SENATE BILL 1420
By Overbey

HOUSE BILL 1396

By Swann

AN ACT to amend Chapter 463 of the Private Acts of 1941; as amended by Chapter 672 of the Private Acts of 1951; Chapter 78 of the Private Acts of 1975; Chapter 355 of the Private Acts of 1982 and Chapter 48 of the Private Acts of 1997; and any other acts amendatory thereto, relative to the Charter of the City of Townsend.

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

SECTION 1. Chapter 463 of the Private Acts of 1941, as amended by Chapter 672 of the Private Acts of 1951, Chapter 78 of the Private Acts of 1975, Chapter 355 of the Private Acts of 1982, Chapter 48 of the Private Acts of 1997, and any acts amendatory thereto, is amended in its entirety to read as follows:

ARTICLE 1. CORPORATE.

Section 1.1. Name. The inhabitants within the corporate limits and boundaries hereinafter described in Blount County, Tennessee, shall be and continue a body politic and corporate by the name of city of Townsend.

Section 1.2. Boundaries. The boundaries of the city of Townsend are as fixed by Section 1 of Chapter 463 of the Private Acts of 1941, as amended, and any annexations or detachments of territory made pursuant to law.

Section 1.3. Corporate body. The corporate body of the city of Townsend shall have the perpetual succession, shall sue and be sued, implead and be impleaded in all courts of law and equity, and in all actions whatsoever; may for municipal purposes purchase, receive and hold property, real, personal, and mixed, within or beyond the limits of the city; and may sell, lease, or dispose of such property for the benefit of the city, and do all other acts touching the same as natural persons; may have and use a common seal, and may change it at pleasure.

The corporate power and authority is vested in the legislative body to be known as the board of commissioners, and such other officers as may be elected or appointed in pursuance of law.

Section 1.4. <u>Corporate powers</u>. The city of Townsend has power:

(a) To assess, levy, and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for city purposes;

(b) To adopt classifications of the subjects and objects of taxation as may not be contrary to law;

(c) To make special assessments for local improvements;

(d) To contract and be contracted with;

(e) To incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner provided in this section;

(f) To issue and give, sell, pledge, or in any manner dispose of, negotiable or nonnegotiable interest bearing or non-interest-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;

(g) To expend the money of the city for all lawful purposes;

(h) To 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 city or state;

(i) To condemn property, real or personal, or any easement, interest or estate or use therein, either within or without the city, for present or future public use; the condemnation may be effected in accordance with the terms of Tennessee Code Annotated, title 29, chapter 16, or in any other manner provided by law;

(j) To take and hold property within or without the city or state upon trust, and administer trusts for the public benefit;

(k) To acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility that is of service to the city, its inhabitants, or any part of the city;

(l) To grant any person, firm, association, or corporation franchises for public utilities and public services to be furnished by the city and those therein. Such power to grant franchises shall embrace the powers hereby expressly conferred, to grant exclusive franchises; and when an exclusive franchise is granted it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The board of commissioners may prescribe in each grant of a franchise, the rates, 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 said corporate limits may thereafter be enlarged; and to the then existing streets, alleys, and other thoroughfares, and to any other streets, alleys, and other thoroughfares that thereafter may be opened;

(m) To make contracts with any person, firm, association, or corporation for public utilities and public services to be furnished by the city and those therein. The power to make contracts embraces the power, expressly conferred, 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 of commissioners 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 city at the date of the contract, and as said corporate limits may be enlarged; and to the then existing streets, alleys, and thoroughfares, and to any other

streets, alleys, and other thoroughfares that thereafter may be opened after the grant of the contract;

(n) To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation, and service of public utilities and compel, from time to time, reasonable extensions of facilities for such services, but nothing in this subdivision (n) shall be construed to permit the alteration or impairment of any of the terms of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (l) and (m);

(o) To 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, and squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within or without the corporate limits and regulate the use thereof within the corporate limits, and property may be taken and appropriated therefor under Tennessee Code Annotated, §§ 7-31-107–7-31-114 and 29-16-203, or in such other manner as may be provided by general laws;

(p) To 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, and assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways, or alleys as provided by Tennessee Code Annotated, title 7, chapters 32 and 33;

