

HOUSE BILL 3869

By McDonald

AN ACT to amend Chapter 288 of the Acts of 1905; as repealed by Chapter 568 of the Private Acts of 1939; and all other acts amendatory thereto relative to the Charter of the City of Portland.

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

SECTION 1. The Charter of the City of Portland is amended by deleting in its entirety Chapter 288 of the Acts of 1905; as repealed by Chapter No. 568 of the Private Acts of 1939, and all other acts amendatory thereto, and substituting instead the following to constitute a new charter for the City of Portland, Tennessee:

ARTICLE I

INCORPORATION

Section 1.01. The section of Sumner County, Tennessee, included within the limits and boundaries set out in Section 1.02, as amended by the noted annexations, is continued as a municipal corporation and as a body politic and corporate by the name and style of "City of Portland." The city has perpetual succession, may sue and be sued, contract and be contracted with, plead and be impleaded, grant, purchase, reserve, and hold property, real, personal and mixed, within or beyond the corporate limits of the city and may sell, lease, or dispose of property for the benefit of the city, and may do all other acts touching it as a natural person, except forbidden things. The city may have and use a corporate seal, changeable at the pleasure of the City Council.

Section 1.02. The boundaries and corporate limits of the City of Portland, embrace and encompass the territory with the following boundaries: Beginning at concrete marker No. 1 located on the North side of Country road opposite Venters Residence and approximately 200

feet east of Highway No. 109; thence with north side of county road South 88 degrees 44 feet west 478 feet to concrete marker No. 2; thence north 18 degrees 38 feet west 2517.5 feet with the back property line of the Wiseman Addition to concrete marker No. 3; thence North 79 degrees 54 feet west 1908.7 feet to concrete marker No. 4 in the east side of the White House Road; thence crossing said road south 85 degrees 30 feet west 1862 feet to concrete marker No. 5; southwest of Hester's residence; thence north 65 degrees 06 feet West 1329.7 feet to concrete marker No. 6 by large oak; thence north 4 degrees 20 feet east 1673.6 feet to concrete marker No. 7 near turn in county road; thence north 43 degrees 46 feet west 1945 feet to concrete marker No. 8 on the South side of road at corner of barn; thence with east side of road north 2 degrees 08 feet east 1823.7 feet to concrete marker No. 9 On south side of highway No. 52; thence north 27 degrees 30 feet east 3050 feet to concrete marker No. 10; in the west right of way of highway No. 109 near concrete bridge; thence north 49 degrees 52 feet east 1150 feet to concrete marker No. 11 in West right of way of L. & N. R. R., and crossing same a total of 4050 feet to concrete marker No. 12 on the north side of private road; thence south 85 degrees 44 feet east 1450.5 feet with county road to concrete marker No. 13, in power line; thence with power line south 40 degrees 52 feet east 1555 feet to concrete marker No. 14 at power pole on the south side of lake road; 45 feet from center of same; thence south 11 degrees 30 feet east 1485 feet to concrete marker No. 15 by farm road, McGlothin's north boundary; thence north 87 degrees 45 feet west 600 feet to concrete marker No. 16 at power pole at corner of Lake Road; thence with McGlothin's west boundary south 2 degrees west 1797 feet to corner of school property, concrete marker No. 17; thence with said property south 87 degrees east 385 feet to northeast corner of same, concrete marker No. 18 thence south 1 degree west 1650 feet to concrete marker No. 19, near the east boundary of Rippy's property; thence north 88 degrees east 2440 feet to concrete marker No. 20; thence south 4 degrees west 350 feet to concrete marker No. 21 in the north right of way Westmoreland Road; thence south 16 degrees 30 feet west 4100 feet to concrete marker No. 22 on the south side of Fountain Head Road; thence south 71 degrees west 1830 feet to concrete marker No. 23, 225 feet from the center line of highway No. 109; thence with east side of said highway south 19 degrees east 2415 feet to the beginning. These boundaries of the city have been extended by ordinances of record in the City

Recorder's office, numbered as follows: 187, 190, 196, 201, 204, 206, 227, 237, 249, 250, 251, 256, 258, 259, 266, 306, 310, 311, 312, 326, 339, 344, 346, 351, 356, 357, 361, 368, 369, 373, 375, 381, 397, 403, 404, 405, 411, 413, 417, 419, 433, 443, 444, 448, 472, 481, 487, 496, 498, 501, 506, 510, 516, 518, 520, 521, 525, 532, 533, 539, 550, 551, 560, 561, 565, 568, 569, 570, 573, 574, 578, 582, 602, 607, 612, 99-1, 99-5, 99-7, 99-8, 00-3, 00-6, 00-12, 01-02, 01-04, 01-07, 01-10, 01-13, 01-16, 01-24, 01-27, 01-28, 02-02, 02-03, 02-04, 02-16, 02-17, 02-19, 02-33, 02-34, 03-20, 04-18, 06-13, 06-17, 16-18, 06-29, 06-30, 06-32, 06-42, 06-71, 07-03, 07-04, 07-18, 07-20, 07-31, and 07-43.

Section 1.03. The corporate authority of the City is vested in a Mayor, a City Council consisting of six (6) Council members and the Mayor, and other officers the City Council may elect or appoint.

