CHARTER FOR THE CITY OF FAYETTEVILLE, TENNESSEE[1]

CHAPTER 18

HOUSE BILL NO. 2141

By Representative Marsh

Substituted for: Senate Bill No. 2098

By Senator Ketron

AN ACT to amend Chapter 294 of the Acts of 1903; and any other acts amendatory thereto, relative to the Charter of the City of Fayetteville, Tennessee.

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[1]Priv. Acts 2011, ch. 18, is the current basic charter act for the City of Fayetteville, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2012 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.

Acts of a temporary nature with no general or continuing application, such as bond authorization and validation acts have not been included in this compilation.

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

SECTION 1. Chapter 294 of the Acts of 1903, and all acts amending it, either expressly or by implication, affecting the city in either its governmental or proprietary capacities, which constitute the Charter of the City of Fayetteville, Tennessee, are amended in their entirety to read as follows:

ARTICLE I
CORPORATE CAPACITY

SECTION:

1. Incorporation, name, and general powers.

2. Boundaries.

SECTION 1. Incorporation, name, and general powers. The City of Fayetteville in Lincoln County is continued as a body politic and corporate by the name of the "City of Fayetteville." The city has perpetual succession by the corporate name; may sue and be sued; plead and be impleaded; and may have and use a corporate seal and change it at its pleasure.

SECTION 2. Boundaries. The boundaries of the City of Fayetteville are those fixed, defined, and established by Section 1 of Chapter 294 of the Acts of 1903, and all acts amending it, and as the boundaries have been further amended under general state law.

ARTICLE II
POWERS

SECTION:

1. Definitions.

2. Powers enumerated.

SECTION 1. Definitions.

(1) "Officer" means the Mayor, each Alderman, the City Judge, and the City Attorney.

(2) "Board" means the Mayor and the Aldermen.

(3) The masculine includes the feminine and the singular includes the plural and vice-versa.

SECTION 2. Powers enumerated. The Board is responsible for the management and control of the finances and all property of the corporation, real, personal and mixed. In exercising the powers granted in this Charter, the Board must act by ordinance to levy any tax or special assessment, to enact penal or regulatory measures, to adopt a budget, or to enact measures of a permanent nature. Other measures may be accomplished by resolution or motion. The Board may:

(1) Assess, levy, and collect taxes as authorized by law;

(2) Tax privileges authorized by law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the city, upon the credit of the city or solely upon the credit of specific property owned by the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely

upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the city for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of any estate or interest in property, real or personal, within or without the city or state;

(9) Condemn any easement, interest, or estate in real or personal property, either within or without the city, for present or future public use; the condemnation must be effected in accordance with the terms and provisions of title 29, or in any other manner provided by law;

(10) Take and hold property within or without the city 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 any estate or interest in any public utility, or any other utility of service to the city, its inhabitants, or any portion of inhabitants, and, further, may issue debt for these purposes under the Local Government Public Obligations Act, Tennessee Code Annotated, Title 9, Chapter 21;

(12) Grant to any person, firm, association or corporation (including the city) franchises for public utilities and public services to be furnished in the city. 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, but also against the city itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. When not prohibited or preempted by law, the Board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as the corporate limits may be enlarged, and to existing streets, alleys and thoroughfares and to those that are later opened;

(13) Make contracts with any person, firm, association or corporation for public utilities and public services to be furnished in the city. 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-five (25) years or less, but not longer. The Board 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. These contracts may by their terms apply to the territory within the corporate limits of the city at the date of the contract, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares and to those that are later opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, 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 ways, highways, streets, boulevards, parkways, sidewalks, alleys, parks, piers, public grounds, public facilities, libraries and squares, bridges, viaducts, tunnels, sewers and drains within or outside the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon these properties and facilities, and take and appropriate property under the provisions of Tennessee Code Annotated, §§ 7-31-107 – §7-31-111 and Tennessee Code Annotated, Title 29, Chapter 16, Part 1 or any other manner provided by general law;

(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 the corporate limits;

(17) Assess against abutting property within 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 board;