(q) To 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 of commissioners;

(r) To acquire, purchase, provide for, construct, regulate, and maintain and do all things relating to all market places, public buildings, bridges, sewers, and other structures, works, and improvements;

(s) To collect and dispose of drainage, sewage, ashes, garbage, refuse, or other waste, or license and regulate such collection and disposal, and the cost of such collection, regulation, or disposal may be funded by taxation or special assessment to the property owner;

(t) To license and regulate all persons, firms, corporations, companies, and associations engaged in any business, occupation, calling, profession, or trade not forbidden by law;

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

(v) To define, classify, prohibit, prevent, abate, suppress, and regulate all acts, practices, conduct, conditions, business occupations, callings, trades, uses of property, structures, and all other things whatsoever that are public nuisances or detrimental or liable to be detrimental to the health, morals, comfort, safety, peace, good order, convenience, or general welfare of the inhabitants of the city, and to exercise general police powers;

(w) To 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 not lawfully be established, conducted, or maintained;

(x) To regulate the location, bulk, occupancy, area, lot, location, height, construction, and materials of all buildings and structures in accordance with general law, and to inspect all buildings, lands, and places as to their condition for health, cleanliness, and safety, and, when necessary, prevent the use thereof and require any alteration or changes necessary to make them healthful, clean, or safe;

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

(z) To purchase or construct, maintain, and establish a correctional facility for the confinement and detention of persons who violate laws within the corporate limits of the city, or to contract with the county to keep these persons in the correctional facility of the county and to enforce the payment of fines and costs in accordance with Tennessee Code Annotated, §§ 40-24-104 and 40-24-105, or through contempt proceedings in accordance with general law;

(aa) To enforce any ordinance, rule, or regulation by fines, forfeitures, and penalties and by other actions or proceedings in any court of competent jurisdiction;

(bb) To establish schools, to the extent authorized pursuant to general law; determine the necessary boards, officers, and teachers required therefor, and fix their compensation, purchase, or otherwise acquire land for school houses, 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;

(cc) To regulate, tax, license, or suppress the keeping or going at large of animals within the city; impound the same, and in default of redemption to sell or kill the same;

(dd) To create new departments or combine or abolish existing departments and prescribe their duties and functions;

(ee) To provide for the city map showing the streets, alleys, thoroughfares, and the dimensions of the property and the improvements thereon;

(ff) To call elections as provided in this charter; and

(gg) To have and exercise all powers that now are or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though such powers were specifically enumerated in this section.

Section 1.5. <u>Enumeration of Powers</u>. The enumeration of particular powers in this charter is not exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this chapter impair a power granted in any other part of this charter, and whether powers, objects, or purposes are expressed, conjunctively or

disjunctively, they shall be construed so as to permit the city to exercise freely any one (1) or more such powers as to any one (1) or more such objects for any one (1) or more such purposes.

ARTICLE 2. ELECTIONS.

Section 2.1. Date of election. Elections for commissioners are held on the first Thursday in August in even-numbered years.

Section 2.2. Qualifications of voters. All persons who are bona fide residents of the city of Townsend and who are qualified to vote shall be entitled to vote in said elections.

Section 2.3. Qualifications of commissioners. No person shall be eligible to fill the office of commissioner unless he shall be a registered voter and has been a city resident for at least six (6) months immediately prior to the election. No person shall become commissioner who has been convicted of malfeasance in office, bribery, or other corrupt practice, or crime, or of violating any of the provisions of charter section 2.5 in reference to elections. Any commissioner so convicted shall forfeit such commissioner's office. Commissioners eligible for election are eligible for reelection. Commissioners must maintain residency within the city to maintain their seat.

Section 2.4. Tied elections. In case of a tie vote in any vote for the board of commissioners, the existing municipal legislative body shall cast the deciding vote for municipal offices, or, in the alternative, the legislative body may by resolution call for a run-off election between the tied candidates.

Section 2.5. Improper solicitation of political support. No candidate for any office or any person shall directly or indirectly give or promise any person or persons any office, employment, money, benefit, or anything of value for the purpose of influencing or obtaining political support, aid, or vote for any candidate. Any person violating this provision shall be punished by fine of not more than the state maximum limits for each offense.