Section 1.04. All ordinances of a moral, quasi-criminal, sanitary, or penal nature apply within the corporate limits as set out in Section 1.02. The City Council may by ordinance determine what constitutes a nuisance within the city limits and regulate or abate the nuisance. To the extent permitted by Tennessee Code Annotated Title 6, Chapter 54, Part 3, the jurisdiction of the City, City Court, and the police powers of the City include all surrounding territory that is within a one mile territory of the corporate limits of the City for the purpose of enforcing the above provisions and the police power is co-extensive with that of the sheriff in the execution of any paper or process issued from the City Court.

## ARTICLE II

### CORPORATE POWERS

Section 2.01. The corporation may:

- (1) Make special assessments for municipal improvements;
- (2) Contract and be contracted with;
- (3) Appropriate money and provide for the payment of the debts of the City, and borrow money in accordance with appropriate general law;
- (4) Expend the money of the City for all lawful purposes;

(5) Acquire, receive, and hold, maintain, improve, sell, lease, or otherwise dispose of property, real or personal, and any estate or interest in it , within or without the City or State, except when prohibited;

(6) 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, the condemnation to be made and effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapters 16 and 17, or in any other manner provided by general law;

(7) Take and hold property within or without the City or State upon trust for the public benefit, and for the benefit and improvement of the City Cemetery and/or privilege therein;

(8) Grant to any person, firm, association, or corporation, franchise for public utilities and public services to be furnished the City and its inhabitants;

(9) Make contracts, subject to conditions hereinafter provided, with any person, firm, association, or corporation, for public utilities and public service to be furnished the City and its inhabitants;

(10) Establish, open, re-locate, vacate, close or abandon, alter, widen, extend, grade, improve, repair, construct, re-construct, maintain, light, sprinkle and clean, public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public ground and squares, bridges, viaducts, subways, tunnels, sewers, privies, toilets, and drains within or without the corporate limits, and property may be taken and appropriated therefore under provisions of Tennessee Code Annotated, Title 29, Chapters 16 and 17 and Sections 7-31-107 through 7-31-111, or in any other manner provided by law;

(11) Construct, improve, re-construct and re-improve, 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 to assess a portion of the cost of the improvements upon the property abutting upon or adjacent to the streets, highways or alleys, under and as provided by Tennessee Code Annotated, Title 7, Chapter 32, Part 1, or as otherwise

provided by law, and the City may, by ordinance or otherwise, prohibit anyone from occupying, encroaching or trespassing upon any of the public lands, buildings, parks, streets, roads and alleys, within the corporation, and remove any one from it who has occupied or encroached on it;

(12) Provide for the construction and repair of sidewalks and curbing, and for their cleaning and all gutters and streets, at the expense of the owners of the ground fronting on them; provide for the removal of all encroachments into or upon any street, alley or other property of the City, and for the removal of all obstructions from sidewalks including snow, ice and earth, the cutting and removing of obnoxious weeds and rubbish, the cleaning and rendering sanitary, or the removal of closets and privies, pig pens, stables and slaughter houses at the expense of the owners of the property or the owner of the abutting property. The expense of all of the above is a debt against the owner or owners, and constitutes a lien on the lot or lots of the owner or owners for eighteen (18) months from the date of payment by the City and the lien and debt may be enforced and recovered by the City in the Chancery Court of Sumner County, Tennessee, and the Court has jurisdiction of these liens and debts regardless of the amounts involved; regulate and prevent the running at large and tying and fastening of cattle, hogs, horses, mules, stock and other animals of all kinds, and stationing, placing, or leaving of teams, wagons, or other vehicles on the street, or fast riding or driving on the streets;

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

(14) Collect and dispose of drainage, sewage, offal, ashes, garbage, and refuse, and license and regulate collection and disposal;

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

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

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

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

(19) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefore, and provide standards of weights, tests and measures in such manner as may be provided pursuant to Title 47, Chapter 26, Part 9;

(20) Regulate the location, bulk, occupancy, area, lot, height, construction and materials, including plumbing and electrical wiring of all buildings and structures in accordance with general law, and inspect all buildings, lands, and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alterations or changes necessary to make them healthful, clean or safe;

(21) Provide, construct, and maintain, or donate to charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services; comply with state department of health rules regarding isolation or quarantine of diseases as required by general law; create a Board of Health and a Health Department, and establish, build and regulate hospitals;

(22) Regulate, fine and suppress all disorderly houses; impose fines, forfeitures, and penalties for the breach of, or to enforce any ordinance, provide for their recovery and appropriation; provide for the citation of all persons violating any ordinance of the

city; prevent and punish by pecuniary penalties, fines or forfeitures, all breaches of the peace, noises, disturbances or disorderly assemblies which occur in the city at any time;

(23) 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 these means and impose costs as part thereof in accordance with the Municipal Court Reform Act, codified at Tennessee Code Annotated, Title 16, Chapter 18, Part 3, but no fine, forfeiture, or penalty, may exceed fifty dollars (\$50.00) unless allowed by the general law of the State of Tennessee and Article 6, Section 14 or the Constitution of the State of Tennessee;

(24) Regulate, tax, license, require vaccination or suppress the keeping or running at large of animals within the City; impound animals, and in default of redemption to sell or kill them;

