

**Finance & Administration Committee Meeting**  
**October 20, 2020**  
**4:00 p.m.**

1. Discussion on City Properties – 408 Valley, N. Main, 133 East Pleasant
2. Discussion on Anderson Field Property
3. Code/Charter Information

October 16, 2020

City Charter Review

The Mayor scheduled meetings of Department Heads, Attorney Rachel Witherington, MTAS Consultant Ronnie Neill, and Records Clerk David Gwinn to review our Charter and offer amendments for the Board to consider.

We have attached a copy of our City Charter, MTAS-297 Amending Private Act Charters, MTAS-176 Ouster, proposed amendments for consideration by Attorney Rachel Witherington, review and comments by MTAS consultant Ronnie Neill.

During the F & A meeting on October 20, 2020 the Mayor will provide the timeline for this project.

If I can assist you in anyway during your review please let me know.

Thanks

Lessie

CHARTER OF THE CITY OF COVINGTON, TENNESSEE<sup>1</sup>

Chapter 132

House Bill No. 4072

AN ACT to amend Chapter 322 of the Acts of 1903; as amended by Chapter 219 of the Acts of 1909; Chapter 31 of the Private Acts of 1913 (First Extraordinary Session); Chapter 402 of the Private Acts of 1919; Chapter 381 of the Private Acts of 1929; Chapter 570 of the Private Acts of 1931; Chapter 598 of the Private Acts of 1931; Chapter 192 of the private acts of 1933; chapter 747 of the private acts of 1933; chapter 749 of the private acts of 1933; chapter 297 of the private acts of 1937; chapter 240 of the private acts of 1941; chapter 698 of the private acts of 1951; chapter 32 of the private acts of 1953; chapter 11 of the private acts of 1961; chapter 230 of the private acts of 1963; chapter 231 of the private acts of 1963; chapter 406 of the private acts of 1968; chapter 226 of the private acts of 1974; chapter 224 of the private acts of 1974; chapter 140 of the private acts of 1975; chapter 139 of the private acts of 1975; chapter 343 of the private acts of 1982; chapter 10 of the private acts of 1993 and chapter 80 of the private acts of 2004; and Any Other acts Amendatory Thereto, Relative to the charter of the City of Covington.

Table of Contents

Section	Page
1. Incorporation, name, and general powers . . . . .	C-3
2. Corporate boundaries . . . . .	C-3
3. Composition of board of mayor and aldermen . . . . .	C-3
4. Elections for and terms of mayor and aldermen; appointment, term, and duties of recorder and treasurer . . . . .	C-4

---

<sup>1</sup>Priv. Acts 2006, ch. 132, is the current basic charter act for the City of Covington, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2019 session of the Tennessee General Assembly. Sections of the charter which have been amended contain at the end of those sections the citation to the official act or acts constituting the amendment or amendments. No other changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the acts including the basic charter appears at the end of the charter.

Acts of a temporary nature with no general or continuing application, such as bond authorization and validation acts have not been included in this compilation.

Section	Page
5. Officers and ordinances under old charter . . . . .	C-5
6. Transfers of public property to new corporation . . . . .	C-6
7. Mayor and aldermen required to be residents . . . . .	C-6
8. Elections and voting . . . . .	C-6
9. Vacancies . . . . .	C-7
10. City attorney . . . . .	C-7
11. Officers to take an oath . . . . .	C-7
12. Bonds of officers . . . . .	C-7
13. Salaries, benefits and reimbursement allowances for officers . . . . .	C-7
14. Regular meetings, special meetings and quorum of board . . . . .	C-8
15. Board's rules of procedure . . . . .	C-8
16. Recorder to keep minute books and ordinance books; adoption of ordinances and resolutions . . . . .	C-8
17. Form of ordinances . . . . .	C-9
18. Removal of officers elected by the people . . . . .	C-9
19. Miscellaneous powers enumerated . . . . .	C-9
20. Public airports . . . . .	C-14
21. Referendum election to be called for sale or lease of public utilities . . . . .	C-15
22. Mayor's powers and duties . . . . .	C-15
23. Vice-mayor . . . . .	C-17
24. Mayor and recorder to sign contracts and bonds . . . . .	C-17
25. General duties of recorder and treasurer; absence . . . . .	C-17
26. Collection and dispersal of revenues by treasurer or finance director . . . . .	C-18
27. Official depository for city funds . . . . .	C-18
28. Mayor to be custodian of corporate seal . . . . .	C-18
29. Authority for fire department and outside fire service . . . . .	C-18
30. City court . . . . .	C-19
31. Police department. . . . .	C-19
32. Budget . . . . .	C-19
33. Purchasing procedures, purchasing agent, and surplus property disposal . . . . .	C-20
34. Officers not to be interested in city contracts, etc. . . . .	C-20
35. Subpoena power of mayor . . . . .	C-20
36. Delinquent property tax collection . . . . .	C-20



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

SECTION 1. chapter 322 of the acts of 1903; as amended by chapter 219 of the acts of 1909; chapter 31 of the private acts of 1913 (First extraordinary Session); chapter 402 of the private acts of 1919; chapter 381 of the private acts of 1929; chapter 570 of the private acts of 1931; chapter 598 of the private acts of 1931; chapter 192 of the private acts of 1933; chapter 747 of the private acts of 1933; chapter 749 of the private acts of 1933; chapter 297 of the private acts of 1937; chapter 240 of the private acts of 1941; chapter 698 of the private acts of 1951; chapter 32 of the private acts of 1953; chapter 11 of the private acts of 1961; chapter 230 of the private acts of 1963; chapter 231 of the private acts of 1963; chapter 406 of the private acts of 1968; chapter 226 of the private acts of 1974; chapter 224 of the private acts of 1974; chapter 140 of the private acts of 1975; chapter 139 of the private acts of 1975; chapter 343 of the private acts of 1982; chapter 10 of the private acts of 1993 and chapter 80 of the private acts of 2004; and any other acts amendatory thereto, is amended by deleting such chapter, as amended, in its entirety except as provided in sections 2 and 5 of this Act and by substituting instead the following language to be the charter of the City of Covington:

Incorporation, name, and general powers

SECTION 1. The municipality of Covington, in the County of Tipton, and the inhabitants thereof, are hereby constituted a body politic and corporate by the style and name "City of Covington" and shall have perpetual succession by the corporate name; may sue and be sued, plead and be impleaded; grant, receive, purchase and hold real, mixed and personal property; may sell, lease, or dispose of the same for benefit of said municipality; and may do all other acts authorized by municipal, state and federal law as stated and implied powers of a municipality; and may have and use a corporate seal and change it at its pleasure.