Section 2.6. Political activities of officers and employees. Neither the city manager, if one is appointed, city attorney, recorder, city judge, chief of police, nor any person in the employ of the city under any of the elected officers shall take any active part in or contribute any money toward the nomination or election of any candidate for election to the board of

commissioners, except to answer such questions as may be put to them and as they may desire to answer.

A violation of this section shall subject the offenders to removal from office or employment and to punishment by fine of not more than the state maximum limits for each offense.

ARTICLE 3. GOVERNING BODY.

Section 3.1. Legislative control. The legislative power and all other powers, except as otherwise provided in this act, and by general law are hereby delegated to and vested in the board of commissioners, consisting of five (5) commissioners. The board of commissioners may, by ordinance or resolution not inconsistent with this act, prescribe the manner in which any powers of the city shall be exercised, providing all means necessary or proper therefor, and do all things needful within or without the city or state to protect the rights of the city. The board of commissioners shall exercise its powers in session duly assembled and no member or group of members thereof shall exercise or attempt to exercise the powers conferred upon the board of commissioners except through proceedings adopted at some regular or special session.

Section 3.2. Term of commissioners. Commissioners hold office for a term of four (4) years, beginning on the first day of September next following the election at which they were elected. Commissioner terms are staggered.

Section 3.3. Oath of office. The commissioners, before entering upon their duties, shall take and subscribe and file with the recorder an oath or affirmation that they will support the constitution of the United States and the state of Tennessee and the charter and ordinances of the city, and that they will faithfully discharge the duties of their office.

Section 3.4. Election of mayor. At the first regular meeting in September, in even numbered years, the commissioners shall elect, by simple majority, one (1) of their number mayors for a term of two (2) years.

Section 3.5. Powers and duties of the mayor. The mayor shall preside at all meetings of the board of commissioners and perform such other duties consistent with his office as may be imposed by it, and shall have a seat, a voice, and a vote, but no veto. He signs the

journal of the board and all ordinances on their final passage, executes all deeds, bonds, and contracts made in the name of the city, and may introduce ordinances to the board.

The mayor has the power, and is hereby made his duty to perform all acts that may be required of the mayor by any ordinance or resolution duly enacted or adopted by the board of commissioners, not in conflict with the provisions of this charter.

Unless otherwise designated by the board by ordinance, the mayor shall perform all duties designated for a city manager if the board does not appoint a city manager, or if someone else is not designated by the board to perform those duties.

All legal process against the city shall be served upon the mayor, and it is his duty forthwith to transmit the process to the city attorney, after writing thereon the time, place, and manner of service.

Section 3.6. Appointment of vice mayor. At the first meeting of the board, and thereafter at the first meeting after a general city election, the board shall elect, by simple majority, from its membership a member to act in the absence, inability, or failure to act of the mayor.

Section 3.7. Removal of officers. The mayor or any commissioner may be removed from office by the board of commissioners for crime or misdemeanor in office, for grave misconduct showing unfitness for public duty, or for permanent disability, by a majority vote of the other members of the board voting for such removal. The proceedings for such removal shall be upon specific charges in writing, that, with a notice stating the time and place of the hearing, shall be served on the accused or published at least three (3) times on three (3) successive days in a daily newspaper circulating in the city.

The hearing shall be public and the accused shall have the right to appear and defend in person or by counsel and have process of the board to compel the attendance of witnesses in the account's behalf. Such vote shall be determined by yeas and nays, and the names of the members voting for or against such removal shall be entered in the journal.

Immediately upon the vote for removal, the term of the accused shall expire and the accused's official status, power, and authority shall cease without further action.

Anyone removed under this section shall have the right of appeal.

Section 3.8. Board vacancies. A vacancy in the board of commissioners is filled by majority vote of the remaining members of the board of commissioners, and the person selected to fill the vacancy serves for the remainder of the unexpired term. If a tie vote occurs in filling a vacancy on the board, the presiding officer shall vote a second time to break the tie.

Section 3.9. Compensation. The salary of the board of commissioners is set by ordinance in conjunction with the annual budget; provided, however, if salaries are adjusted, they are not effective until after each commissioner's current term of office.

