

HOUSE BILL 3868

By Lollar

AN ACT to amend Chapter 238 of the Acts of 1903; as amended by Chapter 733 of the Private Acts of 1921, Chapter 33 of the Private Acts of 1943, Chapter 406 of the Private Acts of 1945, Chapter 60 of the Private Acts of 1947, Chapter 1 of the Private Acts of 1949, Chapter 143 of the Private Acts of 1951, Chapter 5 of the Private Acts of 1955, Chapter 365 of the Private Acts of 1968, Chapter 464 of the Private Acts of 1968, Chapter 13 of the Private Acts of 1977, Chapter 203 of the Private Acts of 1980, Chapter 21 of the Private Acts of 1993, Chapter 87 of the Private Acts of 1993, Chapter 186 of the Private Acts of 1998, and any other acts amendatory thereto, relative to the Charter of the City of Millington.

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

SECTION 1. Chapter 238 of the Acts of 1903; as amended by Chapter 733 of the Private Acts of 1921, Chapter 33 of the Private Acts of 1943, Chapter 406 of the Private Acts of 1945, Chapter 60 of the Private Acts of 1947, Chapter 1 of the Private Acts of 1949, Chapter 143 of the Private Acts of 1951, Chapter 5 of the Private Acts of 1955, Chapter 365 of the Private Acts of 1968, Chapter 464 of the Private Acts of 1968, Chapter 13 of the Private Acts of 1977, Chapter 203 of the Private Acts of 1980, Chapter 21 of the Private Acts of 1993, Chapter 87 of the Private Acts of 1993, Chapter 186 of the Private Acts of 1998, and any other acts amendatory thereto, relative to the City of Millington is amended by rewriting the Charter to read as follows:

ARTICLE I

INCORPORATION, NAME, AND CORPORATE BOUNDARIES

SECTION 1.01. INCORPORATION; NAME. The inhabitants of the City of Millington, in the County of Shelby and State of Tennessee, shall be, and they are hereby, constituted a body politic and corporate under the name and style of the City of Millington, hereinafter sometimes referred to as the "City".

SECTION 1.02. CORPORATE BOUNDARIES. The City, located in Shelby County, Tennessee, hereby is bounded as described in Chapter 238 of the Acts of 1903 and by all acts amendatory thereof, and annexations made pursuant to general law.

ARTICLE II
CORPORATE POWERS

SECTION 2.01. GENERAL POWERS. The City shall have perpetual succession, may sue and be sued, grant, receive, purchase and hold real, personal and mixed property, and may have and use a corporate seal and may alter the same at its pleasure.

SECTION 2.02. MISCELLANEOUS POWERS.

(a) The City shall have the power to:

(1) Assess, levy, and collect taxes for all general and special purposes on all subjects and objects of taxation authorized by law;

(2) Adopt such classifications of subjects and objects of taxation as may not be contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise and to give any appropriate evidence thereof;

(6) Issue and give, sell, pledge, or in any manner dispose of negotiable or non-negotiable interest-bearing or non-interest bearing bonds, in accordance with the Local Government Public Obligations Law, codified at Tennessee Code Annotated, Title 9, Chapter 21, 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 property, real or personal, mixed, and any estate or interest therein, including the acquisition of property for recreational use, within or without the City or state. Furthermore, regulate all public grounds belonging to the City, provide for the erection and repairing of all buildings and other improvements necessary for the use of the City, and convey property by sale to any purchaser thereof in any manner provided by the ordinances of the City, when a property is no longer required for public use. The City shall also make all necessary rules and regulations for the use of public grounds and property;

(9) Condemn property, real or personal, or any easement, interest, estate, or use therein, either within or without the City, for present or future public use. Such condemnation shall be made and effected in accordance with the terms and provisions of general 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, maintain, sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility or service to the City, its inhabitants, or any part thereof, whether within or without the corporate limits;

(12) Grant any person, firm, association, corporation or other legal entity franchises and/or contracts for public utilities and public services to be furnished to the City and those therein. Such power to grant franchises and make contracts shall embrace the power hereby expressly conferred to grant exclusive franchises and make exclusive contracts; and whenever an exclusive franchise or contract is granted, it shall be exclusive not only as against any other person, firm, association, corporation, or other legal entity but also as against the City itself. The Board of Mayor and Aldermen may prescribe in each grant of a franchise, or in each contract respecting same, the rates, fares, charges, the method of determining same, and regulations that may be made by the grantee

of the franchise or contract. Franchises or contracts may, by their terms, apply to the territory within the corporate limits of the City at the date of the franchises or contracts and to such corporate limits thereafter as same may be enlarged and to the then existing streets, alleys, and to other thoroughfares which may be opened; provided, however, this paragraph shall not affect existing contracts or franchises;

(13) 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 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 subsection (12) of Section 2.02;

(14) 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, golf courses, public grounds, and squares, bridges, viaducts, subways, sewers, and drains within or without the corporate limits, and take any appropriate property for such uses as may be provided by general law;

(15) Construct, and improve any streets, highways, avenues, alleys, or other public places within the corporate limits, to take all other action necessary and incidental thereto, and assess a portion of the cost of such improvements upon the property abutting upon, or adjacent to, such streets, highways, or alleys under and as provided by general law;

(16) Establish the limits of street, road and alley rights-of-way when necessary;

(17) Assess against abutting property within the corporate limits the cost of removing from sidewalks and other public property all accumulations of snow, ice, and earth; cutting and removing obnoxious weeds and rubbish; street lighting, street sweeping, street sprinkling, street flushing, and oiling; and

cleaning and rendering sanitary, or removing, abolishing, or prohibiting of unsanitary conditions in such manner as may be provided by general law or by ordinance of the Board of Mayor and Aldermen;

(18) License and regulate, in accordance with applicable law, all persons, firms, corporations, companies, associations and other legal entities engaged in any business, occupation, calling, profession, or trade;

(19) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling unless prohibited by law;

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

(21) 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 be lawfully established, conducted or maintained;

