the temporary absence or disability of the city manager, the assistant city manager, if such position be established, or any other department head designated by the city manager shall serve as acting city manager. If and when the city manager's absence exceeds thirty consecutive days, the city council shall have the right to appoint another department head or another city employee the acting city manager.

Section 4. Powers and duties of the city manager. The city manager shall be the chief administrative officer of the city. The city manager shall be responsible to the city council for the administration of all city affairs placed in his charge by or under this charter. The city manager shall have the following powers and duties:

(1) To appoint and, when deemed necessary for the good of the service, suspend or remove all city employees and appointive officers provided for by or under this charter or personnel rules adopted pursuant to this charter.

(2) To direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

(3) To attend all council meetings and have the right to take part in discussion, but may not vote.

(4) To see that all laws, provisions of this charter and acts of the board, subject to enforcement by the city manager or by officers subject to his direction and supervision, are faithfully executed.

(5) To prepare and submit the annual budget and an annual capital budget update to the city council at the appropriate time.

(6) To submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each month and at the end of the fiscal year.

(7) To make such other reports as the city council may require concerning the operations of city departments, offices and agencies subject to the city managers direction and supervision.

(8) To keep the city council fully advised as to the financial condition and future needs of the city and make such recommendations to the city council concerning the affairs of the city as he deems desirable. The city council may not remove these powers and duties from the city manager but may require the city manager to perform such other duties as are specified in this charter or as may be required by the city council.

Section 5. Council - administrative relations. The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders or instructions to any subordinates of the city manager. The city manager shall take orders and instructions from the council only when sitting in a duly convened meeting of the city council, and no individual member shall give any orders or instructions to the city manager.

Section 6. Removal of city manager. The city manager shall not be removed from office, other than for misconduct in office, during or within a period of ninety (90) days following the beginning of a new term of office next succeeding any general municipal election held in the city, at which election a new member of the city council is elected, or when a new member is appointed. The purpose of this provision is to allow any newly elected or appointed member of the city council to observe the actions and ability of the city manager in the

performance of the powers and duties of his office. After the expiration of the ninety (90) day period aforementioned, the city manager may be removed only by a majority vote of the city council present and voting. Abstentions shall be counted neither as a yes nor a no vote.

ARTICLE VI

City Clerk

Section 1. Appointment, compensation, and specific requirements, powers, and duties of office. The city clerk shall be appointed by the city manager and shall be the head of the department of finance. He shall receive a salary to be fixed by the city council and shall be bonded in such amount as may be provided by ordinance. He shall by his signature and the city seal, attest all instruments signed in the name of the city. He shall have power to administer oaths.

Section 2. Shall keep minutes. It shall be the duty of the city clerk to be present at all meetings of the city council and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

Section 3. Shall be custodian of public records, bonds, etc. The city clerk shall have custody of and preserve in his office, the city seal, the public records, original rolls of ordinances, ordinance books, minutes of the city council, contracts, bonds, title deeds, certificates and papers, all official indemnity or surety bonds (except his own bond, which shall be in the custody of the city manager), and all other bonds, oaths and affirmations and all other records, papers and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

Section 4. Shall provide and certify copies of records, papers, etc. The city clerk shall provide, and, when required by any office or person, certify copies of records, papers and documents in his office and charge therefor, for the use of the city, such fees as may be provided by ordinance; and shall cause copies of ordinances to be printed, as may be directed by the city council, and kept in his office for distribution.

Section 5. Shall generally supervise and keep records of fiscal affairs. The city clerk as the head of the department of finance, shall exercise a general supervision over the fiscal affairs of the city, and general accounting supervision over all the city's property, assets and claims, and the disposition thereof. He shall be the general accountant and internal auditor of the city; he shall have custody of all papers, records and vouchers relating to the fiscal affairs of the

city, and the records in his office shall show the financial operations and condition, property, assets, claims and liability of the city, all expenditures authorized and all contracts in which the city is interested.

Section 6. Shall be treasurer. The city clerk shall be the treasurer of the city; as such it shall be his duty to collect, receive and receipt for the taxes and all monies, other revenues and bonds from all departments of the city, and the proceeds of its bond issues, and to disburse the same.

Section 7. Shall perform any other duties imposed. The city clerk shall also perform any other duties imposed upon him by this charter or by ordinance.