(25) Provide the City with water and light by waterworks and light plants within and/or beyond the boundaries of the City;

(26) Erect, establish, open, close and remove bridges, sewers, gutters, hydrants and cisterns;

(27) Establish, support, and regulate a police system, and appoint special police in accordance with the general law when, in the opinion of the Mayor, it is necessary;

(28) Provide for the enclosing, improving and regulating the public grounds and buildings belonging to the City, within or without the corporate limits;

(29) Provide for the prevention and extinguishment of fires, establish and equip a fire department, and restrain or prohibit the erection of wooden or combustible buildings in any part of the City; regulate and prevent the carrying on of any business dangerous in causing or producing fires; regulate the storage of all combustible, inflammable, or explosive materials, and the use of lights or fire in the City, or the cleansing, burning, and sweeping of chimneys or stove pipes and regulate or prevent the discharging, firing, shooting, or carrying of guns, pistols and fireworks in the City in accordance with the general law;

(30) Designate from time to time a depository or depositories in which all of the funds of the City will be kept. It is cause for removal from office for any City Official, to refuse to deposit the funds in the City Official's hands in the depository or depositories so designated;

(31) Purchase fire equipment and erect or purchase fire stations, and make all appropriations necessary for such purposes;

(32) Exercise eminent domain for all municipal purposes named in this charter and to that end may condemn property, the proceedings of condemnation to be governed by Tennessee Code Annotated, Title 29, Chapters 16 and 17, or as otherwise provided by law;

(33) Have and exercise all powers that now or hereafter may be granted by general law and/or that it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated;

(34) Impose fees on persons or entities developing land within the service area of any city-owned utility within and without the corporate limits the city deems appropriate to pay the cost of capital improvements and other expenses related to these developments including, but not limited to, improvements and expenses for street repair and construction, water and wastewater services and facilities, natural gas services and facilities, electric service and facilities, and other city-owned utility services and facilities, storm sewers and facilities, educational services and facilities, parks and recreational facilities, police protection, fire protection, garbage collection and disposal, and the providing of administrative services. The City may exempt new or old industries from the imposition of fees when needed to enhance growth, or for the betterment of the community when these industries will employ regularly at least ten (10) persons;

(35) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or

without the corporate limits, regulate their use within corporate limits, and assess fees for the use of or impact upon such property and facilities.

Section 2.02.

(a) The city may also exercise the following powers, which must be done by ordinance:

(1) Levy, assess, and collect taxes upon all property, and on all developments, and on all subjects or objects of taxation, and privileges, within its limits taxable by law for municipal purposes;

(2) Contract or to be contracted with when the amount exceeds sixty thousand dollars (\$60,000);

(3) Acquire, sell, give, or receive any real property or interest in it whether it be through purchase, gift, eminent domain, or other;

(4) Acquire, construct, own, operate, and maintain public utilities or any estate or interest in them, or any other utility or service to all or part of the City or its inhabitants, subject to conditions in this charter;

(5) Grant or make contracts to any person, firm, association, or corporation, or franchises for public utilities and public services to be furnished the City and its inhabitants;

(6) Establish schools, to the extent authorized or not prohibited by general law, determine the necessary boards, officers and teachers required and fix their compensation, purchase or otherwise acquire land for school houses, play grounds 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; establish the most efficient management and prevent sectarian or denominational influence in the schools;

(7) Construct or repair any facility where the cost exceeds twenty- five thousand dollars (\$25,000);

(8) Approve the City's yearly operating budget;

(9) Set the salary of the Mayor and Council members;

(10) Borrow money, unless as otherwise required by State law to be accomplished by resolution;

(11) Hire, contract with, and terminate a City Administrator subject to the provisions of Article III; and

(12) Make special assessments not authorized by Section 2.01(1).

(b) Any measure that is permanent in nature or that has a regulatory or penal effect must be accomplished by ordinance. Other measures may be accomplished by resolution.

Section 2.03. The enumeration of particular powers in this charter is not exclusive of others, nor restrictive of general words or phrases granting powers, nor does a grant or failure to grant powers in this charter limit the authority of the city to exercise powers that it may otherwise legally exercise. Whether powers, objects, or purposes are expressed conjunctively or disjunctively, they shall be construed to permit the City to exercise freely any one or more of such powers as to any one or more of such objects for any one or more of such purposes. The provisions of this charter are to be liberally construed to accomplish its purposes.

### ARTICLE III

#### LEGISLATIVE BODY

Section 3.01 The form of government is a Board of Mayor and Council members with the appointment of a City Administrator. The board is the legislative body and the office of Mayor is the head of the executive branch of the City. The Mayor must be elected by the qualified voters of the city. Beginning with the election held immediately following the effective date of this act, the Mayor and two (2) Council members shall be elected. Beginning with the election held immediately following the election at which the Mayor and two (2) Council members are elected, four (4) Council members shall be elected. When two (2) or more candidates have an equal number of votes for any elective office, the election shall be determined by a majority of the Council-elect. The Mayor and Council members hold their offices until their successors are elected and qualified. No person is eligible for the office of Mayor or Council member who is an employee of the City of Portland. No one may be elected Mayor or Council member unless that

person is a bona fide resident and citizen of the City and unless that person has been a bona fide resident and citizen for not less than one (1) year immediately before that person's election.