Corporate boundaries

SECTION 2. The boundaries of the city shall be as provided in Chapter 322 of the Acts of 1903 and all other acts amendatory thereto, and in addition shall include annexations made pursuant to general law.

Composition of board of mayor and aldermen

SECTION 3. The legislative powers of the City of Covington shall be vested in and exercised by a Board of Mayor and Aldermen, elected under the provisions of this act, over whose meetings the Mayor shall

preside. Any form of board action shall be passed by a majority of the entire membership of the board. A quorum shall consist of four (4) Aldermen. The Board of Mayor and Aldermen shall hold regular monthly meetings and hear and take action on ordinances, resolutions and other matters of City business. The Board of Mayor and Aldermen may appoint, promote, suspend, transfer and remove any officer or employee of the City; or the Board may, in the Board's discretion, authorize the Mayor or head of a department or officer responsible to the Board to take such actions regarding subordinates in such department or office. The Board shall appoint such heads of administrative offices or organizational units, as the Board deems necessary. The Board may combine any such administrative offices herein or otherwise established. Except as otherwise provided in this charter, the compensation of all officers and employees of the City shall be fixed by the Board within the limits of the appropriations ordinance and in accordance with a comprehensive pay plan adopted by the Board.

Elections for and terms of mayor and aldermen; appointment, term, and duties of recorder and treasurer

SECTION 4. The Mayor shall be elected by popular vote at large and the six (6) Aldermen shall be elected two (2) from each district.

A nonpartisan election shall be conducted by the Tipton County Election Commission under the laws of the State of Tennessee, governing elections or by such officer or officers in such manner as the laws of the State may prescribe.

The candidate for Alderman receiving the highest number of votes in a district shall be elected and the candidate for the office of Mayor receiving the highest number of votes in the City shall be elected. If there is a tie vote between the two (2) or more persons having the highest number of votes for the office of Alderman or Mayor, the members of the Board of Mayor and Aldermen elect, between whom there is no tie, shall, upon taking office, cast the deciding vote for the office. The Board shall elect a candidate from those involved in the tie vote within 30 days of the date the election was certified.

If an area is hereafter annexed, such area shall be assigned to the Aldermanic district or districts closest and adjacent thereto. In order to assure that the districts shall be at all times as equal in population as practicable, revisions and changes of boundaries may be made; provided, however, there shall never be more than three (3) districts as heretofore set forth. Districts shall be reapportioned every ten (10) years based



upon the most recent federal census; provided, however, such districts shall not exceed three (3) in number. The Board shall have prepared a redistricting ordinance and community interests, non-discriminatory, and as equal in population as reasonably practicable. The ordinance shall be adopted within one hundred eighty (180) days of the publication of the national census of the State of Tennessee.

In order to increase the participation of the voters in municipal elections and to save considerable expense for the taxpayers of the City of Covington, the Board of Mayor and Aldermen hereby extend the terms of the current members of the Board so that the future elections of the City of Covington will be conducted at the regular election held in November of even-numbered years. The terms of the three (3) Aldermen whose terms expire in April 2007 are hereby extended until the first regular meeting of the Board in December 2008. The terms of the three (3) Aldermen and the Mayor whose terms expire in April 2009 are hereby extended until the first regular meeting of the Board in December 2010.

At the election to be held in November 2008, one (1) position of Alderman shall be filled by a candidate chosen by the voters from district 1, one (1) position of Alderman shall be filled by a candidate chosen by voters from district 2, and one (1) position of Alderman shall be filled by a candidate chosen by the voters from district 3. At the election to be held in November 2010, one (1) position of Alderman shall be filled by a candidate chosen by the voters from district 1, one (1) position of Alderman shall be filled by a candidate chosen by the voters from district 2, and one (1) position of Alderman shall be filled by a candidate chosen by the voters from district 3. In addition to the three (3) Aldermen elected in November 2010, there shall be an election for the office of Mayor. The Mayor and Aldermen shall hold office for a term of four (4) years or until their successors are elected and qualified.

The successful candidates will be sworn in and take office at the next regularly scheduled meeting of the Board of Mayor and Aldermen following their election.

All the officers of the City of Covington shall continue to hold their respective offices until their successors are elected and qualified.

#### Officers and ordinances under old charter

SECTION. 5. All the officers of the said City of Covington holding office under and during the existence of the amended charter of 1903, Chapter 322 of the Acts of 1903, as amended, shall hold over and remain

in said offices, and shall have all the rights, powers, and duties connected with and pertaining to said offices until their successors are elected and qualified; and all ordinances in force and existing under and during the existence of the said amended charter of 1903, Chapter 322 of the Acts of 1903, as amended, shall remain in full force and effect under this charter until repealed or revoked by the said Board of Mayor and Aldermen of the said City of Covington.

#### Transfers of public property to new corporation

SECTION 6. All public buildings, squares, promenades, streets, highways, alleys, and all other property, real and personal, the title to which was in the Board of Mayor and Aldermen of the City of Covington pursuant to Chapter 322 of the Acts of 1903, as amended, are hereby transferred to the custody and control of the said corporation herein chartered, to remain public property for the uses to which said property has been hitherto applied.