Section 8. Absence of city clerk. In the temporary absence or disability of the city clerk, the assistant city clerk, if such position be established, or another employee within the finance department designated by the city manager shall serve as acting city clerk.

ARTICLE VII

City Attorney

Section 1. Qualifications. The city attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section 2. Appointment, duties, and compensation. The city attorney shall be appointed by the city council and shall direct the management of all litigation in which the city is a party, including the function of prosecuting attorney in the city court; represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers is officially interested; attend all meetings of the city council; advise the city council and committees or members thereof, the city manager, and the heads of all departments and divisions as to all legal questions affecting the city's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city. His compensation shall be as fixed by the city council and he shall serve at the will of the city council. Residence in the city at the time of appointment of a city attorney shall not be required as a condition of the appointment, but within six (6) months following the appointment the city attorney must become a resident of the City of Cleveland.

ARTICLE VIII

Administration

Section 1. Departments, offices and agencies generally. The city council may establish city departments, offices or agencies in addition to those created by this charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this charter. Departments, offices and agencies created by the city council may be abolished or combined by the council.

Section 2. Direction and supervision of departments, offices, or agencies. All departments, offices and agencies under the direction and supervision of the city manager shall be administered by an officer appointed by and subject to the direction and supervision of the city manager. The city manager may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

Section 3. Personnel rules. The city council shall adopt personnel rules which shall include but not be limited to:

- (1) A job classification plan;
- (2) A pay plan;
- (3) The hours of work, attendance regulations and provisions for sick and vacation leave;
- (4) A rule addressing conflict of interest of city employees in the performance of their duties. If personnel rules and regulations exist, the city manager shall be granted the powers formerly held by the individual commissioners and city commission, with the present personnel rules being maintained until new personnel rules are approved.

Section 4. Officers, employees, etc., who handle money shall be bonded. The city manager and every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the state of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this charter. All such bonds and sureties shall be subject to the approval of the city council, and the city council may provide for blanket bonds. The cost of all bonds shall be an expense of the city.

ARTICLE IX

Finance

Section 1. Fiscal year. The fiscal year of the city shall begin on the first day of July and end on the last day of June.

Section 2. Annual departmental budgets required. The adoption of an annual budget for each department shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section 3. City manager required to prepare and submit annual budget and explanatory message. At least sixty (60) days before the beginning of the fiscal year the city manager shall prepare and submit to the city council a budget for the ensuing fiscal year and an accompanying message. However, the proposed budget must be received only thirty (30) days prior to the beginning of the next fiscal year if the City Council and the City Manager have participated in a budget planning retreat, at which the City Council has provided direction on its major goals and objectives for the coming fiscal year. The city manager's message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable. [As amended by Priv. Acts 1999, ch. 12, § 1]

Section 4. Required content and organization of budget. The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require.

Section 5. Amendments to budget, when budget must be adopted, and effect of adoption. After the first reading the city council may adopt the budget with or without amendment, but no amendment shall decrease expenditures required by law for debt service. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

Section 6. Supplemental appropriations. If during the fiscal year the city manager certifies that there are available for appropriation revenues in excess

of those estimated in the budget, the city council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 7. Deficits. If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The city council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce appropriations.

Section 8. Transfer of unencumbered appropriations. At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon a written request by the city manager, the city council may by resolution transfer part or all of any unencumbered accumulated balances from one department, office, or agency to another.

Section 9. Lapsing of appropriations. Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the city manager or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for this purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 11. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the city shall be required by action of the city council and same be made after the end of each fiscal year by a public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the city council to have the audit made if such accountant has not been employed within one (1) month after the end of the fiscal year.

Section 12. Competitive bidding and purchasing procedures. Purchasing and bidding procedures shall be established by ordinance in accordance with state law.

ARTICLE X

Taxation

Section 1. Assessment and levy. All property within the city not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation. Assessments made by the county tax assessor may be adopted by the city.

Section 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after the first day in October of each year, and shall become delinquent on the first day of March following. The city council by ordinance shall fix penalties and interest on delinquent taxes.