Section 3.10. Quorum. A minimum of three (3) commissioners, or two (2) commissioners and the mayor constitutes a quorum. 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 board may provide.

Section 3.11. Regular meetings and procedural powers and duties of the board.

The board of commissioners shall by ordinance fix the time and place at which the regular meetings of the board are to be held. Any regular meeting at which a quorum is present may be adjourned by a majority vote of the commissioners present, either from day to day or from time to time but not over the day before that appointed for the next regular meeting and shall continue as a regular meeting throughout such adjournment.

The board of commissioners may determine the rules of its proceedings, subject to this charter, and may have arrested or punished by fine, or both, any member or other person guilty of disorderly or contemptuous behavior in its presence. The board may request the city judge to: subpoena witnesses, and order the production of books and papers relating to any subject within its jurisdiction; call upon its own officers or the chief of police to execute its process; and arrest and punish by fine or imprisonment, or both, any person refusing to obey such subpoena or order. The refusal to obey a subpoena or order of the board is a Class C misdemeanor. A violation of this section is a Class C misdemeanor, and each day's continuance in any refusal to comply with the requirements of this section is a separate offense. The board's presiding officer or the chair of any committee may administer oaths to witnesses. The board shall keep a journal of all its proceedings, and the yeas and nays on all questions shall be entered thereon.

All nonexecutive sessions of the board of commissioners shall be public and subject to a change of plan in case of emergency.

Section 3.12. Special meetings. Whenever, in the opinion of the mayor or any two (2) commissioners, the welfare of the city demands it, the mayor or the recorder may call special meetings of the board upon written notice to each commissioner, the city manager, if one is appointed, the recorder, and the city attorney. Each call for a special meeting shall set forth the character of the business to be discussed at such meeting, and no other business shall be considered at such meeting.

ARTICLE 4. ORDINANCES.

Section 4.1. Style of ordinances. All ordinances shall begin: “Be it ordained by the city of Townsend, as follows:”.

Section 4.2. Ordinance procedure.

(a) Every ordinance shall be introduced in writing, in the form required for final adoption. Prior to or upon the introduction of said ordinance, a copy shall be distributed to each member of the board of commissioners, the city manager, if one is appointed, the city recorder, and the city attorney. The body of the ordinance may be omitted from the official minutes, but reference thereto shall be made to the ordinance by title or subject matter.

(b) Every ordinance shall be read on two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and second readings; and any ordinance not so read shall be null and void. By ordinance, the board may establish a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of all ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.

(c) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may be effective upon the day of its final passage; provided, that it shall contain the statement

that an emergency exists and shall specify the distinct facts and reasons constituting such emergency.

(d) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

(e) No ordinance making a grant, renewal, or extension of a franchise or other special privilege or regulating the rate to be charged for services by any public utility shall be passed as an emergency ordinance.

(f) No ordinance shall be amended or repealed except by a new ordinance.

Section. 4.3. Voting by board. The affirmative vote of the majority of the members is necessary to adopt any ordinance or resolution. Every ordinance or resolution passed by the board of commissioners shall be signed by the presiding officer and shall be filed with the recorder. All elections by the board of commissioners and all other actions shall be by majority vote of said board.

Section 4.4. Recording of ordinances. All votes on ordinances shall be determined by yeas and nays, and the names of the members voting for or against ordinances shall be entered upon the journal.

Every ordinance shall be immediately taken charge of by the recorder, and shall be numbered, copied in an ordinance book, filed, and preserved in the recorder's office by the recorder.

Section 4.5. Publication of penal ordinances–effective date. Each ordinance of a penal nature or the caption of each ordinance of a penal nature shall be published after its final passage in a newspaper of general circulation in the city.

No such ordinance shall take effect until the ordinance or the caption is so published except as otherwise provided in Tennessee Code Annotated, title 6, chapter 54, part 5.

ARTICLE 5. EMPLOYMENT.

Section 5.1. Appointment and removal of employees. Unless otherwise provided by the charter or ordinance, the mayor makes appointments, promotions, transfers, demotions, suspensions, and removals of employees, but such action requires a ratification vote of a

majority of all board members of the board of commissioners. The board may delegate this authority to a city manager or department heads, as may be provided for by ordinance.

