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Road Law

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Road Law

Private Acts of 1923 Chapter 312

SECTION 1. That there shall be created in Montgomery County, Tennessee, and in all counties thereof having a population of not less than 32,265 inhabitants nor more than 32,280 inhabitants, according to the Federal Census of 1920, or any subsequent Federal Census, a Board of Road Commissioners which shall be known as the "County Board of Highway Commissioners," to be composed as hereinafter stated, and whose duties and the manner whose election shall be as is hereinafter defined and provided for.

SECTION 2. That said County Board of Highway Commissioners shall consist of three members, who shall be taxpayers and freeholders of the county, of lawful age and of good business qualifications, but no one of whom shall be a member of the County Court; provided, that the Judge or Chairman of the County Court shall be an ex officio member of said Board; one of whom shall be selected as Supervisor and the other two as Associate Members of the Board and with whom the Judge or Chairman of the County Court shall serve in an advisory capacity. One of said Commissioners shall be chosen from that section of the county lying south of the Cumberland River and the other two from that section lying north of said river, one from the eastern and the other from the western portion thereof, so that no two shall be selected from and reside in any one portion of the county.

SECTION 3. That the Supervisor of Roads shall be elected by the people, and the Associate members of the Board of Highway Commissioners shall be elected by the County Court. The term of office of the Associate members shall be for four (4) years and shall correspond with the term of office for which the Supervisor is elected. The County Court shall elect the Associate members at the next regular term of the County Court following the date on which the Supervisor takes office.

In case of a vacancy on the Board occasioned by the death, resignation or removal of any Associate member, the County Court shall elect his successor for the remainder of the term of office.

As amended by: Private Acts of 1969, Chapter 190

SECTION 4. That each of the Commissioners shall qualify by subscribing to an oath to perform his duty faithfully, impartially, without prejudice for or against any section of the County, or any individual, and for the best interests of said County, and shall give a good and solvent bond with sufficient security in such sum as may be fixed by the County Court, not in excess of Two Thousand (\$2,000.00) Dollars, for the faithful performance of the duties of his office and for accounting for all funds coming into his hands or under his control as a member of said Board, the cost of which shall be paid by warrant on the general road fund of said County as other road expenses are paid. The Commissioners shall each subscribe to the oath and make the prescribed bond as soon as practicable after the date of their election or appointment as the case may be. The Board shall thereupon organize with the Supervisor as ex officio Chairman thereof. The Board may designate some person as Secretary. The Board shall have its office in such convenient building in Clarksville, Tennessee, the County seat, as the Board may designate, where all official meetings will usually be held and all the general business of the Board shall usually be conducted, and where all the official records and documents pertaining to the affairs and business of the Board shall be kept.

The Supervisor shall receive as compensation for his services the sum of Eight Thousand Five Hundred (\$8,500.00) Dollars annually during the remainder of the present term of office for which he has been elected, and thereafter he shall receive as compensation for his services annually an amount equal to the maximum amount allowed by law to be received by other elected County fee officials of Montgomery County.

Each associate member of the Board shall receive as compensation for his services the sum of One Thousand Eight Hundred Dollars (\$1,800) annually. The Judge or Chairman of the County Court shall receive no compensation for his services as an ex officio member of the Board.

For purposes of representation on the Board, Montgomery County is divided into three areas, one of which shall be comprised of all that portion of the County located south of the Cumberland River, one of which shall be comprised of all that portion of the county located north of the Cumberland River and north of the Red River, and one of which shall be comprised of all that portion of the county located north of the Cumberland River and south of the Red River. The associate members of the Board shall reside in the two areas in which the elected Supervisor does not reside.

The Supervisor shall have authority, in his discretion, to employ such clerical help as may be necessary for the proper maintenance of records and accounts of the Highway Department. The Board shall have authority in its discretion to employ legal counsel as needed and considered desirable, and the cost of

such clerical help and legal counsel shall be paid out of the general road fund of the county as part of other road expenses on proper certification. An associate member of the Board may be removed from office for malfeasance, misfeasance, nonfeasance or incompetency by the County Court in regular session, upon proper and competent evidence of same.

As amended by: Private Acts of 1955, Chapter 237
Private Acts of 1969, Chapter 190
Private Acts of 1992, Chapter 185
Private Acts of 2008, Chapter 81

SECTION 5. That said Board of Commissioners shall designate and fix the day and hour of the month at which time the regular meetings of the Board shall be held, which said meetings shall not be oftener than once in every two weeks; provided, that the Supervisor or Chairman of the Board, and in his absence the Vice-Chairman, may call special meetings thereof when in his judgment the public interest requires it; and it shall be the duty of each member of the Board to attend all meetings. Two members of said Board, however, shall constitute a quorum to transact business.