The Election Commission of Sumner County, Tennessee must hold an election at the voting places in the city at the time designated by the City Council by ordinance for the purpose of electing a Mayor and Council members. The Mayor and Council members are elected by the qualified voters of the City, and the candidates receiving the highest number of votes are elected.

The Election Commissioners must deliver certificates of election to each of the persons receiving the highest number of votes, and the certificates entitle the persons holding them to be inducted into office. The persons elected shall, before assuming the duties of their respective offices, take an oath or affirmation before the Mayor in office, a Notary Public, or some other person qualified to administer oaths that they will support the Constitution of the United States and of the State of Tennessee and the charter and ordinances of the City, and to demean themselves in their official capacity faithfully, honestly, and with due regard to the welfare of the City, to the best of their ability. In case of a contest the procedure shall be determined by the City Council. In case no election is held at the time specified, the election commission must call another election upon at least ten (10) days' notice.

Section 3.02. The City Administrator must appoint, remove, promote, transfer, demote, suspend, and discipline all officers, department heads, and employees of the city except the following: Mayor, Council Members, City Attorney, and City Judge. The City Attorney and the City Judge are appointed by the Mayor with approval of the City Council after receiving the recommendation of the City Administrator. Department heads and employees are under the supervision and control of the City Administrator, and the City Administrator may delegate the personnel authority granted in this section to department heads to provide for the orderly day-to-day operation of the city, subject to the provisions of this charter, state law, and city ordinances. Neither the Board of Mayor and Council members nor any of its members may dictate the appointment of any person to office or employment by the City Administrator or in any manner interfere with him, or prevent him from exercising his own judgment in the appointment of employees in the administrative service of the City. Except for the purpose of inquiry, the Board

of Mayor and Council members must deal with the administrative service of the City solely through the City Administrator, and neither the Board of Mayor and Council members nor any member may give orders to any of the subordinates of the City Administrator, either publicly or privately.

Section 3.03. The City Council may call, regulate, and provide for all municipal elections, including all elections respecting bond issues. All elections held under this charter shall be held and supervised by the county election commission. In any election under this charter all voters who are residents of the City and are qualified under State Law may vote in the City election. Additionally any voter who does not reside in the City but owns a taxable freehold in the city for a period of at least six (6) months immediately before the day of the election may vote pursuant to Tennessee Code Annotated Section 2-2-107.

Section 3.04. Any person convicted of malfeasance in office, a felony, or crime involving moral turpitude is prohibited from holding office with the city for a period of ten (10) years thereafter. If the Mayor or any Council member is convicted of any such offense, the Mayor or Council member forfeits the office.

Section 3.05. The compensation of all officers of the City of Portland must be established annually in the ordinance adopting the annual budget and capital program of the city. All members of the City Council may be reimbursed for actual and necessary expenses incurred in the conduct of their official duties, provided such expenses are approved by the City Council at one (1) of its regular meetings.

Section 3.06. The legislative and other powers, except as otherwise provided by this charter, are vested in the City Council and the City Council may, by ordinance or resolution, not inconsistent with this charter, prescribe the manner in which all powers of the City are exercised, provide 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 City Council shall determine the functions and duties of all departments and offices. The City Council by ordinance may establish, abolish, merge or consolidate offices, positions of employment, departments and agencies of the city as the City Council may deem for the best interests of the city. The City Council must exercise its powers in session duly assembled and neither a member nor group of

members may exercise or attempt to exercise the powers conferred upon the City Council except through proceedings at some regular or special session.

Section 3.07. The City Council shall, by ordinance, fix the time and place at which regular meetings of the City Council are held. The meetings must be held at least once each month. Whenever, in the opinion of the Mayor, or of any three (3) Council members, the welfare of the City demands it, the Mayor or the Recorder must call a special meeting of the City Council upon written notice to each City Council member. This notice must be served by a member of the Police force or left at the members' usual places of residence. Each call for a special meeting must set forth the character of the business to be transacted at the meeting, and no other business may be considered at the meeting. A special meeting of the City Council may be held at any time upon unanimous consent in writing of the City Council waiving call and notice.

Section 3.08. When any vacancy in the City Council occurs, the City Council, as then composed, must elect a person qualified to fill the vacancy until the next regular election. At the next regular election the person receiving the highest vote count after all offices for election to a four (4) year term have been determined, is elected to fill the vacancy. Should the Mayor or any City Council member cease to be a bona fide resident of the city at any time during their term of office, their office becomes vacant.

Section 3.09. At the first meeting of the City Council (after each regular biennial city election) at which newly elected members are installed, the City Council shall choose from its members a Mayor pro tem to act in the absence, inability, or failure to act of the Mayor. This member acts as Mayor during any temporary absence or inability of the Mayor to act, and whenever a vacancy occurs in the office of Mayor the Mayor pro tem becomes Mayor for the unexpired term of the Mayor, but any portion of the unexpired term beyond the next regular biennial city election will be filled by the voters at that election if the vacancy occurs at least twenty (20) days before the latest time for filing nominating petitions for candidates in that election. Upon assuming the duties as Mayor, the Mayor pro tem's office as Council member becomes vacant. The Mayor pro tem presides at City Council meetings in the absence of the

Mayor. If the Mayor pro tem is unable to preside, the City Council will choose a member of the body to preside over the meeting as the first order of business if there is a quorum.

