

SENATE BILL 2371

By Norris

AN ACT to amend Chapter 120 of the Private Acts of 1915; as amended by Chapter 527 of the Private Acts of 1921; Chapter 36 of the Private Acts of 1955; Chapter 58 of the Private Acts of 1965; Chapter 353 of the Private Acts of 1974; Chapter 38 of the Private Acts of 1977; Chapter 200 of the Private Acts of 1982, Chapter 8 of the Private Acts of 1991; and any other acts amendatory thereto, relative to the municipal charter for the Town of Mason.

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

SECTION 1. Chapter 120 of the Private Acts of 1915; as amended by Chapter 527 of the Private Acts of 1921; Chapter 36 of the Private Acts of 1955; Chapter 58 of the Private Acts of 1965; Chapter 353 of the Private Acts of 1974; Chapter 38 of the Private Acts of 1977; Chapter 200 of the Private Acts of 1982, Chapter 8 of the Private Acts of 1991; and any other acts amendatory thereto, are amended by deleting such chapters in their entireties, except for Section 2 of Chapter 120 of the Private Acts of 1915, and by substituting instead the following language to be the charter of the Town of Mason:

CHARTER OF THE TOWN OF MASON

SECTION 1. The inhabitants of the Town of Mason, in the County of Tipton and State of Tennessee, are hereby constituted a body politic and corporate under the name and style of "The Board of Mayor and Aldermen of Mason," and under that name may have perpetual succession.

SECTION 2. The boundaries of the Town shall be as provided in Section 2 of Chapter 120 of the Private Acts of 1915 and, in addition, shall include annexations made pursuant to general law.

SECTION 3. The governing body of the Town shall consist of a Mayor and six (6) Aldermen, who shall be elected and hold office as hereinafter provided. No person

shall be eligible for the office of Mayor or Alderman unless they are a qualified voter and have been a bona fide resident of the Town for six (6) months preceding the election. The Board of Mayor and Aldermen shall declare that a vacancy exists if the Mayor or an Alderman resigns, dies, moves their residence from the Town, is convicted of malfeasance or misfeasance in office, a felony, a violation of this Charter or the election laws of the state, or a crime involving moral turpitude, fails to attend any meetings of the Board for a period of ninety (90) days with no extenuating circumstances or has been continuously disabled for a period of at least six (6) months so as to prevent them from discharging the duties of the office. Except as provided in Section 10, all vacancies in the office of Aldermen and other officers of such Town shall be filled by a vote of a majority of the remaining members of the Board of Mayor and Aldermen.

SECTION 4. In order to increase the participation of the voters in municipal elections and to save considerable expense for the taxpayers of the Town of Mason, the Board of Mayor and Aldermen hereby extend the terms of the members of the Board so that future elections of the Town of Mason will be conducted at the regular state election held in November of even-numbered years. The terms of the Mayor and six (6) Aldermen whose terms expire in April 2013 are hereby extended until the first regular meeting of the Board in December 2014.

At the regular election to be held in November 2014, the candidate for Mayor receiving the highest number of votes for Mayor shall be elected for a term of four (4) years or until a successor is elected and qualified.

At the regular election to be held in November 2014, the three (3) candidates for Alderman receiving the highest number of votes shall be elected for a term of four (4) years or until their successors are elected and qualified, the three (3) candidates for Alderman receiving the next highest number of votes shall be elected for a term of two (2) years or until their successors are elected and qualified. At the election to be held in November 2016, the three (3) candidates for Alderman receiving the highest number of votes shall be elected for a term of four (4) years or until their successors are elected

and qualified. After the election in November 2014 all Alderman terms shall be four (4) years.

The Mayor and Aldermen shall assume office at the first regular meeting of the Board in December following their election.

The election shall be called and held by the Board of Election Commissioners of Tipton County as other general elections are held, and all of the laws applicable to general elections shall apply thereto.

SECTION 5. All persons who are qualified to vote for members of the general assembly in the state, and who meet the residency requirements of general law and have registered to vote in accordance with general law; and all non-residents who are qualified voters of Tipton County, Tennessee, owning real estate in such Town of Mason, shall be entitled to vote in such elections.