(22) Inspect, test, measure and weigh any article for consumption or use within the City and charge reasonable fees therefor;

(23) Establish, regulate, license, and inspect weights and measures in accordance with Tennessee Code Annotated, Title 47, Chapter 26;

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

(25) Provide and maintain charitable, educational, recreational, curative, corrective, detention, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services;

(26) Purchase or construct, maintain, and establish a penal facility for the confinement or detention of any person convicted in City Court of offenses against the laws and ordinances of the City and who is required to be confined as a result of such conviction or contract with other governments to keep said persons in their penal facility(s) and provide by said contract and by ordinance for the commitment of such persons to the penal facility(s) so provided;

(27) Enforce any ordinance, rule or regulation by means of fines, forfeitures, and penalties, or by action or proceedings in any court of competent jurisdiction, or by any one or more of such means and impose costs as a part thereof provided that no fine or penalty shall exceed the maximum amount allowed by State law;

(28) Establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation; purchase or otherwise acquire land for 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, if not prohibited by general law;

(29) Regulate, tax, license, or suppress keeping or going at large of animals within the City, impound the same and in default of redemption, to sell or dispose of the same;

(30) Call elections as hereinafter provided;

(31) Determine the boundaries of the City by appropriate survey or other acceptable method when necessary;

(32) Provide compensation and benefits program for the welfare of the employees and elected officials of the City;

(33) Provide for the establishment and operation of a police department, a fire department, and all other offices, boards, divisions, and departments not herein enumerated which may be deemed necessary or expedient in the interest of the City;

(34) Provide for and establish a planning commission and a board of zoning appeals pursuant to, and consistent with, the general law and invest such bodies with all the powers conferred by general law; and act upon the plans, plats, decisions, and recommendations made by such bodies, respectively, as in the general law provided;

(35) Do all things necessary to provide the City sufficient and safe water; provide for the regulation, construction, and maintenance of water works, settling basins, pumping stations, water pipes, mains, rights-of-way for the same, reservoirs, and all appurtenances, whether within or without the corporate limits of the City; provide for rates and assessments for water service and to provide and fix liens or penalties including withdrawal of services for refusal or failure of the party served to pay for same;

(36) Provide for a sewerage collection, treatment, and disposal facility, whether within or without the corporate limits of the City; provide for rates and assessments for water service and provide and fix liens or penalties including withdrawal of service for refusal or failure of the party served to pay for same;

(37) Collect and dispose of drainage, including storm water drainage, sewage, offal, ashes, garbage, and refuse, and impose a compulsory service charge for such, or to license and regulate such collection and disposal;

(38) Provide an electric utility;

(39) Provide a gas utility system;

(40) Provide for health and safety of citizens, and preservation of property;

(41) Provide for and establish a design review commission for the purpose of developing aesthetic and architectural controls for the community, ensuring compatible development, promoting functional utility and property values, and maintaining balanced uses of land; and

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

(b) In addition, if the present or any future provisions of the general law of the State of Tennessee would grant powers to the City that are not specifically set forth herein, the City shall also have such powers.

SECTION 2.03. INTERGOVERNMENTAL RELATIONS. The City may exercise any of its powers or perform any of its functions and may participate in the financing, by contract or otherwise, jointly or in cooperation with any one or more states, political subdivisions, or civil divisions or agencies thereof of the government of the United States.

SECTION 2.04. CONSTRUCTION. The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in this Charter shall not be construed as limiting in any way the powers available to the City by general law.

ARTICLE III

ELECTIONS

SECTION 3.01. DATE OF GENERAL CITY ELECTION. General City elections shall be held on the first Thursday in August beginning in 2012, and on the first Thursday in August in even numbered years every fourth (4th) year thereafter. In all elections, the Mayor and Aldermen shall be elected from the City at large. In the event that no candidate receives a majority of the votes cast for a particular office, a runoff election shall be held between the two (2) candidates receiving the largest number of votes for that office. A runoff election shall be held on the first Tuesday following the first Monday in November at the time the Federal and State general elections are held.

SECTION 3.02 GENERAL ELECTION LAWS APPLY. All elections shall be conducted in accordance with the general election laws and this Charter.

SECTION 3.03. VOTER QUALIFICATION REQUIREMENTS. All persons who are qualified to vote for members of the General Assembly of the State of Tennessee and who have

been actual bona fide residents and citizens of the City for thirty (30) days next preceding the next election shall be entitled to vote in all municipal elections.

SECTION 3.04. CERTAIN POLITICAL ACTIVITY PROHIBITED. No employee of the City, other than any then serving elected City officials to the extent they may be considered employees of the City, shall continue in the employment of the City except to hold the office to which each official was elected. Any employee, other than an elected official, who seeks an elected City position shall resign his office effective as of the date of the filing of his nominating petition.

ARTICLE IV

BOARD OF MAYOR AND ALDERMEN

SECTION 4.01. COMPOSITION, ELECTION, TERM OF OFFICE, RE-ELECTION, AND RUNOFFS. The governing body of the City shall consist of a Mayor and seven (7) Aldermen to be known officially as the “Board of Mayor and Aldermen”, in which is vested all corporate, legislative and other powers of the City, except as otherwise provided in this Charter. The Board of Mayor and Aldermen shall hereinafter be referred to as the “Board”. The terms of the Board members shall be for four (4) years. However, at the option of the Board, an ordinance may be adopted by five (5) of the seven (7) members of the Board prescribing and fixing staggered terms for members of the Board. The ordinance may extend one or more of the terms of office of the then-serving Aldermen for the sole purpose of establishing staggered terms, but otherwise, terms of office shall continue to be four (4) years. The Mayor and Aldermen shall be eligible for re-election.

SECTION 4.02. TAKING OF OFFICE. Persons elected to the office of Mayor and Aldermen shall take office on January 1 following certification of their election by the Shelby County Election Commission.

SECTION 4.03 QUALIFICATIONS FOR OFFICE. No person shall be eligible to hold the office of Mayor or Alderman unless he is a qualified voter under the laws of the State of Tennessee, and has been a bona fide resident of the City for at least sixty (60) days next preceding the election in which he is a candidate.