#### Mayor and aldermen required to be residents

SECTION 7. Every person elected to the office of Mayor or Aldermen shall have been a resident of the State of Tennessee for more than one (1) year, a resident within the boundaries of Covington for not less than twelve (12) months immediately preceding the election and shall continue to reside within the corporate limits and their district during their term of office. In case of the removal of the Mayor or an Alderman of the City of Covington, their respective offices shall immediately become vacant. One-year residence within any area annexed in a year preceding an election shall be counted in meeting the residence requirement of this section. All candidates shall provide proof of eligibility and enter nominating petitions as required by the Tipton County Election Commission. No person shall become a candidate for Mayor or Alderman who has been convicted in the ten (10) years immediately preceding the date of the election of malfeasance in office, bribery, or other corrupt practice, a felony, or a crime involving moral turpitude. Any Mayor or Alderman so convicted shall forfeit such office. An employee of any division or department of the City of Covington shall not be qualified to run for an elected office of the City of Covington.

#### Elections and voting

SECTION 8. All persons who are qualified to vote for members of the General Assembly of the State, and who have been actual bona fide residents and citizens of the territory within the corporate boundaries of



the City of Covington for at least thirty (30) days prior to the election, and all nonresidents who are qualified voters of the State of Tennessee and Tipton County owning a taxable freehold in Covington, shall be entitled to vote in City elections. However, in the case of nonresidents, pursuant to Tennessee Code Annotated, §2-2-107(a)(3), 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.

#### Vacancies

SECTION 9. If at any time a vacancy shall occur in the office of Alderman either by death or resignation or otherwise, the Board shall fill a vacancy in the office of Alderman for the unexpired term by affirmative vote of a majority of the remaining members.

#### City attorney

SECTION 10. The Mayor shall have the authority to employ a city attorney with the consent of the Board at a salary to be fixed by the Board.

#### Officers to take an oath

SECTION 11. Every officer of the corporation, whether elected by the people or by the Board, shall before entering upon the discharge of the duties of the office, take an oath to support the Constitution and laws of the United States and the State of Tennessee.

#### Bonds of officers

SECTION 12. The Board of Mayor and Aldermen may by ordinance prescribe and require a bond or bonds of any officer elected by said Board or by the people or voters of said City and fix the amount and terms thereof.

#### Salaries, benefits and reimbursement allowances of officers

SECTION 13. The Mayor and Board of Aldermen shall, by ordinance, establish the salary, benefits and reimbursement allowances for the Mayor, Aldermen, City officers, and officials and elected and appointed committee members. Such salaries, benefits and reimbursement allowances may be changed by ordinance at any time, but the salary of officials elected by the people may not be increased or diminished during the term of office for which such officials were elected.



The salaries for the Aldermen and the Mayor shall be set by ordinance at least ninety (90) days prior to the mayoral municipal election.

Regular meetings, special meetings and quorum of the board

SECTION 14. The Board of Mayor and Alderman shall hold regular meetings at least once monthly. Whenever, in the opinion of the Mayor, the welfare of the corporation demands it, the Mayor may call a special meeting of the Board of Mayor and Aldermen, and if the Mayor fails or refuses to call a special meeting of the said Board, any three (3) Aldermen may call such special meeting, and when the Board is convened under such special call by three (3) Aldermen, a quorum of said Board being present, if the Mayor or Vice-Mayor be absent, or shall refuse to take part in the said meeting, the Aldermen may elect one (1) of their number to preside at such special meeting of the board.

Board's rules of procedure

SECTION 15. The Board of Mayor and Aldermen may determine its own rules of procedure, except as herein provided, and may, by ordinance, fix the punishment of members or other persons for disorderly conduct during the meeting of the Board, and enforce the same. The Mayor shall have power to direct that any person not a member of the Board who shall be guilty of boisterous or disorderly conduct as to disturb the session of the Board be ejected from the room where such meetings are held. For that purpose, the Mayor may call any member of the police force and as many other persons as deemed necessary; and the Board may, by ordinance, provide proper penalties for the refusal of any persons to obey the orders of the Mayor in such cases.

Recorder to keep minute books and ordinance books;  
adoption of ordinances and resolutions

SECTION 16. All ordinances of the City of Covington and a full and complete record of the proceedings of the Board of Mayor and Aldermen shall be kept by the recorder, who shall keep a minute book and also a separate book called the "Ordinance Book" in which shall be recorded all the ordinances passed by the Board, with the date upon which they were passed. All ordinances and resolutions, before being introduced and received and considered by the Board, shall be reduced to writing. No ordinance shall be adopted without first having been passed on three (3) separate occasions, and no more than one (1) passage may be on one (1) day. Any ordinance may be rejected on its first, second or third consideration. No ordinance or resolution shall be adopted unless passed

by the affirmative vote of at least four (4) aldermen. However, it shall not be necessary to take any aye and no votes except on third consideration, and at which consideration the names of the Aldermen voting for and against the same shall be entered on the minutes. Any ordinance introduced may pass the first consideration on the day on which it is introduced. The Board of Mayor and Aldermen shall not suspend its rules so as to take up and pass an ordinance on more than one (1) consideration on the same day.

#### Form of ordinances

SECTION 17. All ordinances of the said City of Covington shall begin with an enacting clause as follows, to wit: "Be it enacted by the Board of Mayor and Aldermen of Covington, " and shall conclude with a provision as follows: "This ordinance shall take effect from and after its passage, the welfare of the corporation demanding it." But this section shall not prevent the Board of Mayor and Aldermen from substituting such time as they may desire in the concluding clause for the words "from and after its passage" and in such cases such ordinance shall take effect from and after the time stated.