(18) Require the owner, agent of the owner, or occupant, after notice and an opportunity to be heard, to repair or remove any dilapidated or dangerous building or structure; to repair or remove and

charge the cost against the owner, agent of the owner, or occupant failing to comply with an order to repair or remove; and make the cost of repair or removal a lien against the property, which may be added to and collected as property tax;

(19) Require the owner, agent of the owner, or occupant, after notice and an opportunity to be heard, to remove obnoxious weeds, refuse, rubbish, abandoned or derelict automobiles or other vehicles, junk, discarded equipment, furniture or materials, grass or leaves which may be considered dangerous or detrimental to health or safety from any lot or parcel of land, and on failure to comply, perform the repair or removal and charge the cost against the owner, agent of the owner, or occupant; and make the cost of repair or removal a lien against the property, which may be added to and collected as property tax;

(20) 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;

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

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

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

(24) 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 nuisances or detrimental, to the health, morals, comfort, safety, convenience or general welfare of the inhabitants of the city, and prescribe limits within which they may lawfully be established, conducted, or maintained;

(25) Prevent, abate, and remove nuisances;

(26) Establish zones within the corporate limits and regulate within such zones the use of land, and 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;

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

(28) Provide police and fire protection;

(29) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction and provide by ordinance for court costs;

(30) Establish schools, determine the necessary boards, officers and teachers required, and fix their compensation, purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the city;

(31) Regulate, tax, license or suppress the keeping or going at large of animals within the city, impound them, and in default of redemption, adopt and rescue, or euthanize them; and

(32) Have and exercise all powers that it would be competent for this Charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

ARTICLE III
ELECTIONS

SECTION:

1. General city election.

2. Elected officials restrictions.

3. General election laws apply.

4. Voter qualification requirements.

SECTION 1. General city election. All elections shall be at large and nonpartisan. The Board may by ordinance change the date of city elections, but the new date shall not become effective until after the next election. The ordinance changing the election date shall not provide for the extension of terms. Until the Board enacts an ordinance changing the date of city elections, general city elections shall be conducted by the Lincoln County Election Commission on the first Tuesday after the first Monday in November of even numbered years. At the election to be held in 2012, three (3) Aldermen shall be elected for four-year terms to succeed the three (3) Aldermen whose terms expire in November of 2012. At the election to be held in 2014, a Mayor and three (3) Aldermen shall be elected for four-year terms to succeed the Mayor and three (3) Aldermen whose terms expire in November of 2014. At elections thereafter, the Mayor and Aldermen shall be elected to four-year terms to the end that Aldermen shall serve staggered, four-year terms. The Mayor and Aldermen shall serve until their successors are duly elected and certified.

The mayoral candidate receiving the most votes shall be Mayor.

The aldermanic candidates receiving the first, second, and third largest number of votes shall be Aldermen. If there is a tie vote for Mayor or for the third aldermanic seat, the tie shall be broken as provided in § 2-8-111.

SECTION 2. Elected officials restrictions. No member of the Board of Mayor and Aldermen shall run for two positions on the Board at any one election. No person may hold elected position in the City and County at the same time. No person may hold elected position on the Board of Mayor and Alderman and the City Board of Education at the same time.

SECTION 3. General election laws apply. All elections shall be conducted by the Lincoln County Election Commission in accordance with the general election laws and this Charter.

SECTION 4. Voter qualification requirements. Any person qualified to vote for members of the state legislature who has registered, and who has been a resident of the City of Fayetteville for thirty (30) days immediately preceding an election may vote in city elections. Any qualified voter of Lincoln County, Tennessee, residing outside the corporate limits of the City of Fayetteville but owning at least a fifty (50%) percent fee simple interest in taxable real property within the city limits of the City of Fayetteville at the time of registration and at the time of election, assessed for real estate purposes for one thousand ($1,000) dollars or more, shall be permitted to vote in all city elections in the precinct or district in which the real estate is located.