Section 3.10. A majority of all the sitting members of the City Council constitutes a quorum, but a smaller number may adjourn from day to day and may compel the attendance of absentees in any manner and under any penalty prescribed by the City Council.

Section 3.11. All legislation whether it be by Resolution or by Ordinance must be approved, disapproved, or deferred by majority vote of those present. The City Council may determine the rules of its proceedings, subject to this charter, and may arrest and punish by fine any member or other person guilty of disorderly or contemptuous behavior in its presence. It may subpoena witnesses and order the production of books and papers relating to any subject within its jurisdiction and may delegate this power to any committee. The Council may call upon its officers or the police officers to execute its process, and may cause to be arrested and punished by fine any person refusing to obey any subpoena or order. The presiding officer of the City Council or the Chair of any committee may administer oaths to witnesses. The City Council shall keep minutes of its proceedings, to be recorded in a well bound book suitable for the purpose. The Council must deal with the various agencies, officers, and employees of the city through the City Administrator. The City Council may conduct any inquiries into the operation of the city government and the conduct of the city's affairs as it deems necessary. The Council may organize itself into committees for the purpose of discussing programs and investigating problems to inform the City Council on desirable measures.

Section 3.12. All sessions of the City Council must be public except as allowed by law.

Section 3.13. The Mayor or any City Council member may be removed from office by the City Council for any crime or misdemeanor in office or for grave misconduct showing unfitness for public service, or for permanent disability, by a majority vote of all the other sitting members of the City Council voting for removal. The proceedings for removal must be upon specific charges in writing, which, with a notice stating the time and place of the hearing, must be served personally upon the accused or through publication in a newspaper of general circulation in the city at least three times in three successive issues. The hearing must be public and the accused has the right to appear and defend in person or by counsel and have process of the City Council

to compel the attendance of witnesses. The vote for removal must be determined by yeas and nays, and the names of the members voting for or against removal must be included in the minutes. Immediately upon the vote in favor of removal, the term of the accused expires and that person's official status, power, and authority shall cease without further action. Anyone removed may appeal to the Circuit Court of Sumner County, Tennessee, by filing the customary appeal bond, but that person may not exercise any of the functions of office during the time the appeal is pending, and that person's compensation must be withheld pending final adjudication.

Section 3.14. The affirmative vote of a majority of all the members of the City Council present is necessary to adopt any ordinance or resolution of the city. Each ordinance or resolution passed by the City Council must be signed by the presiding officer and the Recorder, and filed with the Recorder. All elections by the City Council must be by an affirmative vote of a majority of all the members of the City Council present.

Section 3.15. The officers of the City, before entering upon their duties, must take an oath or affirmation before the City Recorder that they will support the Constitution of the United States and of the State of Tennessee and the charter and ordinances of the City, and they will faithfully discharge the duties of their offices to the best of their ability.

#### ARTICLE IV

#### ORDINANCES

Section 4.01. All ordinances must begin, "Be it ordained by the City of Portland."

Section 4.02. All ordinances in force at the time of the taking effect of this Act, passed under authority of prior charters, remain in full force and effect until amended or repealed, except where they are in conflict with the provisions of this Act.

Section 4.03. Every ordinance must be passed on two considerations on two separate days in open session in the City Council to become effective, and any ordinance takes effect from and after its final passage, unless it otherwise provides. Resolutions may be passed on one consideration. All ordinances and resolutions must be signed by the Mayor and City Recorder.

Section 4.04. Every ordinance, when filed with the City Recorder, must immediately be numbered and copied in an ordinance book and preserved in the City Recorder's office.

## ARTICLE V

### MAYOR

Section 5.01. The Mayor presides at all meetings of the City Council, and has a seat and votes as other members of the City Council. The Mayor is a member of the City Council. With the exception of any committee appointed to hear grievances and appeals arising out of personnel actions, the Mayor may appoint all standing committees provided for by the City Council and special committees the Mayor deems proper. The Mayor may administer oaths and affirmations, and take depositions. The Mayor must sign all checks or orders on the treasury and sign the minutes of the City Council and all ordinances and resolutions upon their final passage. The Mayor must execute all deeds, bonds and contracts made in the name of the city, and the Mayor's signature must be attested by the City Recorder. The Mayor may introduce ordinances and resolutions in the City Council.

Section 5.02. The Mayor is the executive head of the city government. The Mayor must enforce the laws, rules and regulations, ordinances, and franchises of the City, and the City Attorney must take any legal actions the Mayor directs for purposes not inconsistent with this charter. The Mayor may conduct inquiries and investigations into the affairs of the city and has other powers and duties provided by ordinance not inconsistent with this charter.

Section 5.03. All legal process against the city must be served upon the Mayor or the City Recorder and they must transmit the process to the City Attorney after writing on it the time and manner of service.

Section 5.04. The Mayor may relieve any person convicted in the City Court of part or all fines, costs, and penalties imposed by the City Judge, if, in the Mayor's opinion, justice would be best served by that action. Before the release becomes effective, however, the Mayor must give the reasons in writing for that action and the City Recorder must copy it on the minutes of the City.