SECTION 4.04. SALARIES AND REIMBURSEMENT FOR EXPENSES OF

OFFICIALS. The Board is hereby authorized to fix a salary of the Mayor of the City; to fix the salary of the Vice Mayor, such sum to be paid in lieu, rather than in addition to, the regular Alderman salary; and to fix the salary of the Aldermen prior to July 1 in the year of the City election, such sum not to be increased or decreased for the term of the elected office. At any time, the Board may establish, increase or decrease the benefits, other than salaries, that are incidental to the office of Mayor and Aldermen; provided that such benefits are commensurate with like benefits being furnished to all employees of the City, such as, but not limited to, insurance under a group plan. The Board shall have the full right, power and authority to reimburse elected officials for out-of-pocket expenses incurred by them for travel on City business or for expenses actually incurred by them in serving the City.

SECTION 4.05. TIME AND PLACE OF MEETINGS. The Board shall, by ordinance, fix the time and place at which the regular meetings of the Board shall be held. Regular meetings of the Board shall be held at least monthly for the conduct of such business as may properly come before the Board. Adequate public notice of such meetings shall be given.

SECTION 4.06. QUORUM AND ADJOURNMENT. The presence of four (4) Aldermen shall constitute a quorum. In the absence of the Mayor and Vice Mayor, the four (4) Aldermen present shall appoint one (1) of their number to be the presiding Alderman. The Vice Mayor or the presiding Alderman shall have a vote on all questions and shall have the authority to introduce or second motions, as shall all Aldermen. A regular meeting at which a quorum is present may be adjourned by a majority vote, either from day to day or from time to time; but no such adjournment shall be taken to a date beyond the day preceding the next regular meeting; and any adjourned meeting shall continue as a regular meeting through said adjournment. The foregoing provisions notwithstanding, in the event there exists on the Board vacancies of more than three (3) members, a quorum shall be the entire membership of the Board.

SECTION 4.07. CALLED MEETINGS. The Board shall meet in special session on written notice of the Mayor or any four (4) Aldermen. Such notice shall be personally served on the parties entitled thereto and shall designate the business to be transacted at the special meeting. Adequate public notice of called meetings shall be given. No other business may be

transacted at a special meeting except by unanimous consent of all the Aldermen present at such meeting.

SECTION 4.08. ORDINANCE PROCEDURE. All ordinances passed heretofore for the City are hereby declared valid and binding and are continued in effect unless they conflict with this Charter. Ordinances hereafter shall be passed in the following manner:

All ordinances shall be passed on three (3) different days at a regular, adjourned, or called meeting of the Board. Ordinances may be amended up to and at the third and final reading. A public hearing shall be held prior to or at the third and final reading of an ordinance, and notice of such hearing shall be published in a newspaper of general circulation within the community and posted at the City hall. Ordinances shall be made available for public inspection in accordance with general law. Each ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Ordinances shall be signed by the Mayor and shall be immediately taken charge of by the City Clerk and by the City Clerk numbered, placed in an ordinance book, and there authenticated by the signature of the City Clerk and filed and preserved.

SECTION 4.09 OFFICIALS' OATH OF OFFICE. The Mayor, Aldermen, and judge(s) of the City shall, before entering upon the duties of their respective offices, take an oath, before a person authorized to administer oaths in this State, to faithfully, uprightly, and honestly demean themselves as such officers of the City during their continuance in office.

SECTION 4.10 DUTIES OF THE MAYOR. The Mayor shall be the executive head of the City, responsible for the efficient and orderly administration of the affairs of the City and the enforcement of the ordinances of the City and the laws of the State within the City limits. The Mayor shall have such powers and duties as are specified in this Charter, as may be provided by ordinance not inconsistent with this Charter and as are otherwise provided by law. It shall be the duty of the Mayor to preside at all meetings of the Board. The Mayor shall make appointments to boards or commissions as authorized by State statute or ordinance. The Mayor is hereby authorized to vote on any item before the Board in the event of a tie vote of the members of the Board in attendance. If the Mayor disapproves any part or all of an ordinance or resolution, the Mayor shall file this disapproval with the City Clerk and shall deliver copies to

the Board with a written explanation for the disapproval. Unless an ordinance or resolution is filed with the City Clerk and delivered to the Board with an explanation of the Mayor's reasons for disapproving the same within five (5) days after its final passage by the Board, it shall take effect as though the Mayor signed it. At its next meeting thereafter, the Board may reconsider the same. If upon such reconsideration the ordinance or resolution or the disapproved portion thereof is approved by vote of five (5) members of the Board, it shall take effect notwithstanding the Mayor's veto.

SECTION 4.11. ELECTION AND DUTIES OF THE VICE MAYOR. The Board shall elect an Alderman to serve as Vice Mayor from their body for a term of one (1) year. The Vice Mayor shall be eligible for re-election. The Vice Mayor of the City of Millington, in the absence, sickness, or the inability or disqualification of the Mayor for any reason to perform his official duties, shall be authorized to act in the place and stead of the Mayor, and all powers and authority that are in this Charter conferred on the Mayor are hereby conferred on the Vice Mayor when the Vice Mayor is acting as Mayor as fully and completely as if the same were set out in detail. The Vice Mayor shall have the right to vote on all matters coming before the Board while fulfilling the duties of Mayor.

SECTION 4.12. VACANCY IN THE OFFICE OF MAYOR, VICE MAYOR OR ALDERMAN. A vacancy shall exist in the applicable office if the Mayor or an Alderman resigns, dies, moves his residence from the City, has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office, accepts any federal, state, county, or other municipal office which is filled by public election, or is convicted of malfeasance or misfeasance in office, a felony, or a violation of the election laws of the State, or is adjudicated to have violated the Charter of the City, in which case the Board shall appoint an Alderman to serve as Mayor for the remainder of the unexpired term thereof. In addition, in the event the Mayor or an Alderman fails to attend sixty (60) percent of the regular Board meetings in any period of twelve (12) consecutive months, such shall be a reason for declaring a vacancy in the applicable office.