Section 3. Collection of delinquent taxes. The City Council may provide by ordinance for the collection of delinquent real property taxes by the City Clerk as provided by general law; or by the City Attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes; or by the use of any other available legal process and remedies. If not otherwise collected, the City Attorney, or other attorney designated by the City Council, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency. Delinquent personal property taxes may be collected by distress warrants issued by the City Clerk and placed in the hands of the Police Chief for collection or by any other means as provided for in Tennessee Code Annotated, Section 67-5-2003. [As amended by Priv. Acts 1999, ch. 52, § 1]

Section 4. County may collect taxes. The city may contract with the county for the collection of city taxes. The contract may provide for reasonable fees to be paid to the county for this service.

Section 5. Taxes not to be excused. No officer or employee of the city shall have the authority to excuse taxes, penalties, interest, special assessments or other charges due the city, but errors may be corrected when authorized by the city council.

Section 6. Alternative disposition of residential property. Property purchased by the City at delinquent tax sales and through other general laws of the state governing municipal condemnation and acquisition of dilapidated property, may be retained by the City for public purposes or sold for private or

government use. However, for the purpose of insuring that any such property that is located in a residential zone is attractive and healthy and is returned to the City's tax roll, the City may give or sell at nominal consideration such property to Habitat for Humanity or other similar organization; provided, that the organization agrees to construct, reconstruct, or refurbish a dwelling on such property and under its charter and/or bylaws to sell or give such property to a private property owner. [As added by Priv. Acts 1997, ch. 86, § 1]

ARTICLE XI

City Court

Section 1. City court established. There is hereby established within the City of Cleveland a city court, which shall have jurisdiction over all infractions of municipal ordinances of the City of Cleveland. The city judge shall try all of the persons charged with violation of the ordinances of the city, and shall have the power to levy fines, penalties and forfeitures not exceeding fifty dollars (\$50.00) or the maximum allowable under general state law, whichever is greater, for each offense, and to impose such costs as the council may by ordinance establish. The city judge is authorized to offer persons assessed a fine or penalty and costs for the violation of a municipal ordinance the option of performing community service for the city in lieu of paying all or a portion of the fine or penalty and costs; provided that the city has first by ordinance established a community service system. Under any such community service system, the fine or penalty and costs imposed shall be worked off on an hourly basis at a rate at least equal to the regular minimum wage prescribed by the Fair Labor Standards Act. In accordance with Section 2 (b) of this Article, jurisdiction of the city court may also include concurrent jurisdiction with courts of general sessions in an cases of the violation of criminal laws committed within the corporate limit of the City of Cleveland, including the jurisdiction to conduct preliminary examinations and bind over defendants to the grand jury for indictment.

Section 2. Appointment, election, qualifications, oath, compensation, and restrictions on office of city judge.

(a) (city judge) The city council, at the first regular meeting in September, 1996, following the general city election of August, 1996, and at the first regular meeting in September following the general city election in every even numbered year thereafter, shall appoint a city judge. The city judge holding office at the time of adoption of this city charter, or the successor to the city judge should a vacancy occur, shall continue to serve as city judge until he is reappointed or his successor is appointed at the first regular meeting of the city council in September,

1996. Only registered voters who are thirty (30) years of age, licensed to practice law in the State of Tennessee, have been a resident of the State of Tennessee for five (5) years and a resident of the City of Cleveland for one (1) year shall be eligible for appointment to the office of city judge. The city judge's term of office shall begin with the oath of office following his appointment by the city council. The oath of office shall be the same as the oath required for the mayor or council members. The city council shall set the salary of the city judge each year with the adoption of the budget.

(b) (City judge with concurrent jurisdiction with general sessions court) The city council may, by ordinance, determine that the city court shall exercise its concurrent jurisdiction with general sessions court beginning with the next general city election. Such ordinance must be passed at least six months prior to the next regular city election. Such ordinance shall also provide for the election of a city judge at the next regular city election. The qualifications for an elected city judge shall be the same as those for appointed civil judge. The initial term of office for an elected city judge shall be for such period of time as is necessary to align the subsequent elections for the city judge with the state general election for general sessions and other inferior court judges. The term of office for subsequent elected city judges exercising concurrent jurisdiction shall be eight (8) years and they shall hold office until their successors are elected and qualified and have taken their oath of office on the first day of September following their election. The city judge shall be eligible for re-election. The compensation of a city judge with concurrent jurisdiction with general sessions courts shall be the greater of fifteen thousand dollars (\$15,000) per year or such amount as may be established in general law for the city of Cleveland's classification. The city judge's compensation cannot be adjusted during his term of office. Elected city judges exercising concurrent jurisdiction shall not be eligible to hold other elective or appointive offices for the City of Cleveland, or to hold another position of employment with the City of Cleveland.

