

AN ACT to amend Chapter 373, of the Private Acts of 1911, as amended by Chapter 3 of the Private Acts of 1969; Chapter 19 of the Private Acts of 1973; Chapter 63 of the Private Acts of 1977 and Chapter 125 of the Private Acts of 2006; and any other acts amendatory thereto, relative to the Charter of the Town of Atoka.

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

SECTION 1. Chapter 373, of the Private Acts of 1911, as amended by Chapter 3 of the Private Acts of 1969; Chapter 19 of the Private Acts of 1973; Chapter 63 of the Private Acts of 1977; Chapter 125 of the Private Acts of 2006; and any other acts amendatory thereto relative to the Charter of the Town of Atoka is amended to read as follows:

SECTION 1. The citizens of Atoka, in the county of Tipton, State of Tennessee, and the inhabitants thereof, is a body politic and corporate and is hereby incorporated by and under the name and style of the "Board of Mayor and Aldermen of Atoka".

SECTION 2. The boundaries of the Town shall be as provided in Chapter 373 of the Private Acts of 1911 and all acts amendatory thereto and in addition shall include annexations made pursuant to general law.

SECTION 3. Powers of the Town. The Town shall have all powers possible for a Town to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter.

SECTION 4. General Powers. The Town 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 for municipal purposes;

(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 hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds in accordance with the Local Obligation Public Obligations Law, codified at Tennessee Code Annotated, Title 9, Chapter 21, warrants, promissory notes or orders of the Town,

upon the credit of the Town or solely upon the credit of specific property owned by the Town or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the Town, 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 Town 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 Town or state;

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

(10) Take and hold property within or without the Town 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 Town, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the Local Government Public Obligations Act, Tennessee Code Annotated Title 9, Chapter 21;

(12) Grant to any person, firm, association or corporation (including the Town) franchises for public utilities and public services to be furnished the Town and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the Town 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 rate, 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 Town at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the Town and those therein. 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 Town 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 thereafter may be opened;

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

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public 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 Tennessee Code Annotated §§ 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, Tennessee Code Annotated Title 7, Chapters 32 and 33 of the general laws;

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

(18) 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, business, occupations, callings, trades, use 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 Town, 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 Town, and charge reasonable fees therefor, and provide standards of weights, tests and measures, pursuant to Tennessee Code Annotated, Title 47, Chapter 26, Part 9;

(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 city or to contract with the county to keep such persons in the correctional facility of the county and to enforce the payment of fines and costs through contempt proceedings in accordance with general law;

(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;

(29) Establish schools, to the extent permitted or not prohibited by general law, determine the necessary Boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts

necessary to establish, maintain and operate a complete educational system within the Town;

(30) Regulate, tax, license or restrain large animals from running at large and to authorize the summary sale or other disposition of the animals within the Town, impound them, and in default of redemption, sell or kill them;

(31) Call elections as herein provided;

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

(33) 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.

SECTION 5. Construction. The powers of the Town under this charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this charter.

SECTION 6. Intergovernmental Relations. The Town may participate by contract or otherwise with any governmental entity of this state or any other state or states or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

SECTION 7. Town Elections, Vice Mayor.

(a) There shall be a Mayor and six (6) Aldermen, who shall constitute the Board of Mayor and Aldermen of Atoka, and they shall be elected by the qualified voters as hereafter provided. The Board of Mayor and Aldermen shall hereinafter be referred to as the "Board".

(b) Elections of the Town of Atoka will be conducted at the regular election held in November of even-numbered years. The term of office of the Mayor and each Alderman shall be four (4) years. It is the intent of this charter to continue the existing pattern of staggered four (4) year terms. Therefore, on the first Tuesday after the first Monday in November, 2012, and on the first Tuesday

after the first Monday of each second year thereafter, an election shall be held in the Town to fill the offices, the terms of which are then expiring. The person receiving the highest number of votes for Mayor shall be declared Mayor. The three (3) candidates receiving the highest number of votes for Alderman shall be elected until their successors are elected and qualified. The term of office of the Mayor and each Alderman shall begin at the first regular meeting in December following their election.

(c) The Mayor at the first regular meeting after the newly elected Aldermen have taken office, following each biennial election, shall appoint one of the Alderman to serve as Vice-Mayor for a term of two (2) years.