The declaration of a vacancy, as defined herein, in the office of Mayor or in the office of Alderman may be made by motion of any member of the Board at any meeting thereof. Such vacancy shall be deemed to have occurred upon the passage of such motion by the Board.

(a) Procedure for filling vacancy in office of Mayor. When a vacancy occurs in the office of the Mayor, the Vice Mayor shall temporarily assume the office of Mayor. Within thirty (30) days after a vacancy occurs in the office of Mayor, the Board shall appoint to such office an Alderman to serve for the remainder of the unexpired term thereof; provided, that if the balance of the existing term at the time of the vacancy occurs more than ten (10) days before the deadline for qualifying for the next election, then the position of Mayor shall be filled at such next election, and the person appointed to such office shall only serve as Mayor until a person is elected as Mayor at such election and is duly certified by the Shelby County Election Commission.

(b) Procedure for filling vacancy in office of Vice Mayor. When the Vice Mayor assumes the office of Mayor, or when his term as Vice Mayor expires, or if the Alderman serving as Vice Mayor should vacate his office for any other reason, so that the office of Vice Mayor is then vacant, the Board, within thirty (30) days after such vacancy occurs, shall elect from its membership a Vice Mayor to serve for the unexpired term of the Vice Mayor who has vacated the office.

(c) Procedure for filling vacancy in the office of Alderman. Within thirty (30) days after a vacancy occurs in the office of Alderman, the Board shall appoint to such office a citizen, who would be eligible for election thereto, to serve for the remainder of the unexpired term thereof; provided that if the vacancy occurs more than ten (10) days before the deadline for qualifying for the next election, then such position of Alderman shall be filled at such next election and the person appointed to such office shall only serve as Alderman until a person is elected as Alderman at such election and certified by the Shelby County Election Commission.

If there occurs on the Board four (4) or more vacancies which remain unfilled for a period of thirty (30) days, the Board shall forthwith, by resolution, call upon the Shelby County Election Commission to call a special election for the purpose of filling such

vacancies. This special election shall be held in the same manner as provided in this Charter for regular elections. The Aldermen elected at such special election shall hold office for the remainder of the unexpired term of the position for which they stand for election.

SECTION 4.13. RECALL PETITION AND ELECTION OF MAYOR AND ALDERMEN.

A petition, by registered voters in the City equal in number to at least fifty-one percent (51%) of the total number of votes cast at the time the position involved was last filled by public election, demanding the recall of the person serving in that position and sought to be removed, shall be filed with the Shelby County Election Commission. Said petition shall contain a general statement of the grounds upon which removal is sought. Notice of such filing shall be given by publication at least once in a local newspaper of general circulation.

The signatures to the petition need not all be appended to one paper, but each signer shall sign his name and shall place thereon, after his name, the date of signing and his place of residence by street and number. To each petition paper there shall be attached a sworn affidavit by the circulator thereof stating the number of signers, that each signature is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the circulator. Such petition shall be filed with the Shelby County Election Commission within seventy-five (75) days after the final certification of the form of the recall provision in accordance with Tennessee Code Annotated, Section 2-5-151. The Shelby County Election Commission shall, within thirty (30) days, canvass the signatures thereon to determine the sufficiency thereof. A separate petition shall be filed for each person sought to be removed. The Shelby County Election Commission shall attach to each petition its certificate showing the result of the examination.

If the County Election Commission's certificate shows that the petition is sufficient, the Shelby County Election Commission shall call an election on the question of recall. At such election, voters shall vote either "for recall" or "against recall". If sixty-six percent (66%) of the voters vote "for recall", the person named shall be declared removed from office, and the office shall be declared vacant. Such vacancy shall be filled as directed in Section 4.12 of this Charter. The aforesaid method of removal shall be cumulative and additional to the methods

heretofore existing by law. No more than one (1) election for the purpose of recall shall be held in any six (6) month period, and no such election shall be held within a period beginning ninety (90) days before and ending ninety (90) days after a regular municipal election as provided in Tennessee Code Annotated, Section 6-31-307.

SECTION 4.14. ADOPTION OF CITY SEAL AND FLAG. The Board of Mayor and Aldermen shall have the power to adopt an official seal and official flag for the City.

ARTICLE V

CITY MANAGER

SECTION 5.01. APPOINTMENT, SALARY, AND REMOVAL. The Board shall appoint a chief administrative officer of the City with the title of City Manager who shall serve at the pleasure of the Board for an indefinite term. The City Manager shall be selected on the basis of training, experience and other administrative qualifications for the office without regard to such person's political or religious preference or such person's place of residence at the time of the appointment. No Board member shall be eligible for the position of City Manager within two (2) years after expiration or other termination of the Board member's latest term of office.

SECTION 5.02.

(a) DUTIES. The City Manager shall be directly responsible to the Mayor and the Board to exercise general administrative responsibilities assigned to him for the coordination and direction of the activities of the operating departments, including, but not limited to, preparation of official agenda for all meetings, preparation and administration of annual operating and capital improvement budgets, preparation of reports for the Mayor and Board, purchasing, investigation of citizens' complaints, application for grants and administration thereof, administration of personnel policies, including the selection and discipline of personnel; provided, however, the qualifications of all applicants for operating department heads shall be reviewed by the City Manager, and operating department heads shall be appointed only by a simple majority vote of the Board; termination of operating department heads may be done upon recommendation of the City Manager and approved by a simple majority of the Board or by five (5) Aldermen without recommendation of the City Manager. The City Manager shall perform such other duties as may be described by ordinance. The City Manager shall also maintain all

necessary intergovernmental relationships and attend all meetings of the Board. The job description of the City Manager shall be as approved by resolution by the Mayor and Board of Aldermen.

(b) The City Manager, or an employee designated by him, shall act as City purchasing agent. The purchasing agent shall make all purchases and contracts for all departments and agencies of the City, subject to the provisions of this Charter and ordinances consistent with this Charter, except materials, supplies and equipment used only in the public schools, which may be purchased by the school superintendent. Other exceptions may be made by ordinance if recommended in writing by the City Manager.