ARTICLE IV
BOARD OF MAYOR AND ALDERMEN

SECTION:

1. Composition.
2. Election of vice-mayor.
3. Qualifications for office.
4. Salaries.
5. Time and place of meetings.
6. The office of mayor.
7. Aldermen.
8. Vacancies.
9. Oath of office.
10. Quorum.
11. Proceedings.
12. Removal of mayor, alderman, or officer from office.
13. Ordinance procedure.

SECTION 1. Composition. The governing body of The City of Fayetteville shall consist of the Mayor and six (6) Aldermen elected by the voters

of the City of Fayetteville at large, and shall be known as the Board of Mayor and Aldermen, or may be referred to as the "Board."

SECTION 2. Election of Vice-Mayor. The Board of Mayor and Aldermen, at the first regular meeting following each general city election, shall elect one (1) of their number Vice-Mayor to carry out the duties of Mayor in his temporary absence.

SECTION 3. Qualifications for office. The Mayor and Aldermen must be qualified voters and residents of the city and must be at least twenty-one (21) years of age. No person is eligible to the office of Mayor or Alderman unless he has been for at least one (1) year immediately preceding his election a resident of Fayetteville. Residence within any area annexed in a year preceding an election shall be counted in meeting the residence requirements of this section. If the Mayor or an Alderman ceases to possess any of these qualifications, or is convicted of any crime involving moral turpitude, his office shall immediately become vacant. No person may qualify to run for or become Mayor or Alderman who has been convicted of malfeasance in office, bribery, or other corrupt practice or crime.

SECTION 4. Salaries. The Board may set the annual salary of the Mayor and Aldermen in the ordinance adopting the annual budget. Such salary shall not be increased or diminished during the term of office for which such persons are elected.

SECTION 5. Time and place of meetings. The Board shall, by ordinance, fix the time and place at which the regular meetings of the Board are held. Until otherwise provided by ordinance, the regular meeting of the Board shall be held on the second Tuesday of each month at the City Municipal Building. When that day falls on a legal holiday, the meeting shall be on the second succeeding business day at the same time and place unless otherwise prescribed by the Board.

Whenever in the opinion of the Mayor or of any two (2) Aldermen the welfare of the city demands it, the Mayor shall call a special meeting of the Board. Only those matters specified in calling the special called meeting shall be considered.

SECTION 6. The office of Mayor. The Mayor shall report to the Board. The Mayor:

(A) Shall be the Chief Executive Officer of the city for policy, coordination, and planning;

(B) Shall coordinate the development and update of the strategic plan annually;

(C) Shall preside at meetings of the Board;

(D) Shall communicate any information needed, and recommend measures the Mayor deems expedient to the Board;

(E) Shall execute all contracts as authorized by the Board of Mayor and Aldermen;

(F) Shall be the officer upon which process against the city may be served;

(G) Shall make recommendations to the Board for appointments to boards and commissions or make appointments to boards and commissions when Board approval is not otherwise required, as authorized by law;

(H) Shall, with the consent of the majority of the Board make temporary appointments of any officer, except that of Alderman, arising from the absence, sickness, disability, or death of any such officer;

(I) May call special meetings of the Board upon adequate notice to the Board and adequate public notice; shall state the matters to be considered at the special meeting and the action of the Board shall be limited to those matters submitted;

(J) Shall countersign checks and drafts drawn upon city funds; and

(K) Shall perform other duties imposed by this Charter, other law, or by ordinance not inconsistent with this Charter or other law.

SECTION 7. Aldermen. The Aldermen represent the community and facilitate communication by the Board with the community. The Aldermen shall:

(A) Acting with the Mayor as the Board of Mayor and Aldermen, establish the City's policies and procedures by passing resolutions and municipal ordinances, all of which are implemented and administered by the City Administrator and the various City departments;

(B) Serve and represent the Board of Mayor and Aldermen on Standing Committees and boards as recommended by the Mayor and approved by the Board;

(C) Elect a Vice-Mayor after each municipal election;

(D) Perform duties imposed upon them by this Charter, other law, or by ordinance not inconsistent with this Charter or other law;

(E) Inform the Board of Mayor and Alderman of any professional, business, or domestic matter that might constitute an appearance of a conflict of interest.

