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Chapter XI - Public Utilities

Dear Reader:

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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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Chapter XI - Public Utilities

Rock Gardens Utility District

Private Acts of 1947 Chapter 824

SECTION 1. That the Utility District of Rock Gardens in Blount County in the State of Tennessee, and the inhabitants thereof, be, and the same are hereby incorporated under the name and style of Rock Gardens Utility District with the functions and powers hereinafter set out, for the purpose of providing fire protection service for said community, either by acquiring, constructing, maintaining and operating a municipal fire protection system or/and by contracting with other public corporations for fire protection service for said community.

SEC. 2. That the boundaries of said Rock Gardens Utility District shall be as follows: Situated in the Ninth Civil District of Blount County, Tennessee, and more particularly described as follows:

Beginning at the intersection of the west line of Garfield Street and the corporate limit line of the City of Alcoa, Tennessee; thence, with the west line of Garfield Street, north 39 degrees 46 minutes east 1340 feet to an iron pin in southwest corner of Rose Avenue; thence, with Rose Avenue, north 44 degrees 50 minutes west 99 feet to an iron pin in the north side of Garfield Street; thence, with Garfield Street, north 45 degrees 10 minutes east 945 feet to an iron pin in the northeast side of Spruce Avenue, thence, with Spruce Avenue, 775 feet to an iron pin corner with north side of Elm Boulevard; thence, with Elm Boulevard, north 44 degrees 50 minutes west 410 feet to an iron pin; thence, south 45 degrees 10 minutes west 505 feet to an iron pin; thence, south 36 degrees 20 minutes west 485.5 feet, running along the northeast side of Rose Avenue to the outside of a rock column in the northwest side of Lincoln Road; thence, with the northwest side of Lincoln Road 26 feet to an iron pin; thence, south 42 degrees 15 minutes east 631 feet to an iron pin; thence, south 28 degrees 24 minutes east 462.7 feet to an iron pin in the northwest side of the Maryville-Knoxville highway; thence, with the Maryville-Knoxville highway, south 33 degrees 20 minutes west 263.5 feet to an iron pin; thence, north 39 degrees 35 minutes west 1352.7 feet to an iron pin; thence, south 50 degrees 52 minutes west 1024.7 feet to an iron pin in the corporate limit line of the City of Alcoa, Tennessee; thence, with the corporate limit line of the City of Alcoa, Tennessee, north 44 degrees 50 minutes west 1030 feet to the point of beginning.

SEC. 3. That the District hereby incorporated shall be a "Municipality" or public corporation in perpetuity under its corporate name and the same shall in that name be a body politic and corporate with power of perpetual succession, but without any power to levy or collect taxes. (Charge for service authorized by this Act shall not be construed as taxes.) The powers of the District shall be vested in and exercised by a majority of the members of the Board of Commissioners of the District in office. So long as the District continues to provide, by operation of a municipal fire protection system or/and by contract with other public corporations, any of the services which it is authorized to provide under this Act, it shall be the sole public corporation empowered to provide such services in the District, unless and until it shall have been established that the public convenience and necessity requires other or additional services.

SEC. 4. That the said Utility District shall be governed and operated by a Board of Commissioners, three in number, who are residents of and owners of real estate in said District.

The Board of Commissioners shall be elected by the owners of real estate situated in said District who are residents of said District and who are otherwise qualified as is or may be required for voters in a general election for members of the General Assembly, except that a poll tax receipt shall not be required.

Commissioners shall be elected for staggered terms of six years. Provided, that at the election held for the election of the first Board of Commissioners, one Commissioner shall be elected for a term of two years, one Commissioner shall be elected for a term of four years, and one Commissioner shall be elected for a term of six years; and thereafter, at two-year intervals, a successor of the Commissioner whose term is expiring shall be elected for a term of six years. The term of office of the members of the first Board of Commissioners of said District shall begin on the first day of June, 1947; the Blount County Election Commissioners shall hold the election for the first Board of Commissioners, as herein provided, not more than sixty days not less than thirty days before said date; and the terms of the respective Commissioners in their respective order and sequence shall expire on the thirty-first day of May of each odd-numbered year thereafter. Only one voting place in said Utility District shall be used for all elections held under this Act.