SECTION 5.03. RESIDENCY REQUIREMENT. The City Manager need not be a resident of Millington at the time of appointment but promptly thereafter, within ninety (90) days, shall establish his principal residence and shall maintain an actual residence in the City of Millington for the duration of his employment. Salary and other benefits incidental to the City Manager's position shall be fixed by the Board.

SECTION 5.04. ABSENCE OF THE CITY MANAGER. In the temporary absence or disability of the City Manager, the Board may designate a qualified officer of the City to assume the duties and authority of the City Manager.

SECTION 5.05 ALDERMEN DEALING WITH PERSONNEL THROUGH CITY MANAGER. The Aldermen shall deal with all City employees only through the City Manager, not directly, except for the purposes of obtaining information in order to fulfill their duties as Aldermen.

SECTION 5.06. BOARD-MANAGER RELATIONSHIP. The City Manager shall be responsible to the Board for the administration of all units of City government under the City Manager's jurisdiction and for carrying out policies adopted by the Board. Except for the purposes of inquiry, the Board shall deal with the administrative officers and employees solely through the City Manager. The Board shall not give orders to the City Manager's subordinates or otherwise interfere with managerial functions through such means as directing or requesting the appointment or removal of any of the City Manager's subordinates, or the making of particular purchases from, or contracts with any specific organization. The office of the Board

member violating any provision of this section shall immediately become vacant upon such person's conviction in a court of competent jurisdiction.

ARTICLE VI

CITY ATTORNEY

SECTION 6.01. QUALIFICATIONS. The City Attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

SECTION 6.02. APPOINTMENT, DUTIES, AND SALARY. The City Attorney shall be appointed by the Board and shall generally direct management of all litigation in which the City is a party, which may include the function of prosecuting attorneys in the City Court; represent the City in all legal matters and proceedings in which the City is a party or interested or in which any of its officers is officially interested; attend meetings of the Board as requested and advise the Board and committees and members thereof, the City Manager and heads of all departments, offices, or agencies as to all legal questions affecting the City's interests; and approve as to form, in those instances where required by the Board, 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's compensation and other benefits incidental to the City Attorney's position shall be fixed by the Board, and the City Attorney shall serve at the will of the Board.

SECTION 6.03. ASSISTANT CITY ATTORNEYS. The Board may appoint one (1) or more assistant City Attorneys with such qualifications as the Board may determine and same shall perform such duties as the City Attorney shall assign to them. The compensation and other benefits incidental to the positions of the assistant City Attorneys shall be fixed by the Board, and the assistant City Attorneys shall serve at the will of the Board.

ARTICLE VII

CITY CLERK

SECTION 7.01. APPOINTMENT. The City Clerk shall be nominated by the Mayor and confirmed by the Board. The City Clerk shall serve at such salary and with such other benefits incidental to the City Clerk's position as are provided by the Board, and shall serve at the will of the Board. The City Clerk shall be subject to day to day supervision by the City Manager.

SECTION 7.02. SHALL KEEP MINUTES. It shall be the duty of the City Clerk to be present at all meetings of the Board and to prepare and maintain a full and accurate record of all business transacted by the same. In the City Clerk's absence from a meeting the officer presiding at the meeting shall appoint a person to fulfill the duties of City Clerk.

SECTION 7.03. SHALL BE CUSTODIAN OF PUBLIC RECORDS, BONDS, ETC. The City Clerk shall have custody of and preserve in the City Clerk's office the City seal, the public records, ordinance books, minutes of the Board, contracts, bonds, titles, deeds, certificates and papers, all official indemnity or security bonds, 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 current index thereof.

SECTION 7.04. SHALL PROVIDE AND CERTIFY COPIES OF RECORDS, PAPERS, ETC. The City Clerk shall provide and, when required, certify copies of records, papers and documents in the City Clerk's office and charge therefor, for the use of the City, such fees as may be provided by ordinance or resolution; and cause copies of ordinances to be published as may be directed by the Board and kept in the City Clerk's office for distribution.

SECTION 7.05. SHALL PERFORM ANY OTHER DUTIES IMPOSED. The City Clerk shall also perform any other duties imposed upon the City Clerk by this Charter, by ordinance, by the City Manager or by the Board.

ARTICLE VIII

ADMINISTRATION

SECTION 8.01. DEPARTMENTS, OFFICES, AND AGENCIES. The Board may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies not in conflict with this Charter. Departments, offices and agencies created by the Board may be abolished or combined by the Board.

SECTION 8.02. EMPLOYEES WHO HANDLE MONEY SHALL BE BONDED. The City Manager and every officer, agent, and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a

surety bond with a surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance. All such bonds and sureties shall be 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 8.03. SERVICES FURNISHED AND EQUIPMENT USED OUTSIDE CORPORATE LIMITS. The City is empowered, in its governmental capacity, to use its firefighting, emergency medical and other equipment and personnel outside its corporate limits, when and under such circumstances, limitations and conditions as the Board may determine.

The Board may provide or agree to such terms, limitations, restrictions and conditions as may seem proper or advisable to it with respect to such outside use of the equipment and personnel; and it may refuse to permit any such outside use. In default of action by the governing body, or at such times as emergency situations may dictate, the Mayor shall have authority to act for the governing body in authorizing the use of such equipment or personnel outside of the corporate limits of Millington, Tennessee, and the Mayor may likewise have authority to refuse to permit such outside use.

Whenever said firefighting, emergency medical and/or other equipment and City personnel are used or employed outside the corporate limits of the City of Millington and its officials, agents, servants, employees and volunteers authorizing or performing such service, shall be entitled to all the immunities and protection from liability to which they are entitled with respect to similar services within the corporate limits of the City. It is expressly provided that the performance of the service shall constitute the discharge of a governmental function.

SECTION 8.04. SPECIAL CONTRACTUAL APPOINTMENTS. The Board shall be empowered to appoint special consultants, architects, engineers, attorneys, and auditors when deemed advisable or necessary.