SECTION 8. Vacancies. The Board of Mayor and Aldermen of the City of Fayetteville may fill any vacancy occurring in the office of Mayor or Alderman until the next regular election, whether the vacancy occurs as the result of death, change of residency, removal, resignation, or other cause. Should a vacancy occur in an Alderman position, the candidate who received the fourth highest number of votes in the latest election shall be declared elected to fill the unexpired term of Alderman until the next regular election. If this person declines to serve or a subsequent vacancy occurs in an Alderman position, the Mayor shall recommend a resident who meets the qualifications for Alderman as set forth in Article IV, Section 3 to fill the vacancy, subject to approval by the Aldermen.

SECTION 9. Oath of office. The Mayor and Aldermen, before entering upon their duties, shall each take and subscribe and file with the recorder 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 Fayetteville, and that they will faithfully discharge the duties of their office.

SECTION 10. Quorum. Four (4) Aldermen constitute a quorum.

SECTION 11. Proceedings. The Board may exercise its powers only in meetings duly assembled. The Board shall adhere to Robert's Rules of Order, latest revision, in cases in which those rules do not conflict with this Charter.

An ordinance or measure must receive at least four (4) affirmative votes to become effective. Likewise, any person elected or appointed by the Board to any office or position must receive at least four (4) affirmative votes to be elected or appointed. In the event an ordinance or measure only receives three (3) affirmative votes then the Mayor may vote.

The Board may subpoena witnesses and order the production of books and papers relating to any subject within its jurisdiction and call upon the chief of police to execute its process and to arrest and punish by fine any person refusing to obey the subpoena or order. No fine for any one offense under this section may exceed fifty dollars ($50) or the maximum allowed by state law. Each day of violation constitutes a separate offense.

The presiding officer or the chairman of any committee may administer oaths to witnesses. Each committee shall keep minutes of its proceedings, and the vote on every question shall be recorded as required by law.

SECTION 12. Removal of Mayor, Alderman, or Officer from office. The Mayor, any Alderman, or Officer may be removed from office by the Board for the commission of a crime or misdemeanor in office, for grave misconduct showing unfitness for public duty, or for permanent disability upon five (5) affirmative votes to do so. The proceedings for removal must be upon specific charges in writing, which, with a notice stating the time and place of the hearing, shall be served on the accused or published at least seven (7) days prior to the hearing in a newspaper of general circulation in the city. The hearing shall be public and the accused may appear and be represented by counsel, and have process of the Board to compel the attendance of witnesses in his behalf. The vote shall be determined by yeas and nays and the names of the members voting for or against removal shall be entered in the minutes.

Immediately upon the vote for removal the term of the accused expires and his official status, power, and authority ceases without further action. Anyone removed may appeal, within ten (1 0) days, to the circuit court of Lincoln County. Upon the appeal being taken, the recorder shall make and certify to the clerk of the Circuit Court a complete transcript of the entire removal proceedings. The circuit judge shall hear and determine the cause solely upon the record, and no additional evidence may be introduced, The city or the accused, if either is dissatisfied with the decree of the court, may appeal to the appellate courts as in other cases.

SECTION 13. Ordinance procedure. Each ordinance shall begin with the clause, "Be it ordained by the Board of Mayor and Aldermen of the City of Fayetteville, Tennessee." Each resolution and ordinance shall be in written form before being introduced. An ordinance must pass on one (1) consideration to become effective. Each ordinance before being adopted must have the caption read at the meeting.

Each ordinance upon final passage shall be signed by the presiding officer of the Board, shall be immediately taken charge of by the City Clerk and

numbered, copied in an ordinance book and authenticated by the signature of the City Clerk, and filed and preserved in the City Clerk's office.