(d) Any United States citizen who is or will be eighteen (18) years old before the next election date and is a Tennessee resident and eligible to vote for members of the General Assembly in the State and who have been actual bona fide residents and citizens of the territory within the corporate boundaries of Atoka, and all nonresidents owning real estate in Atoka, shall be entitled to vote unless he or she has been legally disqualified pursuant to Tennessee Code Annotated, §2-2-102, §2-2-104 and §2-2-122. No more than two (2) persons shall be entitled to vote based upon the ownership of an individual tract of property regardless of the number of property owners.

(e) Conduct of Elections. The provisions of the general election laws of the State of Tennessee shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by the election authorities established by law.

(f) No person shall be eligible for the office of Mayor or Alderman unless such person has resided within the Town for at least one (1) year next preceding the election.

(g) Residence within any area annexed in a year preceding an election shall be counted in meeting the residence requirement of this section.

(h) Any Board member moving from the Town during the term of office shall be presumed to have vacated the office, and it shall be declared vacant, and filled as provided in section 10.

SECTION 8. The officers of the corporation of Atoka shall, before entering upon the discharge of duties of the office, take an oath to support the Constitution and the laws of the United States and the State of Tennessee.

SECTION 9. The salaries of the Board of the Town of Atoka shall be fixed by ordinance of the Board of Mayor and Aldermen but the salary shall not be increased or diminished for the term for which they are elected.

SECTION 10. Vacancies; Forfeiture of Office; Filling of Vacancies.

(a) Vacancies. The office of a Board member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A Board member shall forfeit that office if the Board member:

- (1) Fails to meet the residency requirements.
- (2) Violates any express prohibition of this charter,
- (3) Is convicted of a crime involving moral turpitude, or
- (4) Fails to attend five (5) consecutive regular meetings of the Board without being excused by the Board.

(c) Filling of Vacancies. By affirmative vote of a majority of the remaining members, the Board shall fill a vacancy on the Board for the unexpired term, but any portion of an unexpired four-year term for Alderman or Mayor that remains beyond the next municipal election shall 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.

SECTION 11. 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 or time to time.

SECTION 12. The Aldermen shall act on all matters as a body, and no member shall seek individually to influence the official acts of any officer or employee of the Town, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by any officer or employee. The Board shall deal with the various agencies, officers and employees of the Town, through the Town Administrator, and shall not give orders to any subordinates of the Town Administrator, either publicly or privately. Nothing herein contained shall prevent the Board from conducting such inquiries into the operation of the Town government and the conduct of the Town's affairs as it may deem necessary.

SECTION 13. Procedure.

(a) Meetings. The Board shall meet regularly at least once in every month at such times and places as the Board may prescribe by ordinance. Special meetings may be held on the call of the Mayor, or of three or more members and, whenever practicable, upon no less than twelve-hours (12) notice to each member. Except as allowed by state law, all meetings shall be public.

(b) Rules and Journal. The Board shall by ordinance determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(c) Voting. Voting on ordinances shall be by roll call and the ayes and nays shall be recorded in the journal. All other votes may be by voice vote. No ordinance shall be adopted on final consideration unless approved by the affirmative vote of at least four (4) members of the Board. Any other form of Board action shall be passed by a majority of the members present, if there is a quorum. The Mayor shall not have a vote on any matters except in the case of a tie vote.

SECTION 14. Action Requiring an Ordinance. In accordance with Tennessee Code Annotated, Section 6-54-512, in addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the Town Board shall be by ordinance which:

(a)

(1) Adopt or amend an administrative code or establish, alter, or abolish any Town department, office, or agency;

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes;

(4) Grant, renew, or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money, unless a resolution is required.

(7) Convey or lease or authorize the conveyance or lease of any lands of the Town;

(8) Regulate land use and development;

(9) Amend or repeal any ordinance previously adopted; or

(10) Adopt, with or without amendment, ordinances proposed under the initiative power.

(b) Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

SECTION 15. Ordinances in General.

(a) The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the Town of Atoka:" An ordinance shall be considered and adopted on two (2) separate days, and there shall be a minimum of seven (7) days between considerations. Any ordinance may receive first consideration upon its introduction. Ordinances shall take effect upon final consideration and adoption and being signed by the Mayor unless a different effective date is designated in the ordinance.

(b) All ordinances shall be signed by the Mayor before they shall become effective. The Mayor shall affix his approval or disapproval within five (5) days after adoption by the Board. If the Mayor fails to sign the ordinance within five (5) days, exclusive of Sundays and holidays, the ordinance shall become effective for failure to veto. The Mayor shall state the reasons for vetoing an ordinance in writing and shall transmit the reasons and the ordinance back to the Board for its action. The Board may pass the ordinance over the veto by a simple majority vote of the full membership of the Board.