SECTION 8.05. AUTHORITY TO REGULATE OR PROHIBIT SOLICITORS, PEDDLERS, ETC. The Board is hereby authorized, by ordinance, to regulate or prevent the practice of being in or upon private residences within the City by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited

to do by the owners or occupants of a private residence, for the purpose of soliciting orders for the sale of goods, wares or merchandise, or disposing of, peddling or hawking the same.

SECTION 8.06. PERSONNEL RULES AND REGULATIONS. The rules and regulations, policies and procedures under which the personnel system of the City shall be governed shall be prepared by the City Manager, with the assistance of the Personnel Director, and shall become effective when adopted by the Board. Such rules and regulations, policies and procedures shall be adopted and amended time to time by resolution. The Board shall appoint a Personnel Board, which shall be composed of three (3) members who serve three (3) year terms. The Personnel Board shall elect a chairman from its membership and shall adopt rules governing the conduct of its business. The decisions of the Personnel Board in cases of appeal by employees shall be final.

SECTION 8.07. PROHIBITIONS. No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, age, disability, national origin, political or religious opinions or affiliations.

SECTION 8.08. PENSION BENEFITS RETAINED. Notwithstanding the enactment of this Charter, officers and employees who at the time of adoption of this Charter are members or beneficiaries of an existing pension or retirement system, or beneficiaries or prospective beneficiaries of an existing retirement system or retirement fund shall continue to have the rights, privileges, obligations and status with respect to the said system or fund as is now or hereafter prescribed by law.

ARTICLE IX

FINANCE AND BUDGET

SECTION 9.01. FISCAL YEAR. The fiscal year of the City shall begin on the first day of July and end on the last day of June, unless otherwise provided by ordinance.

SECTION 9.02. ANNUAL BUDGETS REQUIRED. The adoption of an annual budget shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

SECTION 9.03. CITY MANAGER WITH THE ASSISTANCE OF THE FINANCE

DIRECTOR REQUIRED TO PREPARE AND SUBMIT ANNUAL BUDGET AND

EXPLANATORY MESSAGE. At least sixty (60) days before the beginning of the fiscal year, the City Manager with the assistance of the Finance Director shall prepare and submit to the Board a budget for the ensuing fiscal year and an accompanying message. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, include such other material as the City Manager with the assistance of the Finance Director deem desirable or the Board may require, and otherwise be in such form and substance as may be required by general State law.

SECTION 9.04. REQUIRED CONTENT AND ORGANIZATION OF BUDGET. The budget shall provide a complete financial plan for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the City Manager with the assistance of the Finance Director deem desirable or the Board may require.

SECTION 9.05. PUBLIC HEARING ON ANNUAL BUDGET. After considering the proposed annual budget and the making of any modification thereto, the Board shall schedule a time and place for a public hearing thereon and shall give proper notice of the time and place of the public hearing, a summary of the annual budget tentatively approved by the Board, and a notice of when and where the entire annual budget may be inspected. Notice of the public hearing must be given at least seven (7) days in advance of the date thereof.

SECTION 9.06. BUDGET ADOPTION AND AMENDMENTS. After the public hearing, the Board shall adopt by ordinance the budget, with such modification or amendments as the Board deems advisable, for the ensuing year on or before the last day of the fiscal year currently ending. If it fails to adopt the budget by this date, the appropriations for the current fiscal year shall become the appropriations for the next fiscal year until the adoption of the new budget ordinance.

Adoption or amendment of the budget shall be by ordinance and shall be passed upon three (3) readings at regular, adjourned, or called meetings of the Board. Adoption of the

budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

SECTION 9.07. EMERGENCY APPROPRIATIONS. Upon a declaration by vote of two-thirds (2/3) of the Board members present when there is a quorum that there exists an actual emergency threatening the health, property, or lives of the inhabitants of the City, the Board may make emergency appropriations in excess of estimated available funds by resolution. To the extent that there are no available un-appropriated revenues to meet such appropriations, the Board is authorized to borrow funds sufficient to meet an emergency by issuing evidence of obligations. Provision shall be made in the budget for the succeeding fiscal year for the payment of such obligations. A record of any such emergency expenditure shall be made and a report made to the Board as required by State law.

SECTION 9.08. DEFICITS. If at any time during the fiscal year it appears probable to the City Manager working with the Finance Director that the available revenues will be insufficient to meet the amount appropriated, the City Manager and Finance Director shall report, without delay, to the Board, the estimated amount of the deficit, any remedial action to be taken, and recommendations as to any other steps to be taken. The Board shall then take such action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce appropriations.

SECTION 9.09. INCURRENCE AND DISCHARGE OF OBLIGATIONS. No payment shall be made or obligation incurred against any appropriation unless the City Manager working with the Finance Director certifies that an appropriation has been made for that purpose and that there are unexpended and unencumbered funds in the appropriation for that purpose in an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

SECTION 9.10. BORROWING OF FUNDS. The Board may authorize the City to issue bonds or to borrow money in conformance with the laws of the State of Tennessee.

SECTION 9.11. ACCOUNTING RECORDS, CONTROLS AND AUDITS. Adequate accounting records shall be installed and maintained in accordance with generally accepted accounting principles. Constant and comprehensive budgetary control shall be maintained. An audit of the financial statements of the City shall be required by action of the Board and same shall be made after the end of each fiscal year by an independent certified public accountant.

SECTION 9.12. PURCHASING POLICIES AND PROCEDURES. All purchases of goods and services by authorized officials of the City, using or encumbering municipal funds, shall be made in accordance with policies of the Board and applicable laws of the State of Tennessee. The Board is authorized to establish policies regarding purchasing and dollar limits on requirements for obtaining quotes or bids. The City may use intergovernmental agreements, requests for proposals or bids in obtaining prices and is to accept the lowest and best bid.

SECTION 9.13. DISBURSEMENTS. All disbursements of the City which are made by check shall be signed by two (2) City officials. All electronic disbursements of any form shall be authorized in writing by two (2) City officials. The Board of Mayor and Aldermen shall establish by ordinance the City officials authorized to sign checks and to approve electronic disbursements.