Commissioners shall hold office until their successors are elected and qualify. Any vacancy shall be filled, and new Commissioners shall be elected or old Commissioners re-elected upon the expiration of any term

of office, in the following manner: Within thirty days after any vacancy occurs on the Board of Commissioners, and not less than ninety days prior to the expiration of the term of office of a Commissioner, the President and Secretary of the Board of Commissioners shall certify to the Blount County Election Commissioners that a vacancy has occurred or is about to occur in said Board. It shall then be the duty of the Blount County Election Commissioners to hold an election within the boundaries of said Utility District for the purpose of electing a successor or successors to fill any vacancy or to succeed any Commissioner whose term of office is about to expire. Said election shall be held within sixty days after any vacancy on said Board of Commissioners shall occur, and not more than sixty days nor less than thirty days prior to the date of expiration of the term of office of a Commissioner.

Except as otherwise provided in this Act, such elections shall be conducted by the election authorities prescribed by the general law of the State of Tennessee and according to the provisions of the general election laws of the State of Tennessee. Notice of any such election shall be published at least once not more than forty-five days nor less than twenty-one days prior to the date on which said election is to be held.

SEC. 5. That all candidates to be voted for all elections at which the members of the Board of Commissioners shall be chosen under the provisions of this Act, shall be nominated as follows:

The name of any eligible elector of the District, except as hereinafter provided, shall be printed upon the ballot when a nominating petition in the form hereinafter prescribed shall have been filed in his behalf with the Blount County Election Commissioners, and such nominating petition shall have been signed by at least twenty-five of the registered voters of the District. The signatures to a nominating petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulation thereof stating the number of signers of such paper and that each signer affixed his signature in the presence of the circulaor, and is the genuine signature of the person whose name it purports to be; each signer of the nominating petition shall sign his name in ink or indelible pencil, and shall place on said petition after his name his place of residence by street and number, and the location of his real estate within said District. The nominating petition shall be substantially in the following form:

"PETITION OF NOMINATION FOR CANDIDACY"

To the Blount County Election Commissioners, Greetings:

We, the undersigned, hereby present _____, whose residence is _____ Street, Rock Gardens, Tennessee, as a candidate for nomination to the office of member of the Board of Commissioners of Rock Gardens Utility District to be voted upon at the election to be held on the _____ day of _____, 19____, and we individually certify that we have not signed similar petitions greater in number than the number of vacancies to be filled in this office.

<i>Nominator</i>	<i>Street Address</i>	<i>Location of Real Estate</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF TENNESSEE_{ss.}
BLOUNT COUNTY

_____, being duly sworn, deposes and says that he is the circulator of the foregoing petition paper containing _____ signatures, and that the signatures append thereto were made in his presence, and are the signatures of the persons whose names they purport to be.

Sworn to and subscribed before me, this _____ day of _____, 19____. (Signed) _____

Notary Public
My commission expires _____, 19____.

All papers comprising a nominating petition shall be assembled and filed with the Blount County Election Commissioners as one instrument at least forty-five days prior to the date of holding the election with respect to which such petition is filed.

Any person whose name has been submitted for candidacy by any such nominating petition shall file his acceptance of such candidacy with the Blount County Election Commissioners not later than thirty-five days before the day of the election, and in the absence of such acceptance, the name of the candidate shall not appear on the ballots.

SEC. 6. That the official ballot to be used in said election shall be appropriately worded by the Blount

County Election Commissioners; and the names of the candidates for the respective offices shall be alphabetically grouped. The said Election Commissioners shall cause the ballots to be properly printed and distributed, the election held, the votes counted and canvassed and certified, as now required by law in cases of regular municipal elections.