SECTION 16. Duties of Mayor.

(a) The Mayor:

(1) Shall be the chief executive officer of the Town and shall preside at meetings of the Board;

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

(3) May call special meetings of the Board upon adequate notice to the Board and adequate public notice;

(4) Shall countersign checks drawn upon the treasury and sign all contracts to which the Town is a party;

(5) Shall make appointments to Boards and commissions as authorized by law.

(b) Unless otherwise designated by the Board by ordinance, the Mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(1) Those duties set forth in Section 17, if the Board does not appoint a Town Administrator, or if someone else is not designated by the Board to perform those duties;

(2) Prepare and submit the annual budget and capital program to the Board for their adoption by ordinance; and

(3) Such other duties as may be designated or required by the Board.

SECTION 17. Duties of Town Administrator.

(a) The Board may appoint a Town Administrator who shall be under the control and direction of the Board. The Town Administrator shall report and be responsible to the Board and serve at the pleasure of the Board subject to any contract between the Board and the Town Administrator.

(b) The Board may, by ordinance, require the Town Administrator to perform any or all the following duties:

(1) Administer the business of the Town;

(2) Employ, promote, discipline, suspend and discharge all employees, in accordance with personnel policies and procedures adopted by the Board, provided however, department heads shall be appointed or terminated only by the Board;

(3) Act as purchasing agent for the Town in the purchase of all materials, supplies and equipment for the proper conduct of the Town's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the Board;

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

(5) Keep the Board fully advised as to the conditions and needs of the Town;

(6) Report to the Board the condition of all property, real and personal, owned by the Town and recommend repairs or replacements as needed;

(7) Recommend to the Board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the Town;

(8) Recommend specific personnel positions, as may be required for the needs and operations of the Town, and propose personnel policies and procedures for approval of the Board; and

(9) Perform such other duties as may from time to time be designated or required by the Board.

SECTION 18. Departments, Offices, and Agencies. General Provisions.

(a) Creation of Departments. The Board may establish departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

(b) As used in this charter, unless the context otherwise requires:

(1) "Board" means the Board of Mayor and Aldermen;

(2) "Department head" means the Town Administrator, Town recorder, police chief and any other department heads appointed by the Board;

(3) "Officer" means the Mayor, Alderman, Town Attorney and Town Judge;

SECTION 19. Personnel System

(a) Merit Principle. All appointments and promotions of Town officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

(b) Policies. Consistent with all applicable federal and state laws the Board shall provide by resolution for the establishment of personnel policies necessary for effective administration of the employees of the Town's departments, offices and agencies, including but not limited to classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

(c) Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment.

SECTION 20. Town Recorder. The Board shall appoint an employee who shall have the title of Town recorder. The Town recorder shall give notice of Board meetings to its members and the public; keep the journal of its proceedings and perform such other duties as are assigned by this charter, the Town Administrator, the Board or by state law.

SECTION 21. Town Attorney.

(a) Appointment. The Mayor, with the approval of the city board, may employ a Town attorney. The Town attorney shall receive a salary to be fixed by the Board of Mayor and Aldermen.

(b) Role. The Town Attorney shall serve as chief legal adviser to the Board, the Mayor and all Town departments, offices and agencies, and shall represent the Town in all legal proceedings and shall perform any other duties prescribed by state law, by this charter or by ordinances.

SECTION 22. Municipal Court. In accordance with the Municipal Court Reform Act, compiled in Tennessee Code Annotated, Title 16, Chapter 18, Part 3, the Board may create a municipal court pursuant to the authorization provided by the general law. Such a court shall have jurisdiction in and over cases for the violation of the laws and ordinances of the Town, or cases arising under the laws and ordinances of the Town, and shall function according to the general laws of the state.

SECTION 23. Financial Management.

(a) Fiscal Year. The fiscal year of the Town shall begin on the first day of July and end on the last day of June.

(b) Not later than forty-five (45) days prior to the beginning of each fiscal year, the Town Administrator shall submit to the Board of Mayor and Aldermen a proposed budget for the next fiscal year. The proposed budget shall comply with the Municipal Budget Law of 1982 found in Tennessee Code Annotated, Title 6, Chapter 56, Part 2.

(c) The Board shall provide for an independent annual audit of all Town accounts and may provide for more frequent audits as it deems necessary.

SECTION 2. 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 Town of Atoka. Its approval or nonapproval shall be proclaimed by the Mayor 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.