ARTICLE V
CITY ADMINISTRATOR

SECTION:

1. Appointment and removal of City Administrator.

2. Acting City Administrator.

3. Duties.

SECTION 1. Appointment and removal of City Administrator. The Board shall appoint and fix the salary of a City Administrator, who shall be the Chief Administrative Officer of the City. The City Administrator shall also serve as City Clerk. The Board may enter into a contract for services of the City Administrator for a term not to exceed three (3) years. The City Administrator otherwise serves at the pleasure of the Board. The City Administrator shall be selected on the basis of training, experience and other administrative qualifications and must have a college degree, as a minimum, and training or experience in, but not limited to, municipal administration, public administration, business administration, or civil engineering. The City Administrator is a full-time employee. The City Administrator shall be evaluated by the Board at least annually, and may be removed at any time only upon four (4) affirmative votes to do so, unless otherwise provided by ordinance.

SECTION 2. Acting City Administrator. The City Administrator shall recommend to the Board for approval an individual to serve as acting City Administrator during any temporary absence or disability of the City Administrator. When the City Administrator vacates the position by resignation, termination, or death, the Board may appoint a qualified person to serve as acting or interim City Administrator until a permanent City Administrator can be hired.

SECTION 3. Duties. The City Administrator shall act under the direction of and shall be responsible to the full Board and shall perform the following duties:

(A) Meet and confer with the Mayor and department heads as scheduled on a regular basis;

(B) Make recommendations to the Board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the city;

(C) Keep the Board fully advised of conditions and needs of the city;

(D) Report to the Board regarding the condition of all city equipment, buildings and real estate and recommend what repairs or replacements are needed;

(E) Act as purchasing agent for the city and make all purchases on behalf of the City of Fayetteville general government; the City Administrator may delegate this authority;

(F) Supervise and coordinate all administrative activities of each department of the city under the policies of the Board;

(G) Consult and cooperate with the various committees of the Board in the administration of the affairs of the City of Fayetteville;

(H) Recommend to the Board what programs or projects involving public works or public improvements should be undertaken by the city and the priority to be given those works or improvements;

(I) Carry out the personnel policy, rules and regulations adopted and approved by the Board, including hiring, disciplining, and terminating employees; this authority may be delegated to department heads;

(J) Oversee the preparation of the annual budget and capital program and submit to the Board;

(K) Verify all proposed budgeted expenditures and prevent the incurring of obligations without Board approval;

(L) Keep the Board fully advised as to the financial condition and future needs of the city and make such recommendations to the Board concerning the affairs of the city as such City Administrator deems desirable; and

(M) Perform other duties required by ordinance or resolution of the Board.

ARTICLE VI
CITY CLERK

SECTION:

1. Appointment.

2. Duties

SECTION 1. Appointment. The City Administrator shall be the City Clerk. The City Clerk shall appoint an assistant city clerk to perform the duties and functions in the absence of the City Clerk or at his direction.

SECTION 2. Duties. The City Clerk:

(A) Shall collect all taxes, privilege fees, and licenses due the City;

(B) Shall keep the minutes of all meetings of the Board of Mayor and Aldermen;

(C) Shall keep a full and accurate record of all business transacted by the Board, which shall be preserved in permanent book form;

(D) Shall preserve the original copy of all ordinances in a separate ordinance book; and

(E) Shall have custody of and be responsible for maintaining all corporate bonds, records, and papers in a fireproof vault or safe the city provides.

ARTICLE VII
CITY ATTORNEY

SECTION:

1. Qualifications.

2. Employment and compensation.

3. Duties.

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. Employment and compensation. The City Attorney shall be employed by the Board and shall serve at the will of the Board. The Board may enter into a contract for the services of the City Attorney and the compensation of the City Attorney shall be as fixed by the Board.

SECTION 8. Duties. The City Attorney:

(A) Shall direct the management of all litigation in which the city is a party, including the function of prosecuting attorney in the City Court;

(B) Shall 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;

(C) Shall attend all monthly or called meetings of the Board and shall also attend "work sessions" and other meetings upon request of the Mayor or City Administrator;

(D) Shall advise the Board, committees, and their members, the City Administrator, and the heads of all departments and offices as to all legal questions affecting the City's interests;

(E) Shall 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; and

(F) Shall recommend another attorney or attorneys to the Board to represent the City should the City Attorney have a conflict of interest and be unable to represent the City.