The board of commissioners may, by ordinance, adopt supplemental rules and regulations governing employment by the city, not inconsistent with the provisions of this charter.

Section 5.2. Oath of office. Every officer, agent, and employee holding a position upon an annual salary shall, before entering upon his duties, take and subscribe and file with the recorder an oath or affirmation that he has all the qualifications named in this charter for the office or employment he is about to assume, that he will support the Constitutions of the United States and of this state and the charter and ordinances of the city, and will faithfully discharge the duties of his office or employment.

Section 5.3. Surety bond. The city manager, if one is appointed, and every officer, agent, and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon these duties, execute a fidelity bond with some surety company authorized to do business in the state of Tennessee, as surety, in such amount as fixed and determined by the board of commissioners. All such bonds and sureties are subject to the approval of the board of commissioners.

Section 5.4. Additional bond. If, at any time, it appears to the board of commissioners that the surety on any official bond is insufficient, the officer or employee shall be required to give an additional bond, and if such officer or employee fails to give additional bond within twenty (20) days after he shall have been notified, his office shall be vacant.

Section 5.5. Compensation. Except as otherwise provided in this charter, the compensation of all officers and employees of the city shall be fixed within the limits of budget appropriations adopted by the board of commissioners.

ARTICLE 6. DEPARTMENTS (ORGANIZATIONAL STRUCTURE).

Section 6.1. Establishment and supervision. The work and affairs of the city may be classified and arranged conveniently, and conducted efficiently. There are hereby established the following departments:

(a) Department of finance;

(b) Department of education;

(c) Department of public safety; and

(d) Department of public works and welfare.

The board of commissioners may, by ordinance, create new departments or combine or abolish existing departments and prescribe their duties and functions, but before doing so must receive the written recommendations of the city manager.

The city manager, if one is appointed, shall supervise and control all departments now or hereafter created, except as otherwise provided by this charter and the laws of this state.

Section 6.2. City Manager. The board of commissioners may appoint a city manager and set the city manager's compensation and benefits. The city manager shall have an undergraduate, graduate, or post graduate degree from an accredited college or university. The degree must be in public administration, government, political science, economics, accounting, business administration, or business management. The applicant must have completed a two-year university sponsored internship in a local government or must have five (5) years of administrative experience in a responsible position in local government or business. The city manager reports to the board of commissioners. The city manager is the chief executive officer of the city and responsible for the management of all city affairs placed in the city manager's charge by or under this charter or the laws of this state. If no city manager is appointed or, during the absence or disability of the city manager, the board of commissioners shall designate some properly qualified person to perform the functions of the city manager.

The city manager, if one is appointed, shall:

(a) Appoint and suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer, subject to the city manager's direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office, or agency;

(b) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;

(c) Serve as city purchasing agent;

(d) See that all laws, provisions of this charter, and acts of the board of commissioners, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;

(e) Prepare and submit the annual budget and capital program to the board of commissioners, and implement the final budget approved by board of commissioners to achieve the goals of the city;

(f) Submit to the board of commissioners and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

(g) Keep the board of commissioners fully advised as to the financial condition and future needs of the city;

(h) Make recommendations to the board of commissioners concerning the affairs of the city and facilitate the work of the board of commissioners in developing policy; and

(i) Perform such other duties as are specified in this charter or may be required by the board of commissioners.

Section 6.3. City recorder. The city manager, if one is appointed, shall appoint a city recorder, who also may be appointed to the positions of finance director or treasurer or both. If there is no city manager appointed, then the mayor, with ratification by the board of commissioners, shall appoint a city recorder who shall serve at the will of the board.

In the event of the temporary absence or disability of the recorder, the board may appoint a recorder pro tempore.

It is the duty of the recorder to be present at all meetings of the board, and to keep a full and accurate record of all business transacted by the board, to be preserved in permanent book form.

The recorder shall have custody of, and preserve in the recorder's office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the board, contracts, bonds, title deeds, certificates, papers, all official indemnity or security bonds except the recorder's bond, which shall be in the custody of the mayor, 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.

The recorder shall provide, when required by any officer or person, certified copies of records, papers, and documents in the recorder's office, and charge therefor, for the use of the city, such fees as may be provided by ordinance, cause copies of ordinances to be printed, as may be directed by the board, and keep them in the recorder's office for distribution.