ARTICLE X

TAXATION

SECTION 10.01. GENERAL POWER TO LEVY TAXES. Subject to provisions of general law, the Board shall have and is hereby given the power to levy taxes for all corporate purposes upon all taxable property, real, personal and mixed, and privileges within the limits of the City; and, to the extent authorized by general law for municipal purposes, the Board shall have the power to license, tax and regulate everything licensed, taxed and regulated by a county or the State, unless the tax, license or regulation is designated by law for State purposes only.

SECTION 10.02. ASSESSMENT AND LEVY. The principles established for State and county taxation shall be used to assess for taxation all property within the City not exempt by general law. Assessments made by the Shelby County Tax Assessor may be adopted by the City or assessments may be made by the City in accordance with applicable law.

SECTION 10.03. PENALTIES AND INTEREST ON DELINQUENT TAXES. The City shall establish due and delinquent dates for payment of property taxes and shall be allowed to assess the same penalties and collect the same rate of interest on delinquent taxes which may be due the municipality as are now or may hereafter be assessed and/or collected by the County of Shelby. Taxes shall be due on December 1st of each year, and declared delinquent if not paid in full on or before March 1 of the following year.

SECTION 10.04. PRIVILEGE TAXES GENERALLY. The City shall be authorized to fix by ordinance, in accordance with the general laws of the State of Tennessee, a business privilege tax on all businesses, pursuits, occupations and professions carried on in the City.

SECTION 10.05. INSTITUTION OF SUITS TO ENFORCE TAX LIENS. Before March 1 of the second year following the year for which assessed, the City Manager and Finance Director shall certify to the City Attorney the list of all real estate upon which municipal taxes remain due and unpaid or which is liable for sale for other taxes and assessments; and the City Attorney shall proceed at once to file or cause to be filed suits in the appropriate court for the collection of such taxes, assessments, penalties, and interest and enforcement of tax liens. Upon the filing of suit, an additional penalty established by the Board shall accrue upon all delinquent taxes as attorney's fees. Suits may be filed, prosecuted and the land sold in the same manner as for the enforcement of tax liens for delinquent county taxes, or as otherwise provided by State law.

SECTION 10.06. STATUTORY LIEN. All municipal taxes on real estate in the City and all penalties and costs accruing thereon are hereby declared to be a lien on the real estate on and after January 1 of the year for which the same are assessed.

SECTION 10.07. COLLECTION OF DELINQUENT PERSONAL PROPERTY TAXES. All taxes delinquent for thirty (30) days may be collected by distress warrants, by the sale of personal property, and by any other judicially accepted means. The delinquent tax list in the hands of the collector shall have the force and effect of a judgment and execution from a court of record.

SECTION 10.08. HOTEL/MOTEL TAX.

(a) As used in this section unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to, or received from, any person;

(2) "City Clerk" means the City Clerk of the City of Millington, Tennessee;

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

(4) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel for a period of less than ninety (90) continuous days;

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

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

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

(b) The Board of Mayor and Aldermen of the City is authorized to levy by ordinance and collect a privilege tax upon the privilege of occupancy in any hotel of each transient in any amount to be set by ordinance by the City of up to three percent (3%) of the consideration

charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this Charter.

(c)

(1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy in the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the City.

(2) When a person has maintained occupancy for ninety (90) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from, or charged to, the transient, and the operator shall receive credit for the amount of such tax if previously paid or reported to the City.

(d)

(1) The tax hereby levied shall be remitted to the City Clerk or the City Clerk's designee by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the City which City Clerk shall be charged by ordinance of the City with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the City for such tax shall be that of the operator.

(2) For the purpose of compensating the operator for remitting the tax authorized and levied pursuant hereto and the related ordinances of the City, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the City in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

(e) The City Clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in such accounts as provided in the ordinance of the City adopted under the authority hereof. A monthly tax return shall be filed under oath with the City Clerk by the

operator with such number of copies thereof as the City Clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed and furnished by the City Clerk and approved by the Board of Mayor and Aldermen prior to use. The City Clerk shall audit each operator in the City at least once a year and shall report on the audits to the Board. The Board is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this section.

(f) No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

(g) Taxes collected by an operator which are not remitted to the City Clerk on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not to exceed the maximum allowed by State law. In addition, it is unlawful for any operator to knowingly file a false tax return and a violation shall be punishable by a civil penalty not to exceed the maximum allowed by State law.

(h) It is the duty of every operator liable for the collection and payment to the City of any tax imposed by this Charter to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax due for which the operator may have been liable for the collection of, and payment to, the City, which records the City Clerk, the City Clerk's designee or any accounting firm or accountant employed by the City, shall have the right to inspect at all reasonable times.

(i)

(1) The City Clerk in administering and enforcing the provisions of this Section 10.08 of the Charter and any ordinance adopted pursuant hereto shall have as additional

powers, those powers and duties with respect to the collecting taxes as provided in Tennessee Code Annotated, Title 67 or otherwise provided by law for the county clerks and/or municipal officers.

(2) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Section 67-7-1410, it being the intent of this section of the Charter that the provisions of law which apply to the recovery of State taxes illegally assessed and collected shall also apply to taxes illegally assessed and collected under the authority of this section. The City Clerk shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for county clerks applicable to adjustments and refunds of such tax.

(3) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the City Clerk under authority of this Charter shall be refunded by the City.

(4) Notice of any tax paid under protest shall be given to the City Clerk and suit may be brought for recovery of such tax against the Mayor of the City in such Mayor's official capacity.

(j) The proceeds of the tax authorized by this Section 10.08 of the Charter shall be allocated to such funds as the Board of Mayor of Aldermen shall direct.

(k) The privilege tax levied by this Section 10.08 of the Charter shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

(l) The tax levied pursuant to the provisions of this Section 10.08 shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

ARTICLE XI

JUDICIAL DEPARTMENT

SECTION 11.01. JUDICIAL DEPARTMENT. The City court shall have jurisdiction over violations of this Charter and ordinances of the City and shall also have concurrent general sessions jurisdiction over offenses against criminal laws of the State committed within the City.