SEC. 7. That any Commissioner of the District elected under this Act may be removed from office by the qualified voters of said District. The procedure to effect such removal shall be as follows: A Petition for Recall of Commissioner, signed by the qualified voters of the District equal in number to at least thirty percent of the total vote cast for the candidate for the office of Commissioner receiving the highest vote at the last regular election, demanding the election of a successor to the person sought to be removed, shall be filed with the Blount County Election Commissioners, and notice given of such filing by publication at least once in one of the daily newspapers published in the City of Maryville; said recall petition shall contain a general statement of the grounds upon which the removal is sought; the signatures to the recall petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving his street and number, and the location of his real estate in the District. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within fifteen days from the date of the filing of said recall petition, said Blount County Election Commissioners shall examine the same and ascertain whether it is signed by the required number of persons, and whether such persons are qualified voters as shown by the registration books, and they shall attach to said recall petition their certificate showing the result of such examination. If, by the said certificate, the recall petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The said Election Commissioners shall, within fifteen days after such amendment, make like examination of the amended recall petition, and if their certificate shall hold the same to be insufficient, it shall be returned to the persons filing it. If by their certificate the recall petition is shown to be sufficient, the said Election Commissioners shall at once fix a date for holding the said election, not less than thirty days nor more than sixty days from the date of their certificate. The said Blount county Election Commissioners shall make, or cause to be made, publication of notice and all arrangements for holding said election, and the result thereof declared, and the expenses thereof paid, in all respects as in other District elections.

The successor of any Commissioner so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the said Election Commissioners shall place his name on the official ballot without nomination. In any such removal election the candidate receiving the highest number of votes shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from office upon the qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be declared vacant. If the incumbent receives the highest number of votes, he shall remain in office. The said method of removal shall be cumulative and additional to the methods heretofore existing by law; all laws applicable to general and special elections under the general laws shall apply in all general, special and removal elections held under the provisions of this Act, except where it conflicts with this Act.

SEC. 8. That the members of the Board of Commissioners shall serve without compensation for their services, but shall be entitled to reimbursement for all reasonable and necessary expenses incurred in connection with the performance of their duties.

The Board of Commissioners may delegate to one or more of its members or to its agents and employees such powers and duties as it may deem proper. Said Board of Commissioners shall meet regularly once each month, and at such other times as to the Board may appear necessary, at the offices of the Board located in said District. At its first meeting and at the first meeting of each calendar year thereafter the Board of Commissioners shall elect one of its members to serve as President, and another of its members to serve as Secretary, and another of its members to serve as Treasurer. The President shall be the chief executive officer of said District, shall preside at all Board meetings and sign the minutes thereof, and shall countersign all checks and/or vouchers drawn upon the funds of the District, and shall sign all contracts and other instruments made and entered into on behalf of said District. The Secretary shall be the clerk of the Board of Commissioners, and shall keep a record of all proceedings of the Board, which shall be available for inspection as other public records, and shall be custodian of all official records of the Board of Commissioners and said District. The Treasurer shall receive and disburse all revenues and funds of the District, and shall keep a book in which shall be entered all receipts and disbursements of money and of all money on hand; said Treasurer shall also keep a complete record of all property, assets and liabilities of the District, and any and all other records necessary or proper to reflect at all times the complete financial condition of the District. All disbursement made from the funds of the District shall be

upon check or voucher signed by the Treasurer and counter-signed by the President. All funds received by the Treasurer shall be deposited by him in such bank in the City of Maryville, Tennessee, as the Board of Commissioners shall direct. Before assuming his duties the Treasurer shall execute a bond in a responsible bonding company in such sum as the Board of Commissioners may provide, conditioned to faithfully account for all District funds and property coming into his hands as such Treasurer. The expense of the execution of such bond shall be paid out of the funds of the District.

SEC. 9. That said District shall be and is hereby created for the purpose of providing fire protection service for said District. To carry out such purpose it shall have power and authority to acquire, construct, reconstruct, improve, better, extend, consolidate, maintain and operate a municipal fire protection system within or without the District; and it shall have power and authority to enter into and make contracts with other public corporations for the purchasing and furnishing of all or any part of the fire protection service required or needed for said District.

The Board of Commissioners shall employ a certified public accountant to audit its books and records and publish in a Maryville newspaper of daily circulation, at least twice at weekly intervals on or before the first day of March of every year, a financial statement showing its receipts and disbursements, with the purpose thereof, and reflecting the true financial condition of the District for the annual period ending December 31 immediately preceding.

SEC. 10. That said District shall be and is hereby vested with all the powers necessary and requisite for the accomplishment of the purpose for which said District is created, capable of being delegated by the Legislature. No enumeration of particular powers herein created shall be construed to impair or limit any general grant of power herein contained nor to limit any such grant to a power or powers of the same class or classes as those enumerated. The District is empowered to do all acts necessary, proper or convenient in the exercise of the powers granted under this Act.