It shall be the duty of the Chairman to preside at all meetings of the Board, and in the absence of the Chairman, the Vice-Chairman shall preside and shall perform all the duties usual to such position. He shall inspect all vouchers presented to him to determine their correctness, and shall officially certify the same to the Judge or Chairman of the County Court for payment as is now provided by law. It shall also be the duty of the Chairman as Supervisor to prepare and present on behalf of said Board a report to each regular meeting of the Quarterly Court, which report shall show in detail the amount and sources of all funds which may have come into the hands or custody of said Board, the date when received and on what account, all the work done and costs of same, and all expenditures in detail, and any facts and figures which are deemed pertinent to the general condition of roads, ferries and bridges in said county and the working, maintenance, repairing and building thereof by said Board.

The Board shall keep and safely preserve in a well-bound book a record of all proceedings of the Board in session, and shall preserve all vouchers, stubs, accounts, etc., and these records shall be open at all times for the inspection of the public; and also shall keep a legible account of all funds and expenditures thereof on account of the roads, ferries and bridges of the county in the matter of running expenses, labor, material and equipment bought and sold.

SECTION 6. That the said County Board of Highway Commissioners shall take and have full charge and control of the public roads, ferries and bridges of the County, including but not limited to the repair, construction, improvement, maintenance and operation thereof, including the power to open and close roads, ferries and bridges, to condemn rights-of-way in the name of the County for road purposes, quarries, gravel pits, and dirt for the purpose of obtaining (sic) therefrom material for the construction and maintenance of said roads, ferries and bridges by eminent domain proceedings; to purchase on the credit of the County such machinery, equipment, materials and supplies as may be necessary for the proper construction, maintenance and repair of said roads, ferries and bridges; provided that the disbursing of the public road and bridge fund and the payment of all vouchers for road purposes shall be made by warrant of the Judge or Chairmen (sic) of the County Court drawn upon such funds as is by law provided, and all such machinery, equipment, materials and supplies shall be under the control of and subject to the orders of the Board.

It shall be the duty of the Board to adopt all matters of policy and rules and regulations necessary for the proper conduct of the business affairs of the Board in the operation and maintenance of the public road system of the County.

It shall be the duty of the Supervisor to (1) devote the whole of his time to the supervision of the public road system of the County, (2) direct and look after the proper construction, improvement and maintenance of the public roads, ferries and bridges of the County, (3) have personal supervision and charge of all personnel and employees of the Board in the operation of the public road system of the County, including specifically the authority to employ and discharge all such personnel and employees, and (4) in general implement and carry out all matters of policy, rules and regulations adopted by the Board for the operation of the public road system of the County.

It shall also be the duty of the associate members of the Board to visit and examine all such roads, ferries and bridges in the County at such times and as often as may be agreed upon and as may be necessary for them to familiarize themselves with the needs of the various communities and the condition of such roads, ferries and bridges.

As amended by: Private Acts of 1969, Chapter 190

SECTION 7. That if for any reason any section or part of this Act shall be held unconstitutional or invalid, then that fact shall not invalidate any other part of this Act, but the same shall be enforced without reference to the part so held to be invalid.

SECTION 8. That all laws and parts of laws in conflict with this Act be, and the same are, hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 15, 1923.

Private Acts of 1927 Chapter 520

SECTION 1. That hereafter in Montgomery County, and all other counties of the State of Tennessee having a population of not less than 32,265 inhabitants nor more than 32,280 inhabitants, according to the Federal Census of 1920, or any subsequent Federal Census, the County Board of Highway Commissioners provided for by Chapter 312, of the Private Acts of 1923, shall have, and is hereby given, in addition to the powers conferred upon it by said Chapter 312, of the Private Acts of 1923, the right and power to locate, open, change, close or restore any public roads, ferries or bridges, either upon its own initiative or upon application of any five freeholders of the County by written petition, where the public welfare requires, in the manner and form as is herein provided.

SECTION 2. That all petitions provided for in Section 1 of this Act shall be filed with said Board of Commissioners within the time and upon the conditions provided by existing laws applicable to said county with relation to the filing of such petitions with the Quarterly Court. The said Board of Commissioners, upon due consideration thereof, approve or reject, for good cause shown, any such petitions. If approved, the said Board of Commissioners shall forthwith enter upon negotiations with the landowners affected by such petitions with the view of settling with them directly the questions of rights of way and incidental damages. And in the event settlement cannot be effected with any such landowners, the said Board of Commissioners may direct the Sheriff to summon three impartial free-holders as a jury of view who, after five days notice to the landowners, if they be residents, or ten days written or printed notice posted at the door of the County Court House if they be non-residents, shall go upon the premises described in the petitions and assess the damages and make due report thereof of said Board of Commissioners and the landowners so affected, either of whom may appeal from said verdict within ten days after its rendition to the next term of the Circuit Court, said proceeding to be in the name of the County or in the name of the said Board of Commissioners in the behalf and for the benefit of the County. In case of appeal by either or both parties, the said Board of Commissioners may proceed with the road work or other improvement sought to be done notwithstanding the pending litigation; provided, it execute to the land owners a bond in double the amount of the verdict of the jury of view, conditioned to pay any judgment and costs that may be rendered against the county by said Circuit Court. But said Board of Commissioners, upon its failure to make settlement with any landowners so affected, may proceed, in its discretion and without regard to the foregoing provisions, to a condemnation of the lands and interests in lands so involved under the laws of eminent domain as hereinafter provided.