#### Removal of officers elected by the people

SECTION 18. The Board of Mayor and Aldermen shall have the power to remove from office any officers elected by the people under the provisions of this act for neglect of duty, misconduct in office or failure to obey the reasonable orders of said Board of Mayor and Aldermen upon written charges being preferred against said officer by said Mayor, any member of the Board of Mayor and Aldermen or any citizen. In case such charges are preferred five (5) days notice in writing, containing a copy of said charges, and giving such officer the date upon which the Board will convene to hear and pass upon said charges shall be given said officer and, at the time named in said notice, said Board shall meet and hear and determine said charge or charges, and if said charges are sustained said Board shall have the power to remove or suspend such officer from office and pending the investigation of said charges the Board shall have power to suspend said officer from pay and from the duties of his office and to fill the same by temporary appointment.

#### Miscellaneous powers enumerated

SECTION 19. The Board of Mayor and Aldermen of the City of Covington shall have 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 state, county or 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 non-interest bearing bonds, warrants, promissory notes or orders of the City, upon the credit of the City or solely upon the credit of specific property owned by the City or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the City, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the City for all lawful purposes;

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

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

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

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

(12) Grant to any person, firm, association or corporation (including the City) franchises for public utilities and public services to be furnished the City 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 City 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 City 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 City 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 City 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 therefore 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 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 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, 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 City, 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 City, and charge reasonable fees therefore, and provide standards of weights, tests and measures consistent with the provisions of general law;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures consistent with the provisions of 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 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 workhouse for the confinement and detention of persons who violate laws within the corporate limits of the City, or contract with the county to keep these persons in the workhouse of the county for such violations;

(28) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction; and provide by ordinance for court-costs;

(29) Regulate, tax, license or suppress the keeping or going at large of animals within the City, impound the, and in default of redemption, they may be sold, given away to proper home or humanely destroyed;

(30) Call elections as herein provided; and

(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.

Public airports

SECTION 20. The Board of Mayor and Aldermen of Covington is hereby authorized, empowered, and enabled to establish, construct, equip, improve, maintain and operate for said City one (1) or more public airports or landing fields for the use of airplanes and other aircraft and to acquire by purchase, condemnation or lease for such purposes real property situated within said City or within five (5) miles from the nearest boundary thereof to said airport or set apart and use for such purposes real property owned by the City and whether or not already set apart for other public uses, whether acquired by condemnation or purchase or otherwise. The Board of Mayor and Aldermen of said City shall have general charge and supervision of any and all municipal airports or landing fields constructed and owned or leased by the City of Covington, and shall have power to make and promulgate rules and regulations by ordinance for the operation and management thereof, fix and collect landing, storage and other charges and fees for the use or occupancy of said airport or landing field, exercise police power and manage the property and facilities provided for said purposes, and said Board of Mayor and Aldermen shall have the right and power to contract with any person, firm or corporation or governmental agency with reference to any of the objects of its creation and in the furtherance of the duties imposed upon it, and may employ such engineers, superintendent and other help as may be required to perform the duties of their offices, and to regulate the number of such employees, their duties and liabilities, compensations and terms of employment, and said Board of Mayor and Aldermen shall also have the power to make leases, and license the use of portions of said airport for training and aviation schools and for commercial purposes, provided, the same shall not interfere with public purposes for which said airport is established. The Board of Mayor and Aldermen of said City shall have the power and is hereby authorized to purchase, rent, lease or receive by gift or otherwise real property for the purpose of constructing such airports or landing fields, and said board is specifically authorized to acquire by purchase or by condemnation in the manner provided by law under which said City is authorized to acquire property for public purposes, all real and personal property needed for the erection of one (1) or more complete, modern, adequate municipal airports or landing fields. Said Board of Mayor and Aldermen is also fully empowered and authorized to purchase, condemn and remove all obstructions, trees, wires, cables, posts, poles, signs, towers, derricks and all other obstacles or barriers interfering with or in the way of safe, convenient, proper and ready use of said municipal airports or landing fields, as well as to forbid and prevent the placing or the erection of any poles, wires, cables, posts, signs, derricks, towers or any other



obstructions adjacent to said municipal airports or landing fields that will hinder, retard, interfere with or make unsafe or inconvenient the approach to, use of, and departure from said municipal airports or landing fields by air or otherwise. The purchase price or award for property condemned, purchased, leased or otherwise acquired for said airports or landing fields may be paid for by appropriation of moneys out of the general fund of said City, and said Board of Mayor and Aldermen is also authorized and empowered to provide and appropriate out of the revenue of said City and not otherwise appropriated, sufficient funds to erect, equip, improve, maintain and operate said municipal airports or landing fields, and may contract with any private company or individual in the manner provided by law for the erection, equipment, and improvement of said municipal airports or landing fields.

Referendum election to be called for sale or lease of public utilities

SECTION 21. The Board of Mayor and Aldermen of the City of Covington, Tennessee, may not sell, lease or dispose of the public utilities owned and operated by the City of Covington without first calling a special non-binding referendum election. Any such election shall inquire of the qualified voters whether or not the Board of Mayor and Aldermen of the City of Covington shall sell, lease or dispose of any of the public utilities owned and operated by the City. Such election shall be advertised by publication in the weekly newspaper published in the City for at least four (4) consecutive weeks prior to the date of the election. Any such advertisement or notice shall state the purpose of the election. Ballots for the election shall be legal ballots and shall have printed thereon language substantially similar to the following:

"For" sale or lease of the \_\_\_\_\_ utility.

"Against" sale or lease of the \_\_\_\_\_ utility.