The recorder shall, by the recorder's signature and the city seal, attest all instruments signed in the name of the city, and all official acts of the mayor. The city recorder shall have power to administer oaths.

Section 6.4. City attorney. The mayor, with ratification by the board of commissioners, shall appoint a city attorney who shall serve at the will of the board. The city attorney shall be an attorney at law licensed to practice in the courts of the state.

The city attorney shall direct the management of all litigation in which the city is a party, including the function of prosecuting attorney in the city court, representing the city in legal matters and proceedings in which the city is a party or interested, or in which any of its officers are officially interested; attend such meetings of the board of commissioners as the board may direct; advise the board and the committees or members thereof, the mayor, the recorder, and heads of all departments and divisions as to all legal questions affecting the city's interest; 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.

The city attorney shall receive such compensation as may be decided by the board of commissioners.

Section 6.5. City judge.

(a) **Appointment, qualifications, and compensation.** There shall be a city court presided over by a city judge. The mayor, with ratification by the board of commissioners, shall appoint a city judge who shall serve at the will of the board. The city judge shall have such qualifications and receive such compensation as the board may provide by ordinance.

(b) **Temporary replacement.** If a city judge is unable to preside over city court for any reason, then, to the extent a general session's court judge agrees to serve temporarily as city judge, the judge shall appoint a general session's judge of the county within which the city lies to sit in the city judge's stead. If there is not a general session's judge available, then the city judge shall appoint an attorney, meeting the same qualifications as a general session's judge, to sit temporarily.

(c) **Power to enforce ordinances.**

(1) The city judge has the power and authority to:

(A) Impose fines, costs, and forfeitures, and punish by fine violations of city ordinances;

(B) Preserve and enforce order in such city judge's court; and

(C) Enforce the collection of all such fines, costs, and forfeitures imposed by such city judge.

(2)

(A) In default of payment, or of good and sufficient security given for the payment of such fines, costs, or forfeitures imposed by such city judge, the city judge is authorized to enter an order for contempt of court for the payment of the fine in the amount established pursuant to Tennessee Code Annotated, Section 16-18-306.

(B) Fines may be paid in installments in the manner provided by ordinance or in accordance with Tennessee Code Annotated, Section 40-24-104. Any court is authorized to enforce the collection of unpaid fines or forfeitures as a judgment in a civil action in any court with competent jurisdiction in accordance with Tennessee Code Annotated, Section 40-24-105.

(3) The city judge may remit, with or without condition, fines and costs imposed for violation of any ordinance or charter provision.

(d) **Docket.** The city judge shall keep, or cause to be kept, a court docket or dockets embodying complete detailed records of all cases handled by the city judge.

(e) **Arrest warrant.** Only one (1) warrant shall be issued for the same offense, the warrant to embrace all of the parties charged with the same offense. No arrest shall be made, except upon a warrant duly issued, unless the offense is committed in the presence of the officer making the arrest, or unless in a case of felony. The affidavit upon which the warrant is issued shall especially state the offense charged.

(f) **Appearance bond.** Whenever any person is arrested for the violation of any city ordinance in the presence of a police officer, and no warrant has been issued or served, such person may execute an appearance bond in an amount not exceeding state authorized limits, and file same with a police desk sergeant, or may, in lieu of the execution of an appearance bond, deposit a sum not exceeding state authorized limits, with a police desk sergeant and be given a receipt for same, and, on the appearance of such person before the city court at the time specified in the receipt, such deposit shall be returned to that person. On the failure of such person to appear at the time specified, the amount so deposited shall be forfeited to the city and such person shall not be entitled to the return of any part thereof and it shall not be necessary to issue a scire facias; provided, that within two (2) days of the imposition of the forfeiture, the city judge shall have the power to set aside the conditional judgment imposing such forfeiture when it shall be made to appear that the failure of the accused to appear and defend such accused's suit was due to no fault or negligence of the accused. After the expiration of the two (2) days, there may be a final judgment imposing forfeiture.

(g) **Disposition of fines.** All fines imposed by the city judge for violations of city ordinances shall belong to and be paid into the treasury of the city.