SEC. 11. That said District shall have the power and authority:

- (a) To sue and be sued.
- (b) To have a seal.
- (c) To acquire by purchase, gift, devise, lease, or exercise of the power of eminent domain or other mode of acquisition, hold and dispose of real and personal property of every kind within or without the District, whether or not subject to mortgage or any other liens.
- (d) To make and enter into contracts, conveyance, mortgages, deeds of trust, bonds or leases.
- (e) To incur debts, to borrow money, to issue negotiable bonds and to provide for the rights of holders thereof, subject to the conditions and restrictions hereinafter contained.
- (f) To fix, maintain, collect and revise uniform rates, fees, tolls, and charges for all services and expenses incident thereto.
- (g) To pledge all or any part of its revenues, and systems actually constructed or acquired.
- (h) To make such covenants in connection with the issuance of bonds, or to secure the payment of bonds, that a private business corporation can make under the general laws of the State, notwithstanding that such covenants may operate as limitations on the exercise of any power granted by this Act.
- (i) To use any right-of-way, easement or other similar property right held by the State or any political subdivision thereof, when necessary or convenient in connection with the acquisition, improvement, operation or maintenance of a system authorized by this Act, provided that the State or the governing body of any such political subdivision shall consent to such use.

SEC. 12. That the Board of Commissioners of said District shall have power and authority:

- 1. To exercise by ordinance or resolution all of the general and specific powers of the District.
- 2. To make all needful rules, regulations and by-laws for the management and the conduct of the affairs of the District and of the Board of Commissioners.
- 3. To adopt a seal for the District, prescribe the style thereof, and alter the same at pleasure.
- 4. To lease, purchase, sell, convey and mortgage the property of the District and to execute all instruments, contracts, mortgages, deeds or bonds on behalf of the District in such manner as the Board of Commissioners shall direct.
- 5. To inquire into any matter relating to the affairs of the District, to compel by subpoena the attendance of witnesses and the production of books and papers on behalf of the district in such manner as the Board of Commissioners shall direct.

6. To appoint and fix the salaries and duties of such officers, experts, agents and employees as it deems necessary, to hold office during the pleasure of the Board of Commissioners and upon such terms and conditions as it may require.
7. To do all things necessary or convenient to carry out its functions and the powers granted to the District by this Act.

SEC. 13. That said District shall have the power and is hereby authorized from time to time to issue its negotiable bonds in anticipation of the collection of revenues for the purpose of acquiring, constructing, reconstructing, improving, bettering, extending, maintaining and operating a fire protection system, or/ and for the purpose of providing fire protection service for the District by contracting with other public corporations, and to pledge to the payment of the interest and principal of said bonds all or any part of the revenues derived from the operation of a fire protection system, or derived from fire protection service provided by contracting with other public corporations, and all or any part of any system actually constructed or acquired. There may be included in the costs and expenses for which bonds are to be issued, reasonable allowances for legal, engineering and fiscal services, interest during construction and for six months after the estimated date of completion of construction, and any other preliminary or incidental expenses, including the expenses of incorporation of the District and of holding all elections required by this Act.

Said bonds shall be issued only upon authorization of a resolution of the said Board of Commissioners. When thus authorized by such resolution such bonds may be issued in one or more series; may bear such date or dates; may mature at such time or times not exceeding forty years from their respective dates; may bear interest at such rate or rates not exceeding six per cent per annum, payable semi-annually; may be in such form, either coupon or registered; may be payable in such medium of payment at such place or places; may be subject to such terms of redemption, with or without premium; and may contain such terms, covenants and conditions as the Board of Commissioners of said District may provide. Said bonds may be issued for money or property; may be sold in such manner and upon such terms as the Board of Commissioners shall determine, provided that the interest cost to maturity of the money or property (at its value as determined by the Board of Commissioners. the determination of which shall be conclusive) received for any issue of said bonds shall not exceed six per cent per annum payable semi-annually. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the Board of Commissioners may determine may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. All said bonds and interim receipts or certificates shall be executed by the signatures of the President and Treasurer of the Board of Commissioners. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all purposes of the Uniform Negotiable Instruments Laws of the State.