The judicial department of the City shall be established and administered in the following manner.

SECTION 11.02. NUMBER OF JUDGES. The City shall have one elected City judge; provided that the Board shall in addition have the power, by ordinance, to increase the number of judges and specify the duties and jurisdiction of said judges. The Board may appoint a City judge who will hear only violations of municipal ordinances.

SECTION 11.03. QUALIFICATIONS AND TERM. All persons serving as an elected City judge shall be licensed to practice law in the courts of the State of Tennessee and shall meet the qualifications established by Article VI, Section 4 of the Tennessee Constitution, to wit: They shall be thirty (30) years of age, shall before their election have been a resident of the State of Tennessee for five (5) years and of the City for one (1) year and shall be elected by the qualified voters of the City for a term of service of eight (8) years:

(i) except for certain instances in which a person may be appointed as City judge for a term which shall expire after the next applicable regular August general election; and

(ii) except for any initial term of elected service which may be shorter, all as provided hereinafter.

The Board shall by ordinance establish the requirements for a municipal judge who exercises jurisdiction solely as to violations of this Charter and municipal ordinances.

SECTION 11.04. JURISDICTION AND POWERS. The jurisdiction of the elected City judge shall extend to the trial of all offenses against the ordinances of the City and, concurrently with the Court of General Sessions of Shelby County, Tennessee, for violation of the criminal laws of the State. The jurisdiction of an appointed City judge shall exist only as to violations of the Charter and ordinances of the City. Costs in trials of offenses against the ordinances of the City shall be provided by ordinance. Costs in other matters shall be as established under general laws of the State of Tennessee. The City judge shall have the power in accordance with Tennessee Code Annotated, Title 16, Chapter 18, Part 3, The Municipal Court Reform Act, to: levy fines, penalties, and costs, to issue all necessary process, to administer oaths, and to

maintain order, including the power to punish for contempt by fine or confinement not exceeding the limits provided by general laws.

SECTION 11.05. BAIL. The bail of persons arrested and awaiting trial and persons appealing the decision of a City judge shall be fixed by the City judge and upon such security as in his discretion he deems necessary or as otherwise may be provided by ordinance or general law.

SECTION 11.06. SEPARATION OF POWERS. The City judge shall be the exclusive judge of the law and facts in every case before the court and no official or employee of the City shall attempt to influence his decision except through pertinent facts presented in court.

SECTION 11.07. POPULAR ELECTION OF JUDGE(S). The popular election of the City judge is hereby chosen for all City judges exercising concurrent general sessions jurisdiction, subject to the provisions for appointments to fill any vacancy.

SECTION 11.08. TERMS; ELECTION PROCEDURE. The City judge elected at present shall remain in office through the term for which he was elected. Thereafter, the term of office of an elected City judge shall be eight (8) years. All subsequent elections for City judge pursuant to this Charter and general laws shall be held in accordance with Article VII, Section 5 of the Tennessee Constitution and the general law.

SECTION 11.09. VACANCIES. A vacancy in the office of the elected City judge shall be filled by appointment of the Board. The person appointed, however, may serve only until the next regular August City election. At such election, a person shall be elected to serve any unexpired term if the full term of his successor is not to be filled at such election. In the temporary absence of a City judge, a qualified person shall be appointed by the Board or appointed pursuant to the statutes and general law of the State of Tennessee to serve until the return of the presiding judge.

SECTION 11.10. COMPENSATION. The salary and any other benefits relating to the office of all City judges shall be established by the Board by ordinance effective on July 1 prior to the election held for the purpose of filling this office. The salary shall be paid monthly from the general fund of the City. In addition, as part of the compensation relating to the office of City judge, a City judge, if otherwise eligible for coverage under the health and medical benefits plan

of the City, shall be afforded the same coverage under such plans, at the expense of the City, as is generally afforded to the other employees of the City.

SECTION 11.11. RECORDS; DOCKETS; CITY COURT CLERK. The City Court Clerk shall be elected by the voters of the City for terms of four (4) years. The Board may by ordinance provide that the election of the City Court Clerk shall coincide at every other election with the election of the City judge. The City Court Clerk shall maintain accurate detailed records and summary reports of all financial transactions and affairs of the court in accordance with applicable laws. Subject to the general law and the authority of the City judge, the Board shall fix the regular time for holding court. The salary and any other benefits relating to the office of City Court Clerk shall be established by the Board by ordinance effective on July 1 prior to the election held for the purpose of filling this office.

ARTICLE XII

MISCELLANEOUS

SECTION 12.01. GENDER. Any pronoun used herein or any reference to the term Alderman or Aldermen shall be construed to mean the proper gender of the person to whom it shall apply under the circumstances.

SECTION 12.02. CORPORATE EXISTENCE, EXISTING ORDINANCES AND RESOLUTIONS. The corporate existence of the City is continued. All existing ordinances, obligations, resolutions or other actions of the Board not inconsistent with this Charter shall remain in full force and effect until amended or repealed in the manner herein provided.

SECTION 12.03. EXPIRATION OF TERMS OF ELECTED OFFICERS. Nothing in this Charter 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 or she was elected.

SECTION 12.04. SEVERABILITY. If any article, section, subsection, paragraph, sentence or part of this Charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any other parts of this Charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this Charter that each article,

section, subsection, paragraph, sentence or part be enacted separately and independently of each other.

SECTION 2. Except for that portion of Chapter 238 of the Acts of 1903, and all acts amendatory thereto describing the boundaries of the municipality, all private acts comprising the Charter of the City of Millington are hereby repealed and replaced by this act.

SECTION 3. Approval By The Board. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City within sixty (60) days of its signing by the Governor. Its approval or non-approval shall be proclaimed by the Mayor of Millington and certified by the Mayor to the Secretary of State.

SECTION 4. Effective Date. 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 upon being approved as provided in SECTION 3.