Section 3. City court clerk election, qualifications, oath and compensation. At the time the city council adopts an ordinance authorizing the city court to exercise its concurrent jurisdiction with general sessions courts, the city council shall within that same ordinance authorize the election of a city court clerk at the next regular city election. Only registered voters who have been residents of the City of Cleveland for one (1) year shall be eligible to seek the office of city court clerk. The initial term of office for an elected city court clerk shall be for such period of time as is necessary to align the subsequent elections of the city court clerk with the state general election for inferior court clerks. The term of office for subsequent city court clerks shall be four (4) years

and they shall take office on the first day of September following the regular city election in August. They shall take the same oath of office as required of the city judge and they shall serve until their successors have been elected and qualified. The city court clerk shall be eligible for re-election. The compensation of the city court clerk shall be the greater of ten thousand dollars (\$10,000) per year or such amount as may be established in general law for the City of Cleveland's classification. The city court clerk's compensation cannot be adjusted during his term of office.

Section 4. Court policies and procedures. The policies and procedures governing the day-to-day operations of the court shall be provided by ordinance.

Section 5. City judge to be exclusive judge of law and facts. The city judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee of the city shall attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XII

Miscellaneous and Transitional Provisions

Section 1. Corporate existence, existing ordinances and resolutions. The corporate existence of the City of Cleveland is continued. All existing ordinances, resolutions or other actions of the city council not inconsistent with this charter shall remain in full force and effect until amended or repealed in the manner herein provided.

Section 2. Expiration of terms of elected officers. The mayor and commission members in office when this act is ratified shall continue in office as the mayor and council members until their successors are elected and qualified.

Section 3. Legal effect of this act. This act is declared to be a public act, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings of the city council created by this charter may be proven by the seal of said corporation, attested by the city clerk, and, when certified by the city clerk, shall be received in evidence in all courts and places without further proof.

Section 4. Conflicting acts. All acts and parts of acts in conflict with this act be and the same are hereby repealed from and after the effective date of this act as hereinafter provided.

Section 5. Severability. If any article, section, subsection, paragraph, sentence, or part of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence, or part be enacted separately and independently of each other.

Section 6. Gender. Wherever, in this charter, "man, men, him, his" or their related pronouns may appear, either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense (i.e., to include all humankind-both female and male sexes).

SECTION 2. This act shall have no effect unless it is approved by a majority of the number of qualified voters of the City of Cleveland voting in an election on the question of whether or not the act should be approved. The ballots used in the regular election to be held on August 5, 1993, shall have printed on them the substance of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the Secretary of State as provided by law in the case of general elections. The qualifications of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this act.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, as provided in Section 2, it shall be effective upon becoming a law, the public welfare requiring it, but for all other purposes the provisions of the act shall be effective only upon being approved as provided in Section 2.

PASSED: MAY 5, 1993

s/ Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

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

APPROVED this 17th day of May 1993

s/ Ned McWherter
NED McWHERTER, GOVERNOR

ACTS COMPRISING THE CHARTER OF THE CITY OF
CLEVELAND, TENNESSEE

YEAR	CHAPTER	SUBJECT
1993	78	Basic charter act.
1994	165	Amended art. II, § 1, subsection (29) relative to powers of city council and replaced art. III, § 1 relative to city elections.
1994	199	Not ratified
1997	12	Amended art. III, § 3 relative to non-resident property owners ballots may be cast by mail.
1997	85	Amended art. III, § 3 relative to real property ownership and voter qualification requirements.
1997	86	Adds § 6 to art. X relative to alternative disposition of residential property.
1999	12	Amended art. IX, § 3 relative to the proposed budget and budget planning retreat.
1999	52	Amended art. X, § 3 relative to collection of delinquent taxes.
2001	24	Amended art. II, § 1 by adding a new subsection (33) and renumbering the existing subsection as (34).
2004	86	Amended art. IV, § 7 relative to vacancy in city council or the office of mayor.