Mayor's powers and duties

SECTION 22. The Mayor shall preside at all meetings of the Board of Mayor and Aldermen and, in case of a tie vote on questions before the Board, shall vote, but not otherwise. The Mayor shall from time to time give the Board of Mayor and Aldermen information relative to the financial and general condition of the corporation, and shall recommend for its consideration such measures as the Mayor may deem expedient. The Mayor shall have a general supervision of all officers of the corporation. The Mayor shall see to the enforcement of all laws and ordinances of the corporation, to the preservation of its health and peace,

and in case of emergency, is empowered to call to his aid every inhabitant in the corporation for such enforcement, and the Board of Mayor and Aldermen may by ordinance prescribe penalties for failure to obey such calls. The Mayor shall, under such regulations as may be established by ordinance of the Board of Mayor and Aldermen, countersign checks and drafts drawn upon the treasury for the payment of any moneys due from the corporation.

The Mayor shall make temporary appointments of any officer or department head, except that of Aldermen, arising from the absence, sickness or disability of any such officer or department head, and shall report such appointment to the Board at its next regular meeting. The Board may confirm or reject the Mayor's temporary appointments, or, at its discretion, make its own temporary appointments.

The Mayor shall make appointments to boards and commissions as authorized by law.

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) Administer the business of the City;
- (2) 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 City;
- (3) Keep the Board fully advised as to the conditions and needs of the City;
- (4) Report to the Board the condition of all property, real and personal, owned by the City and recommend repairs or replacements as needed;
- (5) Recommend to the Board 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 Board; and

(7) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the Board. Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

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

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

Vice-mayor

SECTION 23. At the first meeting following an election, the Board of Mayor and Aldermen shall elect a member of the board as Vice-Mayor to serve during the absence, disability or vacancy in the office of the Mayor, and the term of office shall be until the first meeting following each municipal election.

Mayor and recorder to sign contracts and bonds

SECTION 24. All contracts and bonds of the corporation shall be signed by the Mayor and countersigned by the recorder after authorization is given by the Board.

General duties of recorder and treasurer; absence

SECTION 25. The Mayor shall appoint a city recorder, with the consent of the Board, who also may be appointed to the positions of finance director or treasurer, or both.

It shall be the duty of the recorder to be present at all meetings of the Board of Mayor and Aldermen and to keep a full and accurate account of all business transacted by the Board to be preserved in a permanent form, and to perform such other duties as may be imposed upon him by this act or by ordinances and resolutions of the Board of Mayor and Aldermen. In the event of the absence or disability of the recorder, the Board may elect a recorder pro tempore.

The recorder shall have the custody of the public records and of all contracts, deeds, and certificates relative to the title of any corporate



property, all official indemnity or security bonds, except the recorder's own bond or bonds, and such other bonds, papers, and documents of value as are not required to be deposited with any other person. The recorder shall certify under the corporate seal all copies of such original documents and records in the office as may be required by any other person; and may charge the individuals such fees for the use of the corporation as may be provided by ordinance.

#### Collection and dispersal of revenues by treasurer or finance director

SECTION 26. The Mayor shall appoint a treasurer or finance director, with the consent of the Board, who also may be appointed city recorder. The treasurer or finance director shall collect, receive and receipt for the taxes and all other revenue and bonds of the City, and the proceeds of its bond issues, and disburse them.

#### Official depository for city funds

SECTION 27. It shall be the duty of said Board of Mayor and Aldermen, at a regular or called meeting, to designate by proper ordinance the depository of the moneys, funds, and taxes collected and all receipts of said corporation from all sources. It shall be the duty of the treasurer or finance director to promptly deposit with such depository all money or funds that shall be collected. Said depository shall be selected by said Board of Mayor and Aldermen every four (4) years.

#### Mayor to be custodian of corporate seal

SECTION 28. The Mayor shall be the custodian of the corporate seal of Covington.

#### Authority for fire department and outside fire service

SECTION 29. The Board of Mayor and Aldermen shall have the power by ordinance to provide for the establishment and the appointment of officers and members of the fire department and may provide rules and regulations for the government of the same. The Board of Mayor and Aldermen are hereby authorized to contract for fire prevention and suppression with persons, firms, or corporations who own and rent property outside the corporate limits of the City of Covington, Tennessee, and the officers and employees of Covington shall be considered as acting in a governmental capacity while engaged in any duty or activity in connection with the provisions of any such contract, and the officers and employees of the City of Covington, Tennessee, shall be entitled to all

rights, privileges, exemption, and immunities as if such duty or activity were performed within the corporate limits of the City of Covington, Tennessee.

City court

SECTION 30.

(a) There shall be a city court presided over by a city judge appointed by the Mayor with the consent of the board. The city judge shall have the qualifications and receive the compensation the board may provide by ordinance. In the absence or disability of the city judge, the Mayor may designate a qualified person to serve as city judge.

(b) The city judge may impose fines, costs and forfeitures, and punish by fine for violation of city ordinances. The judge may preserve and enforce order in the court and enforce the collection of all fines, costs and forfeitures imposed.

Police department

SECTION 31.

(a) There is hereby created a police department, consisting of a chief of police and such number of policemen as the Board of Mayor and Aldermen shall from time to time fix.

(b) It is the duty of the chief of police and the members of the police force to:

- (1) Preserve order in the city;
- (2) Protect the inhabitants and property owners therein from violence, crime, and all criminal acts;
- (3) Prevent the commission of crime, as well as, violations of law and of the city ordinances; and
- (4) Perform general police duty.

Budget

SECTION 32. Prior to the beginning of each fiscal year, the Mayor 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 in the Tennessee Code Annotated.

Purchasing procedures, purchasing agent, and surplus property disposal

SECTION 33. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, and ordinances or resolutions and purchasing procedures approved by the governing body. The purchasing agent, or designated representative, as provided by ordinance, shall purchase materials, supplies, services and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body.

Officers not to be interested in city contracts, etc.

SECTION 34. No member of the Board of Mayor and Aldermen or officers of the corporation shall be interested directly or indirectly in any contract or any work of any kind whatever under its control and direction; and any contract in which any such person shall have an interest shall be void.