ARTICLE VIII
ADMINISTRATION

SECTION:

1. Departments, offices, and agencies generally.

2. Direction and supervision of departments, offices, and agencies.

3. Personnel policies and procedures.

4. Officers, employees, etc., who handle money shall be bonded.

5. Oath of office required.

SECTION 1. Departments, offices, and agencies generally. The Board may establish city departments, offices, or agencies in addition to those created by this Charter as it deems necessary, and may prescribe the functions of all departments, offices, and agencies not inconsistent with this Charter. Departments, offices, and agencies created by the Board may be abolished or combined.

SECTION 2. Direction and supervision of departments, offices, or agencies. All departments, offices, and agencies under the direction and supervision of the City Administrator shall be administered by a department head or director appointed by the City Administrator. All department heads and directors shall be under the direct supervision of the City Administrator. The City Administrator may be required by the Board to serve as the interim head of one (1) or more the departments, offices, or agencies, and the City Administrator may appoint one (1) person as the head of two (2) or more of them.

SECTION 3. Personnel policies and procedures. The Board shall adopt personnel policies and procedures.

SECTION 4. Officers, employees, etc., who handle money shall be bonded. The City Administrator and each officer, agent, and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon their duties, execute a fidelity bond with some surety company authorized to do business in the State of Tennessee, as surety, in the amount of at least one hundred thousand dollars ($100,000). All such bonds and sureties are subject to the approval of the Board, and the Board may provide for blanket bonds. The cost of all bonds shall be an expense of the city.

SECTION 5. Oath of office required. The City Administrator and every appointive department head or director shall before taking office take and subscribe to the same oath of office required of the Board of Mayor and Aldermen.

ARTICLE IX
FINANCE

SECTION:

1. Fiscal year.

2. Annual departmental budgets required.

3. City Administrator required to submit annual budget and explanatory message.

4. Required content and organization of budget.

5. Amendments to budget, when budget must be adopted, and effect of adoption.

6. Supplemental appropriations.

7. Emergency appropriations.

8. Deficits.

9. Transfer of unencumbered appropriations.

10. Incurrence and discharge of obligations.

11. Borrowing.

12. Accounting records and audits.

13. Competitive bidding and purchasing procedures.

SECTION 1. Fiscal year. The fiscal year of the city shall be set by ordinance. Until it is set by ordinance, the fiscal year shall be July 1 thru June 30.

SECTION 2. Annual departmental budgets required. The adoption of an annual budget for all departments is a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

SECTION 3. City Administrator required to submit annual budget and explanatory message. At least thirty (30) days before the beginning of the fiscal year the City Administrator shall oversee preparation of the annual budget and submit to the Board a budget for the ensuing fiscal year and an accompanying message. The City Administrator's message shall explain the budget both in fiscal terms and 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 these changes, summarize the city's debt position and include such other material as the City Administrator deems desirable.

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 a form the City Administrator deems desirable or the Board requires.

SECTION 5. Amendments to budget, when budget must be adopted and effect of adoption. After the first consideration, the Board 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 by ordinance constitutes appropriations of the amounts specified in it as expenditures from the funds indicated. A separate ordinance shall levy the property tax proposed.

SECTION 6. Supplemental appropriations. If during the fiscal year the City Administrator certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Board by ordinance may make supplemental appropriations for the year up to the amount of the excess.

SECTION 7. Emergency appropriations. Upon a declaration by the Board that there exists a public emergency affecting life, health, property or the public peace, the Board may make emergency appropriations by ordinance. To the extent that there are no available unappropriated revenues to meet the appropriations, the Board may borrow funds sufficient to meet the emergency by issuing negotiable notes. Provision shall be made in the budget for the succeeding fiscal year for the payment of these notes.

SECTION 8. Deficits. If at any time during the fiscal year it appears probable to the City Administrator that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Board 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 Board shall then take further action it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce appropriations.