## ARTICLE VI

### OFFICERS AND EMPLOYEES

Section 6.01. The City Council must fix the salaries of the Mayor and City Council members, and these salaries may not be increased nor decreased during the term for which the

Mayor or a City Council member is elected or appointed. The City Council fixes the salaries of all officers and employees of the city, and may define the duties of all city officials not inconsistent with the provisions of this Act. The City Council shall establish and make provisions in the appropriation ordinance for necessary officers, agents, and employees and may authorize the various officers to charge fees or commissions, but all fees or commissions collected by any employee of the City must be paid into the general fund of the City and all officers authorized to charge fees or commissions must make monthly reports of them to the City Council.

Section 6.02. The City Recorder, the Finance Director, and any other employee the City Administrator deems necessary must carry Errors and Omission Insurance, or a comparable policy, funded by the City. The amount of this insurance will be set by the City Council.

## ARTICLE VII

### CITY ADMINISTRATOR

Section 7.01.

(a) The City Council shall appoint a city administrator under the control and direction of the City Council. The City Administrator reports and is responsible to the City Council.

(b) The City Council may, by ordinance, require the City Administrator to perform any or all of the following duties:

(1) Administer the business of the City;

(2) Make recommendations to the City Council for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the City;

(3) Keep the City Council fully advised as to the conditions and needs of the City;

(4) Report to the City Council the condition of all property, real and personal, owned by the City and recommend repairs or replacements as needed;

(5) Recommend to the City Council and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the City;

(6) Recommend specific personnel positions, as may be required for the needs and operations of the City, and propose personnel policies and procedures for approval of the City Council;

(7) Administer the City's personnel policies and procedures and employ, discharge, and discipline personnel in accordance with City Council approved policies and procedures and this charter;

(8) Act as the Purchasing Agent of the City;

(9) Prepare the annual budget for review and approval by the Mayor and City Council members; and

(10) Perform other duties from time to time designated or required by the City Council.

(c) The City Administrator has a seat and a voice at all meetings of the City Council, but does not have a vote.

(d) The qualifications, compensation, and benefits for the position of City Administrator will be determined by the City Council.

(e) The City Council must enter into a written employment agreement with the City Administrator.

## ARTICLE VIII

### FINANCE DIRECTOR

Section 8.01. The City Administrator may hire a Finance Director. The Finance Director is under the authority of the City Administrator. No person is eligible for the office of Finance Director who holds any other public office or employment, except that of Notary Public or in the Military Reserve.

Section 8.02. The Finance Director has charge of the financial affairs of the City, including the efficient keeping and supervising of all accounts and books of the City, including the books of water and light department. The Finance Director has supervision of and disburses all funds and money and collects all money due the City and signs all checks or orders on the treasury. The Finance Director must require proper fiscal accounts, records, and reports to be made to the Finance Director's office by the heads of the several departments, officers, and

employees of the City. The Finance Director must, at least monthly, and more often if the Finance Director deems it advisable, require settlements from the officers or employees charged with the collection of any revenue of the City. The Finance Director must approve for payment all bills and accounts against the City and perform other duties required by ordinance. The Finance Director must, before entering upon his or her duties, enter into a bond agreement to be approved by the City Council, payable to the City of Portland and its successors, in a sum to be fixed by the City Council, conditioned on the faithful performance of his or her duties, on regular monthly settlements with the City Administrator, and on faithfully accounting for and paying over all monies collected by the Finance Director or that come into his or her hands.

Section 8.03. The Finance Director has a seat and voice on the City Council, but no vote. The Finance Director will receive a salary to be fixed by the City Council. The Finance Director is the general accountant and auditor of the City and has custody of all records, papers, and vouchers relating to the fiscal affairs of the City. The records in his or her office must show the financial operation and conditions of the property, assets, claims, and liabilities of the City, all expenditures authorized and all contracts in which the City is interested. The Finance Director must make a yearly report showing in full detail the financial condition of the City, which will be published in pamphlet form in the number required by the City Council for distribution. The Finance Director must cause an efficient system of accounting to be installed and maintained.

## ARTICLE IX

### CITY RECORDER

Section 9.01. No person is eligible for the office of City Recorder who holds any other public office or employment, except that of notary public or in the military reserve. The City Recorder is under the authority of the City Administrator and must obey and carry out all legal directives of the City Administrator.

Section 9.02. The City Recorder keeps the records of the City Council and performs other duties required by the City Council. The City Recorder, by the City Recorder's signature and the seal of the City, which must be in the City Recorder's keeping, attests all instruments signed in the name of the city and all official acts of the Mayor. The City Recorder may

administer oaths and affirmations, take depositions, and accept service of process. The City Recorder must be present at all meetings of the City Council and keep a full and accurate record of all business transacted, to be preserved in permanent book form. The City Recorder has custody of and must preserve in the City Recorder's office the seal of the City, the public records, original rolls and ordinances, ordinance books and minute books of the City Council; all contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds and all other records, bonds, oaths and affirmations, papers and documents, not required by this charter or by ordinance to be deposited elsewhere. The City Recorder must provide, and when required by any officer or person, certify copies of records, papers, and documents in the City Recorder's office and charge, for the use of the City, fees established by ordinance, and have copies of ordinances printed as directed by the City Council.