Subpoena power of mayor

SECTION 35. To enable the Board of Mayor and Aldermen to fully investigate charges against its own members or any other officers or agents of the corporation, or such other matters as they may deem proper, the Mayor is hereby empowered to issue subpoenas and other compulsory processes, to compel the attendance of persons and the production of books and papers before the Board of Mayor and Aldermen or any committee of the same; and the board may by ordinance prescribe and enforce penalties for the failure or refusal to obey such process.

Delinquent property tax collection

SECTION 36. The Board of Mayor and Aldermen may provide by ordinance for the collection of delinquent property taxes.

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 Covington. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Covington 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 law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.

PASSED: May 25, 2006

s/Jimmy Naifeh  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

s/John S. Wilder  
Speaker of the Senate

APPROVED this 27<sup>th</sup> day of June 2006

s/Phil Bredesen  
Phil Bredesen, Governor

PRIVATE ACTS COMPRISING THE CHARTER OF THE CITY OF  
COVINGTON, TENNESSEE

---

YEAR	CHAPTER	SUBJECT
2006	132	Basic charter act

---



# Amending Private Act Charters

Reference Number: MTAS-297

1. Figure out precisely what charter provisions are to be changed. This step is important because one change may require amending more than one provision of the charter to ensure that the charter is consistent. Changing one provision may affect other provisions. This step requires reading the whole charter to make sure you have not skipped anything that needs changing.

2. Clear the proposed change with your state legislative delegation. All private act and general law charter changes require the approval of the Tennessee General Assembly, but the General Assembly will rarely interfere with amending private acts as long as they have the unanimous support of the local legislative delegation. Its attitude is usually, "Let locals take care of local business." But if you decide to sneak or ram your private act through the General Assembly in the teeth of opposition from any member of your legislative delegation, do not bet more than you can afford to lose that the act will make it.

3. Adopt a resolution containing the proposed charter change and ask a member of your legislative delegation to introduce the change in the General Assembly. The part of the resolution containing the proposed change should be in letter perfect form and should specify exactly what and where the charter should be amended.

Be sure to include in the proposed change the method of local approval of the private act. Amendment Number 6 of the 1953 amendments to the Tennessee State Constitution requires private acts to be approved in one of two ways:

- By a two-thirds vote of the entire membership of the municipal governing body, or
- By a majority vote in a referendum held on the question of approval of the private act.

4. Give the resolution to your legislative delegation within the time frame it prescribes and check from time to time on its introduction and movement through the Tennessee General Assembly. Getting the proposed private act to your legislative delegation on time is essential. This gives the General Assembly adequate time to pass the act before it adjourns. Most legislative delegations want the proposed private act at least 30 days before the date set for adjournment of the General Assembly. That date usually can be determined (approximately) by checking with your legislators. Once the proposed private act is in the hands of the General Assembly, its journey through the legislative process is relatively certain and speedy. After passage by the General Assembly, the proposed private act goes to the governor for signature, which usually is a formality.

5. Read the private act when it comes back to you after its passage by the General Assembly and its approval by the governor. Your proposed private act goes through certain steps after it leaves your hands and before it actually goes to the General Assembly for a vote, including a check for proper language and form. Most of the time, any changes made in a proposed private act during those steps are beneficial. However, occasionally something is added or taken out of an act that substantially alters its meaning. Make sure that what came out of the General Assembly is what you thought went in.

6. Obtain approval of the proposed private act by whatever method is prescribed in the act and submit evidence of approval to the Tennessee secretary of state. As pointed out earlier, private acts requiring approval by referendum are regularly rejected by the voters. Some get exactly what they deserve from a well-informed electorate, which knows a clunker when it sees one. But a major reason good acts meet the same end is that they frequently do not receive the intense support they need from the individuals and groups interested in their passage.

---

## Breaking a Tie in the Election of an Alderman

### Summary:

MTAS was asked how a tie vote in the election of an alderman is broken.

### Original Author:

Hodge, Elisha [1]

### Date of Material:

Thursday, November 20, 2014

Dear Mayor,

You have asked how a tie vote in an election for alderman is to be broken. State election laws govern how tie votes for elected offices are to be broken. Tenn. Code Annotated Section 2-8-111 reads:

If there is a tie vote between the two (2) or more persons having the highest number of votes for an office, the state election commission shall cast the deciding vote except that: . . .

(2) The municipal legislative body shall cast the deciding vote for municipal offices, or, in the alternative, the legislative body may by resolution call for a run-off election between the tied candidates;



Based upon the language in this provision, the City's Board of Mayor and Alderman (hereinafter "BOMA") will either have to vote and break the tie or pass a resolution calling for a run-off election for the office.

Additionally, you have asked for some guidance on how to proceed with the meeting scheduled for Monday, November 24, 2014. Given the fact that the current BOMA has not yet discussed and voted upon how to proceed with breaking the tie for the alderman office, I suggest that a meeting first be called to discuss and vote, by roll call, upon that issue. You might also want to approve the minutes from the previous meeting during this meeting since all of the aldermen who likely attended the previous meeting will also be present at this one. If the BOMA votes to break the tie, I would go ahead and vote, by roll call, on who is going to fill the office. Once the vote is held and the result announced, I suggest that you adjourn the meeting. A second meeting can then be called to order, the newly elected and re-elected members sworn in, if they have met all of the other qualifications to serve, and then the newly constituted BOMA can proceed with the business on the agenda for the second meeting. In the alternative, if the BOMA votes to hold a run-off election, I would adjourn the first meeting after the results of that vote are announced. A second meeting can then be called to order and the BOMA can proceed with its business.