(h) **Collection of fines and cost.** The city judge, in all cases heard or determined by such city judge for offenses against the corporate laws and ordinances, shall set and collect municipal court costs as adopted by ordinance, shall levy and collect the litigation tax in accordance with the provisions of Tennessee Code Annotated, Section 16-18-305, and, in addition, shall add thereto the state mandated privilege tax on litigation for city ordinance violations governing the use of a public parking space, as a tax on all such cases. The city judge shall certify to the chief of police for collection, all

fines, costs, and forfeitures imposed by the city judge for offenses against the laws and ordinances of the city. Costs in favor of any person paid a fixed salary by the city shall belong to the city and be paid into its treasury. It is the duty of the city judge to collect and receipt for all fines imposed by the city judge, and the city judge shall render a monthly report to the board of commissioners of all costs and fines collected and of all assessed and uncollected.

It is unlawful for any other person or officer to collect or receipt for such fines, costs, and recoveries, but the city judge may authorize the chief of police to collect and receipt for fines and costs.

(i) **Appeal from city judge's judgment.** Any person dissatisfied with the judgment of the city judge in any case or cases heard and determined by the city judge, may, within ten (10) entire days thereafter, Sundays exclusive, appeal to the next circuit court of the county, upon giving bond with good and sufficient security as approved by the city judge for such person's appearance or the faithful prosecution of the appeal; provided, that in prosecutions for violations of the city ordinances, the bond shall not exceed bond amounts set forth in Tennessee Code Annotated, Section 16-18-307.

ARTICLE 7. FISCAL AFFAIRS.

Section 7.1. <u>Duties of the finance director/treasurer</u>. The recorder, as the head of the department of finance, exercises a general supervision over the fiscal affairs of the city, and general accounting supervision over the entire city's property, assets, and claims, and the disposition of such property, assets, and claims. The finance director is the general accountant and auditor of the city. The finance director has custody of all records, papers, and vouchers relating to the fiscal affairs of the city, and the records in the city recorder's office shall show the financial operations and conditions, property, assets, claims, and liabilities of the city, all expenditures authorized, and all contracts in which the city is interested. The finance director shall require proper fiscal accounts, records, settlements, and reports to be kept, made, and rendered to the city manager, if one is appointed, by the several departments and officers of the city, including all deputies or employees of the city recorder's department charged with the collection or expenditures of money, and shall control and audit the same. The finance director

shall, at least monthly, adjust the settlements of officers engaged in the collection of the revenue.

Section 7.2. Accounting system. The finance director, with the approval of the board of commissioners, shall cause an efficient system of accounting for the city to be installed and maintained.

Section 7.3. Approval of claims against the city.

(a) Except as otherwise provided by this charter or by law or ordinance, the finance director shall prescribe and regulate the manner of paying creditors, officers, and employees of the city. The finance director shall audit all payrolls, accounts, and claims against the city and certify thereon the balance as stated by the finance director; however, no payroll, account, or claim, or any part thereof, shall be audited against the city or paid unless authorized by law or ordinance and approved and certified by the city manager and the head of the department for which the indebtedness was incurred, and the amount required for payment of the same appropriated for that purpose by ordinance and in the treasury.

(b) Whenever any claim is presented to the city finance director, the finance director shall have power to require evidence that the amount claimed is justly due, and is in conformity to law and ordinance, and for that purpose may summon before such finance director any officer, agent, or employee of any department of the municipality, or any other person, and examine the officer, agent, or employee upon oath or affirmation relative thereto.

(c) The city manager, if one is appointed, finance director, and head of the department concerned, and their sureties, shall be liable to the municipality for all loss or damages sustained by the municipality by reason of the corrupt approval of any claim against the municipality.

Section 7.4. Issuance of warrants.

(a) Subject to the provisions of this charter, warrants shall be issued by the finance director.

(b) Each warrant shall specify the particular departmental fund against which it is drawn and shall be payable out of no other fund.

(c) Any officer or employee in the finance director's office may be designated by such finance director to draw warrants with the same effect as if signed by the finance director, such designation to be in writing, in duplicate, filed with the city manager. The city manager may make such designation if the finance director is absent or disabled and there is no one in the finance director's office designated to act. Any such designation may be revoked by the finance director while acting as such by filing the revocation in duplicate with the city manager and the treasury division.