## ARTICLE X

### DIRECTOR OF PUBLIC WORKS

Section 10.01. The office of Director of Public Works is created, with duties prescribed by ordinance and by this charter.

Section 10.02. The Director of Public Works has supervision and control, subject to the general direction of the City Administrator, in the:

(1) Construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, wharves, public ways, sewers, drains, ditches, streams and waterworks, and of all public buildings except school buildings and school property and of boulevards, squares, and other public places and grounds belonging to the City or dedicated to the public use.

(2) Management of the municipal waterworks plant and system, electric light plant and system, sewage plant and system, gas plant and system, and the municipal garage.

(3) Management of market houses and the enforcement of all obligations of privately owned or operated public utilities enforceable by the City.

(4) Making and preservation of all surveys, maps, plans, drawings, and estimates of public works; the cleaning, sprinkling, and lighting of streets and public places, and

the preservation of public works contracts, papers, drawings, tools and appliances and buildings belonging to the City and placed under its supervision.

(5) The inspection and approving of the laying out of subdivisions in and adjacent to the city, and the inspection of electric wiring, plumbing, building erections, and improvements, etc., unless these duties are under the jurisdiction of other municipal or state officials.

## ARTICLE XI

### CITY ATTORNEY

Section 11.01. The City Attorney must be a licensed attorney, entitled to practice in the courts of the State of Tennessee and is appointed and approved in the manner specified in Article III. The city attorney serves at the will of the City Council.

## ARTICLE XII

### CITY COURT

Section 12.01. The City Judge is appointed by the Mayor and approved by the City Council, as provided in Article III, entitled LEGISLATIVE BODY, for a term of four (4) years. After the initial appointment and approval, the City Council shall determine the date for future appointments and approvals with subsequent terms to end on May 31 every four (4) years thereafter. The City Judge must be at least thirty (30) years old, an attorney licensed to practice law in the courts of the State of Tennessee, and a resident of the State of Tennessee. The City Judge presides over the city court and has jurisdiction in and over all cases for the violation of and offenses against and in all cases arising under the laws and ordinances of the City of Portland, and other jurisdiction conferred by the general laws of the state. The City Judge may administer oaths and affirmations and take depositions. No person is eligible for the office of City Judge unless that person is of good moral standards. The City Judge does not have to be a resident of the City of Portland. The City Judge will be removed from office by the City Council for the violation of the same things that would subject the Mayor and City Council members to removal and under the same procedures. The Mayor may designate a qualified person to serve as interim City Judge during the absence or disability of the City Judge. The interim City Judge may begin serving immediately upon appointment but the appointment must

be placed on the agenda for the next meeting of the City Council to consider approval of the appointment.

Section 12.02. The City Judge may impose fines, costs, and forfeitures, and punish by fine all violations of the City ordinances; preserve and enforce order in City Court, and enforce the collection of all such fines, costs, and forfeitures imposed. Fines, forfeitures and penalties for the breach of the laws and ordinances of the city may be recovered before the City Judge in the manner prescribed by state law, and the City Judge may issue process, either summons or capias or subpoena, render judgment, issue executions, or fine for contempt. Any person dissatisfied with the judgment of the City Judge may within ten (10) entire days thereafter, Sundays exclusive, appeal to the next term of the circuit court of Sumner County, Tennessee, upon giving bond with good and sufficient security approved by the City Judge for their appearance or faithful prosecution of the appeal. In prosecution for the violations of the city ordinances, the bond may not exceed two hundred fifty dollars (\$250.00). Ordinances of the City imposing fines, penalties, and forfeitures, are to be construed remedially, and all process issued by the Mayor or City Judge, or other officer of the corporation, may be directed to the police, who must execute and return it as any other process, and may be amended from time to time to promote the attainment of justice.

Section 12.03. Only one warrant may be issued for the same offense, the warrant to embrace all the parties charged with the same offense.

Section 12.04. All fines, penalties, and costs imposed by the City Judge for the violation of the City ordinances belong to the City and shall be collected by the City Court Clerk, to be reported by the City Judge in the City Judge's monthly reports and paid over to the Finance Director.

Section 12.05. The City Judge may not allow fees to any arresting officer and 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. No fines, costs, or forfeitures may be collected by any officer until certified as due the City by the City Judge.

Section 12.06. The City Judge must keep or cause to be kept the City Court docket or dockets embodying complete detailed records of all cases tried and determined in City Court.

## ARTICLE XIII

### TAXATION AND REVENUE

Section 13.01. The collection of all taxes, including privilege taxes, business taxes, impact fees, adequate facilities taxes, development taxes, and special assessments is in charge of the Finance Director, subject to the limitations of this charter. For the purpose of collecting any taxes or fees due the City, the Finance Director may issue distress warrants the same as collectors of privilege taxes for State and County purposes. These warrants must be directed to the Police Officers of the City, who may execute and return them. All property, real, personal and mixed, subject to taxation, and all privileges taxable by law, shall be taxed and the taxes collected by the City for municipal purposes. Pursuant to general law, the county assessor of property, in conjunction with the state comptroller's office, shall prepare a separate assessment book or roll, showing the real, personal and mixed property taxable by the City or provide information that will allow the Finance Director to prepare this information. The City Council may provide compensation to the county assessor of property, state board of equalization, or state comptroller's office for furnishing this information. These records must be certified to the Finance Director of the City following completion of the work of the state board of equalization. The City Council may levy and collect taxes as of January first of each year. It may also tax privileges authorized by state law.