SECTION 6. Before a person takes any office in the Town government, they shall subscribe to the following oath or affirmation, administered by the Recorder or the Mayor: "I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and the State of Tennessee, that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Mason, and that I will faithfully discharge the duties of the office of \_\_\_\_\_."

SECTION 7. The salaries of the Mayor and Aldermen shall be fixed by ordinance; but they shall not be increased or diminished during the term for which they are elected.

SECTION 8. The Board may require and prescribe by ordinance a bond or bonds to be executed by any officer of such Town, and to fix the amount and terms thereof, requiring such bond to be executed before such officer shall go into the discharge of their duties.

SECTION 9. The legislative powers of the Town shall be vested in the Board of Mayor and Aldermen; and they shall hold monthly meetings on such days of the month as may be fixed by the Board. When the welfare of the Town demands it, the Mayor or any three (3) Aldermen may call a special meeting of the Board of Mayor and Aldermen,

by causing all the members thereof to be notified of such special meeting. In case of the absence of the Mayor from any regular or special meetings, a quorum of the Board being present, the vice Mayor shall preside at such meeting.

Four (4) members of the Board of Mayor and Aldermen shall constitute a quorum for the transaction of business; but a smaller number may adjourn from day to day. The Board may determine its own rules of proceeding, and prescribe the punishment of its members for non-attendance, disorderly or improper conduct, and enforce the same. To enable the Board to fully investigate charges that may be brought against any officer or official of such Town, both the Mayor and the Recorder are hereby empowered to issue subpoenas to compel the attendance of persons as witnesses before the Board or any Committee thereof.

SECTION 10. There shall be a Vice-Mayor who shall be elected at the first meeting after each election by the Board from among their number. The term of office of the Vice-Mayor shall be for a period of two (2) years. The Vice-Mayor shall perform the duties of the Mayor during the Mayor's temporary absence or inability to act. In case of vacancy in the office of Mayor, the Vice-Mayor shall complete the unexpired term, or until the next regular Town election, whichever shall occur first. If the Vice-Mayor is completing a term in the office of Mayor, the vice-Mayor's position as an Alderman shall become vacant and the Board shall fill the vacancy as provided in Section 3. The Board shall select another of their number to complete the unexpired term of the Vice-Mayor.

SECTION 11. There is hereby created a city court. The Board of Mayor and Aldermen shall appoint a City Judge who shall serve at the will of the Board. The City Judge shall try all violations of this act or any lawful ordinance of the Town and impose penalties and enforce the collection and payment of the same in accordance with Section 16 (28)(B) of this Charter and the Municipal Court Reform Act of 2004, codified as Tennessee Code Annotated, Title 16, Chapter 18, Part 3. In the absence or temporary disability of the City Judge, the Mayor may designate a qualified person to serve as City Judge. The compensation of the City Judge shall be fixed by the Board of Mayor and Aldermen.

SECTION 12. The Town government shall be organized into such departments and offices as shall be provided by ordinance. The Board may determine by ordinance the functions and duties of all departments and offices. The Board may establish, abolish, merge or consolidate offices, positions of employment and departments; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment and departments.

The Mayor shall appoint all department heads including the city attorney and all employees with the consent of the Board and all employees shall work at the will and pleasure of the Board.

The appointment and promotion of employees of the Town shall be on a basis of merit, considering technical knowledge required to perform satisfactorily the work, experience in the particular or similar line of work, and administrative or supervisory qualifications.

SECTION 13. All contracts and bonds of the corporation shall be signed by the Mayor and countersigned by the Recorder under the seal of the corporation upon authority given by the Board at one of its meetings. All disbursements shall be made by checks signed by the Town Recorder and by the Mayor. The Board may designate other officers to sign such checks in the absence or disability of the Mayor or Town Recorder.

SECTION 14. The Mayor shall have the power to make pro tempore appointments to fill vacancies occasioned by sickness, absence, or other disability of any of the employees of such corporation; and to suspend any of such employees for misconduct in office or for neglect of duty, reporting the action along with the reasons therefor in writing to the next regular meeting of the Board. Final action thereon shall be taken by such Board.