SECTION 3. That said Board of Commissioners is hereby vested with the right of eminent domain and authorized and empowered, upon its own initiative and in all cases where the public welfare requires it, to take and appropriate lands and interest in lands situated within said County necessary for rights of way in the opening, changing or restoring any and all public roads, ferries and bridges therein and for quarries, gravel-pits and borrow-pits and rights of way thereto for use in the construction, maintenance and repair of said public roads, ferries and bridges; provided, however, that the owners of lands and interests in lands so sought to be taken and appropriated shall be paid just compensation therefor as provided in Section 4 of this Act. Said condemnation proceedings shall be commenced by petition filed in the Circuit Court in the name of the County, or in the name of said Board of Commissioners in the behalf and for the benefit of said County, and shall be prosecuted in the manner provided in Sections 1326 to 1348, inclusive, of the Code of Tennessee.

SECTION 4. That the County Judge or the Chairman of the County Court, within thirty days after the termination of any of the proceedings provided for by this Act, the full amount of damage or damages and costs having been ascertained and fixed, shall pay to those entitled the full amount of their respective claims, such payments to be made in manner and form as is provided by Section 6 of said Chapter 312, Private Acts of 1923. And the said Board of Commissioners shall take deeds and, in proper cases, certified copies of decrees in the Circuit Court, duly authenticated, conveying to the county title to the properties so taken.

SECTION 5. That said Board of Commissioners shall keep full and complete minutes of all its Acts and doings and make detailed reports thereof to each Quarterly Court, filing with its reports and as a part thereof plats and full descriptions of all such lands and interest in lands taken over by the County under the provisions of this Act within the periods covered by the respective reports, which said reports shall be entered on the minutes of said court.

SECTION 6. That it is not intended by this Act to limit, abridge or repeal any existing law or laws relating to State Aid Roads or State and Federal Aid Roads, as now laid out or hereafter to be laid out in said County after same shall have been taken over and so designated, and the provisions of this Act shall apply to no such roads except by the consent, with the cooperation and under the jurisdiction of the State Department of Highways and Public Works.

SECTION 7. That if for any reason any section or part of this Act shall be held unconstitutional or invalid, then that fact shall not invalidate any other part of this Act; but the same shall be enforced without reference to the part so held to be invalid.

SECTION 8. That all laws and parts of laws in conflict with this Act be, and the same are hereby repealed, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: April 20, 1927.

Private Acts of 1972 Chapter 347

SECTION 1. That Chapter 312 of the Private Acts of 1923, and all Acts heretofore passed amendatory thereto, be and hereby amended as provided herein.

SECTION 2. Any person, firm, partnership, or corporation desiring to engage in or do any work which requires or necessitates any change, alteration or damage to any of the public roads or highways of the County which are operated and maintained by Montgomery County and its Highway Commission, including the macadam of such roads and highways and the shoulders, ditches, drains, and foundations thereof, and also including the placing of side drains culverts along the sides thereof, shall, before any such work is done, apply for and obtain from the County Road Supervisor, or his duly appointed representative, in the manner and form as may be required by the County Road Supervisor, a permit granting such person, firm, partnership, or corporation, the right and privilege to perform such work. The County Road Supervisor may require the applicant to show the location, nature and extent of the work to be performed.

SECTION 3. The County Road Supervisor of Montgomery County shall have authority to require any such person, firm, partnership, or corporation applying for such permit to enter into a reasonable and proper bond, approved by the Supervisor, in such amount as the Supervisor may consider sufficient and proper, conditioned to insure that any damage occasioned to such public roads and highways by such work will be required and the said roads and highways restored to as good condition as they are in before such work is done.

SECTION 4. No person, firm, partnership or corporation shall do any work upon, under, across, along, or beside any of said public roads or highways of the County which will result in any change, alteration or damage thereto, without securing a permit and executing a bond, if required, as herein provided. Any person, firm, partnership, or corporation violating the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 nor more than \$50.00 for each violation. Each day such permit is not obtained and such bond, if required, is not executed, after such work is begun shall constitute a separate offense and violation.

SECTION 5. The County Road Supervisor shall have the authority to designate the maximum tonnage or weight of automobiles, trucks, and other vehicles that are permitted to travel over and upon such public roads, highways, and bridges which are maintained by the Montgomery County Highway Commission and Montgomery County; and in case of a violation of the regulations prescribed in such instances, the person, firm, partnership, or corporation violating the same shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 nor more than \$50.00 for each violation.

SECTION 6. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly Court of Montgomery County at or before the next regular meeting of the Court occurring more than thirty (30) days after its passage. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This Act shall take effect from and after its passage and approval, the public welfare requiring it.

Passed: March 29, 1972.

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