Section 13.02. As soon as practicable in each year, after the assessment books for the county are complete (after equalization boards have finished their work) the Finance Director must prepare or cause to be prepared from assessment books of the county and of the state comptroller's office tax books, similar to those for county trustees, but suitable for the needs of the city, embracing property and persons liable for taxes within the city. These tax books, when certified to be true, correct, and complete, will be the assessment for taxes in the City for all municipal purposes. There may be an assessment by the City at any time of privileges, or any property submitted to taxation and found to have been omitted, and this assessment shall be duly noted and entered on the assessment books of the City. The City Council may levy and collect in each year a tax for general purposes, together with any special taxes authorized by law.

Section 13.04. The Finance Director must, as soon as the assessment roll for the City is complete, submit to the City Council a certified statement of the total amount of the valuation or assessment of the taxable property for the year within the City limits, including assessments of all railroad, telephone, telegraph, and other public utility property, together with a certified statement of the revenue derived by the City from privilege taxes, fines for the preceding fiscal year and miscellaneous revenue, including the amounts in the Treasury of the City. Upon the presentation of this statement by the Finance Director, the City Council must proceed by ordinance to make the proper levy to meet the expenses of the City for the coming fiscal year.

Section 13.05. The Finance Director must immediately after the levy of taxes by the City Council cause the levy to be extended upon the tax books, in the same manner as extensions are made upon the tax books in the hands of the County Trustee, but according to the distribution of taxes by the City, and the tax books shall be placed in the hands of the City Recorder for the collection of taxes due.

Section 13.06. The Finance Director may back-assess property for three years by giving written notice to the parties interested, or to administrators, or executors of deceased persons, these notices to be signed by the Mayor. The City Council may, by ordinance, fix the time for the payment of taxes, from which time they bear interest and may require privilege taxes to be paid in advance; they may, by ordinance, prescribe a penalty for the nonpayment of taxes, which must be paid by each delinquent, and these penalties accrue to the general fund of the City.

Section 13.07. The list of taxable property in the hands of the Finance Director shall be held and deemed a writ of fieri facias against the personal effects of the person named, and the City Recorder may, under this list collect taxes authorized in this charter or by general law.

Section 13.08. The City Council may file bills in the Chancery Court in the name of the City for the collection of assessments and levies made for the improvements or services in the City, such as providing street paving, sidewalks, curbing, guttering, and other improvements for which assessments may be made under this charter or by general law and the cost of which is made a charge on the property abutting the improvement. The suit commenced by these bills is to be conducted as other suits in Chancery for the enforcement of like liens. The bills shall not be objectionable because the owners of different parcels or lots of land are made parties, it

being the legislative intent that all persons in the same improvement district be made parties defendant to one bill.

## ARTICLE XIV

### MISCELLANEOUS PROVISIONS

14.01. All purchases made for the city must be made in accordance with the Municipal Purchasing Law of 1983 (Tennessee Code Annotated, Section 6-56-301 et seq.), other general laws regulating purchases by municipalities, and the city's ordinances and policies adopted under those laws.

Section 14.02. All ordinances, resolutions, and contracts, and legal obligations of the City of Portland are continued. Only ordinances or resolutions or parts of ordinances and resolution in conflict with this charter are repealed.

Section 14.03. This charter is declared to be a public law, and may be read as evidence in all Courts without proof or special pleadings.

Section 14.04 The City Council may establish a pension plan for city employees, including contracting with the Tennessee Consolidated Retirement System.

Section 14.05. The City Council may construct, purchase, and own and operate an electric light or water plant, or both, for the purpose of lighting and furnishing water to public buildings, streets, and all other public places and uses within the corporate limits of the City, and for the sale of electric current and water to all persons, firms, and corporations desiring to purchase them, either within or beyond the corporate limits of the City, for lighting, heating or power, or for any other purpose, and it is not required that the City generate electric current, but the City may purchase the current and distribute it.

Section 14.06. The City Council is forbidden to sell, lease, dispose of, dismantle, or to turn over to others for operation the City's water or light plant, without the consent of three-fourths majority of the city's qualified voters, obtained at an election held for that purpose. If the City Council deems it proper to do any of these things, it must submit the propositions to the voters for approval, setting forth the terms, conditions, provisions, and details of the proposed transaction in an ordinance duly passed by the City Council at least 30 days before certification and cause the ordinance to be certified to the Sumner County election commission which must

call the election after advertising it for at least thirty (30) days after certification by advertisements in a newspaper published in the City of Portland stating the purpose of the election, and hold the election at the regular voting places in the City. On the ballots used in the election the words "For Sale," "For Lease," and "Against Sale," or "Against Lease," must appear, for or against, whatever the proposition may be. All persons qualified to vote in other City elections are qualified to vote in this election. The result of the election must be certified by the election commission to the City Council.

Section 14.07. If a part of this charter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this charter is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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 Portland. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Portland 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.