Based upon the language in the municipal code that establishes the time and date for the BOMA meetings, it appears that each of the meetings described above will be special called. As such, the notice for each of these meetings has to specifically enumerate the matters to be addressed and any actions to be taken during the meetings. Additionally, the notices will need to be placed in as many public places as possible and you might also want to post the notices in the newspaper. If there is a public access channel in your City or a radio station that will announce the meetings, you might also want to provide notice through those outlets. Finally, given the fact that these meetings are scheduled to occur on Monday, November 20, 2014, you will need to post the notices as soon as possible. I encourage you to post them today, if that can be arranged.

Sincerely,

Elisha D. Hodge  
MTAS Legal Consultant

---



## Ouster

Reference Number: MTAS-176

### Judicial Ouster

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office"). The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude". T.C.A. § 8-47-101.

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt. T.C.A. § 8-47-121.

The local attorney general or city attorney has a legal "duty" to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that "there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county." However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney's duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint. T.C.A. §§ 8-47-101-102. The officer must be removed from office if found guilty. T.C.A. § 8-47-120.

## City of Covington Charter Changes

Page	Current Language	Suggested Changes in Language	Legal Reference (if applicable)
C-4	Section 3: "A quorum shall consist of four (4) Aldermen."	"A quorum shall consist of four (4) members of the Board." Or "A quorum is a majority of the members to which the Board is entitled."	Tenn. Code Ann. § 6-2-102
C-4	Section 4: "If there is a tie vote between the two (2) or more persons having the highest number of votes for the office of Alderman or Mayor, the members of the Board of Mayor and Aldermen elect, between whom there is no tie, shall, upon taking office, cast the deciding vote for the office. The Board shall elect a candidate from those involved in the tie vote within 30 days of the date the election was certified."	"If there is a tie vote between the two (2) or more persons having the highest number of votes for the office of Alderman or Mayor, the members of the Board of Mayor and Aldermen as it existed prior to the election shall meet in a special called meeting as soon as practicable after the election results are certified to determine how the tie will be broken. First, the Board must decide whether to cast the deciding vote or to pass a resolution for a run-off election between the tied candidates. The vote on how to proceed shall be by roll call. If the Board decides to cast the deciding vote between the tied candidates the vote shall be by roll call."	Tenn. Code Ann. § 2-8-111(2)
C-4, 5	Section 4 (bottom of page): "Districts shall be reapportioned every ten (10) years based upon the most recent federal census..."	Has the City ever done this? Would suggest changing this language to "may reapportion the municipal districts and modify the number of aldermen..."	Tenn. Code Ann. § 6-3-101-102



Section 7: "Every person elected to the office of Mayor or Aldermen shall have been a resident of the State of Tennessee for more than one (1) year, a resident within the boundaries of Covington for not less than twelve (12) months immediately preceding the election and shall continue to reside within the corporate limits and their district during their term in office."

C-6

"Every person elected to the office of Mayor or Aldermen shall have been a resident of the State of Tennessee and the City of Covington for at least one (1) year immediately preceding the election and shall continue to reside within the corporate limits and their district during their term in office. A person may not use a business or commercial address as a residence for purposes qualifying as a candidate for the office of Mayor or Aldermen unless the person provides evidence of their residential use of the property For purposes of determining a persons' qualifications for the office of Mayor or Aldermen based on their residence, the factors set forth in Tenn. Code Ann. § 2-2-122 shall be considered."

Tenn. Code Ann.  
§ 2-5-204  
Tenn. Code Ann.  
§ 2-2-122

Section 9: "If at any time a vacancy shall occur in the office of Alderman either by death, resignation or otherwise, the Board shall fill a vacancy in the office of Alderman for the unexpired term by affirmative vote of the remaining members."

C-7

"The Board of Mayor and Aldermen shall declare that a vacancy exists if the Alderman resigns, dies, moves his/her residence from the City, 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)

Tenn. Code Ann.  
§ 6-3-107



months so as to prevent him/her from discharging the duties of his/her office.

- (a) The Recorder/Treasurer shall publish notice of the vacancy, and within thirty (30) days of a vacancy occurring, all qualified applicants shall appear before the Board of Mayor and Aldermen at a regularly scheduled meeting to make known their intention to apply to fill the vacancy, and may make a brief statement to the Board at such meeting concerning: the reasons for their desire to serve on the Board, their qualifications to represent the district in which there is a vacancy, their background, education, training, employment, military service, volunteer work, and such other matters as may be appropriate to an evaluation of their application, and may answer questions from Board members. Candidates applying to fill a vacancy on the Board of Mayor and Aldermen shall be qualified in accordance with the Official Charter of the City of Covington and general state law.
- (b) Within fourteen (14) days of the regularly scheduled meeting of the Board of Mayor and Aldermen at

which applicants appear to make known their intention to apply for the vacancy, the mayor, or vice-mayor in the absence of the mayor, shall hold a special called meeting of the Board of Mayor and Aldermen for the purpose of appointing an applicant to fill the unexpired term of the Board member whose office is vacant. Only those applicants who appeared at the previous regularly scheduled meeting and made known their intention to apply to fill the vacancy may be considered at the special called meeting for voting on the appointment.

- 1) The appointed applicant shall be appointed only upon receiving a majority vote of the entire membership of the Board of Mayor and Aldermen.
- 2) Each applicant's name shall be announced by the Recorder/Treasurer, and thereafter each Board member may vote for only one applicant by roll call voice vote by stating the name of the applicant they vote for. If any applicant receives a majority vote or more of the

entire membership of the Board, that applicant shall be approved and appointed to fill the vacancy for the unexpired term of the vacant member.

3) If no applicant receives a majority vote or more of the entire membership of the Board during the first vote, then a second round of voting shall commence following the same procedure set forth above. At the conclusion of the second round of voting, any applicant who receives a majority vote or more of the entire membership of the Board shall be approved and appointed to fill the vacancy for the unexpired term of the vacant member.