Section 7.5. Certification of availability of funds to meet contract obligations. No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution, or order for the expenditure of money be passed by the board of commissioners or be authorized by any officer of the city, unless the finance director shall first certify to the board or the proper officer, as the case may be, that the money required for such contract, agreement, obligation, or expenditure, is in the treasury or safely assured to be forthcoming and available in time to comply with, or meet such contract, agreement, obligation, or expenditure; and no contract, agreement, or other obligation involving the expenditure of money payable from the proceeds of bonds of the city shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this charter in reference to city bonds.

Section 7.6. Emergency expenditures. No contract liability shall be incurred without previous authority of law or ordinance, but the board of commissioners may, by ordinance, empower the proper officials to pay out money or incur contract liability for the city for the necessary preservation of the city's credit, or in other extreme emergency, under such restrictions as may be provided in the ordinance; provided, that any such liability shall mature not later than one (1) year from the date of its incurrence.

Section 7.7. Depositories of municipal funds. Depositories of the municipal funds shall be designated by ordinance. The board shall require any financial institution that becomes a depository of municipal funds to secure such funds by collateral in the same manner and

under the same conditions as state deposits under Tennessee Code Annotated, title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under Tennessee Code Annotated title 9, chapter 4, part 5.

Section 7.8. Fiscal forms. The finance director shall cause all forms used in connection with either the receipt or disbursement of city funds to be numbered consecutively, and shall account for all spoiled or unused forms.

Section 7.9. Fiscal year. The fiscal year of the city shall begin on July 1, unless otherwise provided by ordinance.

Section 7.10. Annual operating budget–Publication–Budgetary comparison. The city manager, if one is appointed, shall, on or before May 15 of each year, submit to the board of commissioners an estimate of the expenditures and revenues of the city for the ensuing fiscal year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the city recorder. The board of commissioners shall adopt and publish the annual budget, and shall publish budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated), which information shall include the following:

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

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

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

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

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

The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget.

Section 7.11. Reversion of appropriations to general fund. At the end of each year, all unencumbered balances or appropriations in the treasury shall revert to the general fund and be subject to further appropriations. Such balances shall be considered unencumbered only when the finance director shall certify in writing that the purposes for which they were appropriated have been completely accomplished and that no further expenditure in connection with them is necessary.

Section 7.12. Taxes and assessments under department of finance. The assessment, levy, and collection of taxes and special assessments shall be in the charge of the department of finance, subject to the limitations found elsewhere in this charter.

Section 7.13. Property and privileges taxable. All property, real, personal, and mixed subject to state, county, and city taxes, and all privileges taxable by law, shall be taxed, and taxes thereon shall be collected by the city for municipal purposes as provided in this chapter.

Section 7.14. License taxes. License taxes may be imposed by ordinance upon any and all privileges, businesses, occupations, vocations, pursuits, or callings, or any class or classes thereof, now or hereafter subject to such taxation under the laws of Tennessee, and a separate license tax may be imposed for each place of business conducted or maintained by the same person, firm, or corporation.

The finance director shall enforce the collection of merchants' taxes and all other license taxes, and for that purpose have and exercise the powers of law vested in, and follow the procedure and methods prescribed for, county clerks.

ARTICLE 8. MISCELLANEOUS.

Section 8.1. Continuance of terms. The present city board and city officials shall hold office until their successors are elected and qualified. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which he was elected.

Section 8.2. Continuance of contracts. All contracts and other obligations lawfully entered into by the city for its benefit prior to the taking effect of the provisions of any amendment to the charter of the city of Townsend, Tennessee, shall continue in full force and effect.

Section 8.3. <u>Continuance of ordinances and resolutions</u>. All ordinances and resolutions in force at the time of the taking effect of any amendments to the charter of the city of Townsend, Tennessee, and not inconsistent therewith, shall continue in force and effect until amended or appealed.

Section 8.4. <u>Gender Neutrality</u>. Whenever, in this charter, “man, men, him, his, he,” 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 human kind, both female and male sexes.”

Section 8.5. <u>Conflict</u>. All acts and parts of acts in conflict with this charter are hereby repealed.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the city of Townsend. Its approval or no approval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

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