SECTION 15. The Board shall employ or designate a person to be the Town Recorder. The Recorder or the Recorder's designee shall be present at all meetings of the Board, and keep a full and accurate record of all business transacted by the Board to

be preserved in permanent form. The Recorder or the Recorder's designee shall have custody of, and preserve in the Recorder's office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the Board, contracts, bonds, title deeds, certificates, and papers, all official indemnity or security bonds (except the Recorder's bond, which shall be in the custody of the Mayor), and all other bonds, oaths and affirmations and all other records, papers, and documents not required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof. All such records shall be the property of the municipality. The Recorder shall provide, copy, and, when required by any officer or person, certify copies or records, papers and documents in the Recorder's office. Fees for copying and certification shall be charged as established by resolution.

#### SECTION 16.

(a) The Board of Mayor and Aldermen shall have the power to:

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

(2) Adopt classifications of the subjects and objects of taxation that are not 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 give any appropriate evidence thereof, in the manner provided for in this section;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality in accordance with the Local Government Public Obligations Act, compiled in Tennessee Code Annotated, Title 9, Chapter 21, upon the credit of the municipality or solely upon the credit of specific property owned by the

municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, 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 municipality for all lawful purposes;

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

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality for present or future public use. The condemnation shall be effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapters 16 and 17, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust, and administer trusts for the public benefit;

(11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility that is of service to the municipality, its inhabitants, or any part of the municipality, and further, may issue debt for these purposes under the Local Government Public Obligations Act, compiled in Tennessee Code Annotated, Title 9, Chapter 21;

(12) Grant to any person, firm, association or municipality, franchises for public utilities and public services to be furnished the municipality and those in the municipality. The power to grant franchises embraces the power to grant exclusive franchises. When an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or

less, but not longer. The Board may prescribe, in each grant of a franchise, the rates, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that may be opened after the grant of the franchise;

(13) Make contracts with any person, firm, association or corporation for public utilities and public services to be furnished the municipality and those in the municipality. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The Board may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that may be opened after the grant of the contract;

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



(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefor under the provisions of §§ 7-31-107 - 7-31-111 and 29-16-114, or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, title 7, chapters 32 and 33;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removing, abolishing and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the Board;

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

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation or disposal may be funded

by taxation, special assessment to the property owner, user fees or other charges;

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

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

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

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

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

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

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

(27) Purchase or construct, maintain and establish a correctional facility for the confinement and detention of persons who violate laws within the corporate limits of the municipality or to contract with the county to keep these persons in the correctional facilities of the county;

(28)

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

(B) Provide by ordinance for court costs in accordance with the Municipal Court Reform Act of 2004, codified at Tennessee Code Annotated, title 16, chapter 18, part 3;

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

(30) Call elections as provided in this Charter;

(31) 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; and

(32) Create a design review commission, which shall have the authority to develop general guidelines and to develop procedures for the approval of the guidelines for the exterior appearance of all nonresidential property, multiple family residential property and any entrance to nonresidential developments within the municipality; provided, that the authority is subordinate to and in no way exceeds the authority delegated to a municipal planning commission pursuant to title 13, chapter 4. Any property owner affected by the guidelines may appeal a decision by the design review commission to the municipality's planning commission or, if there is no planning commission to the entire municipal legislative body.

(b) In exercising the foregoing powers, the following actions shall be by ordinance:

- (1) Any action required by general law to be by ordinance;
- (2) Any action required by this charter to be by ordinance;
- (3) Any action that levies a tax;
- (4) Any action that makes a special assessment;
- (5) Any action that is permanent in nature; and
- (6) Any action that has a regulatory or penal effect.

SECTION 17. No member of the Board or officers of the Town shall be interested either directly or indirectly in any contract or any work of any kind whatever under its control and direction under penalty of forfeiture of office.

SECTION 18. All the ordinances of the Town shall remain in full force and effect until the same are repealed or modified by the Board, unless the same are in conflict with the provisions of this act. All the obligations of the Town of Mason shall be and remain in full force until the same are satisfied.

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 Town of Mason. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

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