SECTION 9. Transfer of unencumbered appropriations. At any time during the fiscal year the City Administrator may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency and, upon written request by the City Administrator, the Board may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

SECTION 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the City Administrator or a department head or director 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 that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing in this section prevents 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 the making of any contract or lease providing for payments beyond the end of the fiscal year.

SECTION 11. Borrowing. The Board, for the sole purpose of meeting the necessary expenses within appropriations, may borrow money in the amount not to exceed fifty percent (50%) of the anticipated revenues for the current fiscal year. These notes must mature during the current fiscal year and shall be paid from budgeted revenues.

SECTION 12. Accounting records and audits. The City Administrator shall cause to 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 made after the end of each fiscal year, or as otherwise provided by law, by a public accountant skilled in this work.

SECTION 13. Competitive bidding and purchasing procedures. Purchasing policies and procedures shall be in accordance with the Municipal Purchasing Law of 1983, as amended.

ARTICLE X
TAXATION

SECTION:

1. Assessment and levy.

2. Due and delinquent dates; penalties and interest.

3. Collection of delinquent taxes.

4. Publication of notice to taxpayers.

5. Statutory lien.

SECTION 1. Assessment and levy. Assessments made by the county tax assessor may be adopted by the city. Any levy of property taxes shall be made by the Board of Mayor and Aldermen.

SECTION 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after October 1 in the year for which assessed and become delinquent on the following March 1. The Board by ordinance shall fix penalties and interest on delinquent taxes, as authorized by law.

SECTION 3. Collection of delinquent taxes. The Board may provide by ordinance for the collection of delinquent taxes by distress warrants issued and executed in accordance with general law. The City Attorney, or other attorney designated by the Board, shall, at the Board's direction, file suit for collection of all delinquent taxes before the running of any applicable statutes of limitation, if the taxes have not otherwise been collected.

SECTION 4. Publication of notice to taxpayers. In February of each year there may be published in a newspaper of general circulation in the city once a week for two (2) consecutive weeks a notice to taxpayers informing them the date after which penalties and interest on property taxes will be due.

SECTION 5. Statutory lien. All municipal taxes on real estate or personal property in the City of Fayetteville, and all penalties and costs accruing on them are declared to be a first lien on the real estate and personal property from and after January 1 of the year for which they are assessed.

ARTICLE XI
CITY COURT

SECTION:

1. Appointment, oath, compensation, and restrictions on office of City Judge.

2. Absence or disability of City Judge.

3. Duties and powers of City Judge.

4. Imposition of bail, fines, and costs.

5. Maintenance of docket and other court rules.

6. Rehearings.

7. City Judge to be exclusive judge of law and facts.

SECTION 1. Appointment, oath, compensation, and restrictions on office of City Judge. A city court is created to be presided over by a City Judge. The City Judge shall be appointed by the Board for a term of two (2) years and shall be eligible for reappointment. He shall take the same oath required of the Board of Mayor and Aldermen and shall be licensed to practice law in the State of Tennessee. He shall receive compensation provided by ordinance, but this compensation cannot be diminished during the term of office. The City Judge may be removed for cause by the Board.

SECTION 2. Absence or disability of City Judge. The Board shall designate a qualified person to serve as interim judge in the absence or disability of the City Judge. Should the judge become disqualified from sitting in a particular case, the Mayor is authorized to appoint a temporary judge for a definite time, or for the particular case. The temporary judge shall have all the powers of the regular judge for the time and for the purposes appointed.

SECTION 3. Duties and towers of City Judge. The City Judge shall try all persons charged with violation of the ordinances of the city. He may levy fines, penalties, and forfeitures for each offense and impose costs as the Board may by ordinance provide, issue all necessary process, administer oaths, and punish for contempt by fine.

SECTION 4. Imposition of fines and costs. Fines and costs may be paid by installments to be fixed with security determined as provided by ordinance.

Upon contumacious failure of a defendant to pay fines or to furnish security, the City Judge may impose additional contempt fines as authorized in§ 16-18-306.