4) If no applicant receives a majority vote or more of the entire membership of the Board during the second vote, then a third round of voting shall commence. During the third round of voting, the Board shall not consider and no member of the Board may vote for the applicant having



the lowest vote total during the preceding vote.

5) Subsequent voting rounds, if necessary, shall be conducted in accordance with the provisions above until such time as an applicant shall have received a majority vote of the entire membership of the Board.

(c) Upon approval and appointment by the Board of Mayor and Aldermen, the applicant shall immediately thereafter be sworn by the mayor, or vice-mayor in the absence of the mayor, and shall take their seat and hold office until the next general election.

“No ordinance shall be adopted without first having been passed on two (2) separate occasions.”

Delete this sentence. Ordinances and resolutions should be adopted by a majority vote of the entire Board membership, which includes the Mayor. The following sentence should read “...consideration the names of the Board members voting for and against....”

Section 16: “No ordinance shall be adopted without first having been passed on three (3) separate occasions.”

Section 16: “No ordinance shall be adopted unless passed by an affirmative vote of at least four (4) Aldermen.”

C-8

C-9

Tenn. Code Ann.  
§ 6-2-102

Tenn. Code Ann.  
§ 6-2-102

C-9	Ouster- municipal procedure for removing officials for misconduct	Discuss the pros/cons of pursuing our own procedure, which MTAS says is allowable, or prescribing that the city attorney pursue judicial ouster, as prescribed in Tenn. Code Ann. § 8-47-101 <i>et seq.</i>	See supplement
C-13	Section 19: Miscellaneous Powers Enumerated	Add sub-section (32) <i>“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.”</i>	Tenn. Code Ann. § 6-2-201
C-15	Section 22: “The Mayor shall preside at all meetings of the Board of Mayor and Aldermen and, in case of a tie vote on questions before the Board, shall vote, but not otherwise.”	<i>“The Mayor shall be the chief executive officer of the City of Covington and shall preside at meetings of the Board.”</i>	Tenn. Code Ann. § 6-3-106

**Covington Charter review:**

**Issues to be reviewed on Board voting:**

Section 3 requires that board actions “shall be passed by a majority of the entire membership of the board.” The Board consists of the Mayor and six aldermen which means that a “majority of the entire membership” is four (4). The Mayor may only vote in case of a tie (section 22). Section 3 also states that a quorum is four (4) aldermen, so the Mayor is not counted to establish a quorum at a meeting.

Section 16 states that “No ordinance or resolution shall be adopted unless passed by the affirmative vote of at least four (4) aldermen.” This means the Mayor cannot break a tie vote to pass an ordinance or resolution.

Reading these two sections together requires that all resolution and ordinances must be adopted by a 2/3’s vote of the aldermen and the Mayor cannot break a tie vote on a resolution or ordinance.

*Comments: Many cities allow board actions to be passed by a majority of the members present if there is a quorum. Many cities allow the Mayor to break a tie on anything before the board and many cities allow the Mayor to vote on all issues before the board.*

**Issues on appointment of officers, department heads, employees:**

Section 3 states that the Board may “appoint, promote, suspend, transfer and remove any officer or employee of the city.” The Board is also allowed to designate their authority to the Mayor or department heads.

The section also states, “The Board shall appoint such heads of administrative offices or organizational units, as the Board deems necessary.”

Compensation of all officers and employees “shall be fixed by the Board within the limits of the appropriations ordinance and in accordance with a comprehensive pay plan adopted by the Board.”

*Comments: Is this still the way you want the charter to read on appointing employees, officers, and department heads, since the practice has been for the Mayor to appoint department heads with the Board’s approval.*

**Filling alderman vacancies:**

Section 9 provides for filling a vacancy in the office alderman for the unexpired term rather than until the next city election.

*Comments: Many cities fill vacancy until the next election rather than the unexpired term. If an alderman resigns in the first or second year of a term, then their replacement would be appointed only until the next municipal election, when a person would be elected to complete the term of office.*



**Number of readings on an ordinance:**

Section 16 requires three readings on an ordinance. It also requires the affirmative vote of at least four (4) aldermen.

*Comments: Most cities have gone to two readings on an ordinance. Many cities only require a majority of those presence and voting to pass actions by the Board.*

**Removal of officers elected by the people.**

Section 18 permits the Board to remove any elected official.

*Comments: Our attorneys do not believe that the Board removing an elected official would hold up in Court, that the only way to remove an elected official would be through the state law ouster procedures.*

**Mayor’s powers and duties:**

Section 22 Mayor shall vote in case of tie, but ordinances and resolutions require the affirmative vote of four (4) aldermen, so the Mayor could not break a tie vote on an ordinance or resolution.

The Mayor is permitted to make temporary appointments of officers or department heads. The boards may confirm or reject the Mayor’s temporary appointments or make its own temporary appointment.

**Vice Mayor:**

Section 23 states the vice-mayor serves “during the absence, disability or vacancy in the office of the mayor.”

*Comment: Does the vice-mayor actually become Mayor if the Mayor leaves office or does the vice-mayor just assume the duties of the Mayor but does not become the Mayor? What if the Mayor resigns in the first year of the term of office, can the Board appoint someone to fill out the term or until the next election? Since the city has a full time Mayor, would a vice-mayor want to become a full time Mayor of the city?*

**City Recorder:**

Section 25. “The Mayor shall appoint a city recorder, with the consent of the Board...”

Section 26. “The Mayor shall appoint a treasurer or finance director, with the consent of the Board....”

**Fire department:**

Section 29. The Board of Mayor and Aldermen shall have the power by ordinance to provide for the establishment and the appointment of officers and members of the fire department and may provide rules and regulations for the government of the same.

**City Court:**

Section 30. "city judge appointed by the Mayor with the consent of the board."

**Police Department:**

Section 31. There is hereby created a police department, consisting of a chief of police and such number of policemen as the Board of Mayor and Aldermen shall from time to time fix.