SECTION 5. Maintenance of docket and other court rules. The City Judge shall keep a docket. The Board may by ordinance require other records, fix the time for holding court, and provide other rules and regulations for the proper functioning of the court as deemed necessary.

SECTION 6. Prehearings. Whenever any person convicted of the violation of an ordinance of the city shows to the satisfaction of the City Judge that new evidence of his innocence not available to him at the trial should result in acquittal, the City Judge may grant a rehearing if petitioned within ten (10) days of the trial.

SECTION 7. City Judge to be exclusive judge of law and facts. The City Judge is the exclusive judge of the law and facts in every case before him, and no official or employee of the city may attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XII
PUBLIC UTILITIES

SECTION:

1. Board of Public Utilities.

2. Consolidated system.

SECTION 1. Board of Public Utilities. The Board of Public Utilities shall be known as Fayetteville Public Utilities and shall be continued. This board, which formerly had jurisdiction over the Fayetteville Electric System, but which was granted jurisdiction under Tennessee Code Annotated, Section 7-52-111 over the waterworks, sewerage works, and gas systems shall continue to exercise those powers. Additionally, this board shall have jurisdiction over telecommunications services pursuant to § Title 7, Chapter 52, Part 4 and shall have jurisdiction over cable television, Internet and related services pursuant to Tennessee Code Annotated, Title 7, Chapter 52, Part 6. The Board of Public Utilities shall continue to consist of seven (7) members appointed by the Mayor and approved by the Board as provided in Section 4 of Chapter 8 of the Private Acts of 1963. In addition to the seven (7) voting members, the Mayor shall act as an ex-officio member of this Board. Present members shall serve until their terms expire.

SECTION 2. Consolidated system. Fayetteville Public Utilities shall have all the rights, powers, privileges, duties, and responsibilities with respect to the consolidated electric system, the water and sewer system, the gas system, telecommunication services and cable television, Internet and related services as a board of public utilities has under general laws authorizing governance of these systems, and the provisions of this Article are supplemental to those general law provisions.

ARTICLE XIII
MISCELLANEOUS AND TRANSITIONAL PROVISIONS

SECTION:

1. Existing ordinances and resolutions.
2. Expiration of terms of elected officers.
3. Legal effect of this act.
4. Conflicting acts.
5. Invalidity or unconstitutionality.
6. Local approval required.
7. Effective date.

SECTION 1. Existing ordinances and resolutions. All existing ordinances, resolutions, or other actions of the Board of Mayor and Aldermen not inconsistent with this Charter remain in full force and effect until amended or repealed.

SECTION 2. Expiration of terms of elected officers. The Board of Mayor and Aldermen in office when this act is effective shall continue in office as the Mayor and Aldermen, constituting the Board with all powers provided by this Charter, 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 Board created by this Charter may be proved by the seal of the corporation, attested by the City Clerk, and, when printed and published by the authority of the corporation and certified by the City Clerk, shall be received in evidence in all courts and places without proof.

SECTION 4. Conflicting acts. All private acts and parts of private acts in conflict with this act, including, but not limited to, Chapter 8 of the Private Acts of 1963, and Chapter 300 of the Private Acts of 1970, are modified to conform to this act from and after the effective date of this act.

SECTION 5. Invalidity or unconstitutionality. If any section or part of a section of this act is finally adjudged by a court of competent jurisdiction to be invalid or unconstitutional, this does not invalidate or impair the validity, force, or effect of any other section or part of a section of this act, unless it clearly appears that the other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section held unconstitutional or invalid. The provisions of this act are declared severable.

SECTION 6. Local approval required. This act has no effect unless it is approved by a two-thirds (2/3) majority vote of the authorized membership of Board of Mayor and Aldermen. Its approval or nonapproval shall be proclaimed by the Mayor and certified to the secretary of state.

SECTION 7. Effective date. For the purpose of approving or rejecting the provisions of this act, as provided in Section 6 of this Article XIII, it shall be effective upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 2141

PASSED: APRIL 28, 2011

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 9th day of May 2011

BILL HASLAM, GOVERNOR