Only the revenues and the physical fire protection system actually constructed or acquired by said District may be pledged by said Commissioners or said District. Under no circumstances shall any indebtedness of said District become a lien on the private property of persons, firms or corporations located therein.

SEC. 14. That any resolution authorizing the issuance of bonds under this Act may contain covenants, including, but not limited to (a) the purpose or purposes to which the proceeds of the sale of said bonds may be applied and the deposit, use and disposition thereof; (b) the use, deposit, securing of deposits, and disposition of the revenues of the District, including the creation and maintenance of reserves; (c) the issuance of other additional bonds payable from the revenues of the District; (d) the operation and maintenance of the system; (e) the insurance to be carried thereon and the use, deposit and disposition of insurance monies; (f) the maintenance of books of account and the inspection and audit thereof and the accounting methods of the District; (g) the non-rendering of any free service by the District; and (h) the preservation of the system, so long as any of the bonds remain outstanding, from any mortgage, sale, lease or other encumbrance not specifically permitted by the terms of the resolution.

SEC. 15. That there shall be and there is hereby created a statutory lien in the nature of a mortgage lien upon any system acquired or constructed in accordance with this Act, including all extensions and improvements thereto or combinations thereof subsequently made, which lien shall be in favor of the holder or holders of any bonds issued pursuant to this Act, and all such property shall remain subject to such statutory lien until the payment in full of the principal of and interest on said bonds. Any holder of said bonds or any of the coupons representing interest therein may either at law or in equity, by suit, action, mandamus, or other proceedings, in any Court of competent jurisdiction, protect and enforce such statutory lien and compel performance of all duties required by this Act, including the performance of any duties required by covenants with the holders of any bonds issued in accordance with this Act.

If any default be made in the payment of the principal of or interest on such bonds, any Court having jurisdiction of the action may appoint a receiver to administer said District, and said system, with power to charge and collect rates sufficient to provide for the payment of all bonds and obligations outstanding

against said District and said system and for the payment of operating expenses, and to apply the income and revenues thereof in conformity with the provisions of this Act, and any covenants with bondholders.

SEC. 16. That said bonds bearing the signature of the proper officers in office on the date of signing thereof, as hereinabove provided, shall be valid and binding obligations, notwithstanding that before the delivery thereof and the payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the District. The validity of this bond shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the system for which said bonds are issued, nor any proceedings relating to any contract with other public corporations for fire protection service for which said bonds are issued. Said bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

SEC. 17. That no holder or holders of any bonds issued pursuant to this Act shall ever have the right to compel the levy of any tax to pay said bonds or the interest thereon. Each bond shall recite in substance that said bond and interest thereon is payable solely from the revenues pledged to the payment thereof and that said bond does not constitute a debt of the District within the meaning of any statutory limitation.

SEC. 18. That the Board of Commissioners of said District pursuant to this Act shall prescribe and collect reasonable and uniform rates, fees, tolls or charges for the services, facilities and commodities of its system, and for services provided by the District through contract with other public corporations, shall prescribe penalties for the nonpayment thereof, and shall revise such rates, fees, tolls or charges from time to time whenever necessary to insure that such system shall be and always remain self-supporting, and that all expenses of the District incident to providing fire protection service through contract with other public corporations shall be met. The rates, fees, tolls, or charges prescribed shall be such as will always produce revenue sufficient (a) to provide for all expenses of acquisition, operation and maintenance of the system, and all expenses incident to providing fire protection service by contract with other public corporations, including reserves therefor, and (b) to pay when due all bonds and interest thereon for the payment of which such revenues are or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (c) to pay any other expenses incidental to the proper administration of the District, including reserves therefor.

SEC. 19. That so long as said District shall own any system, or shall provide fire protection service for said District through contract with other public corporations, the property of said District, and revenue of the District derived from such system or from the providing of fire protection service through contract with other public corporations, shall be exempt from all State, County and Municipal taxation, except inheritance, transfer and estate taxes, and it shall be so stated on the face of said bonds.

SEC. 20. That neither the Railroad and Public Utilities Commission nor any other board or commission of like character hereafter created shall have jurisdiction over the District in the management and control of any system, including the regulation of its rates, fees, tolls or charges.

SEC. 21. That said District shall have power to condemn either the fee or such right, title, interest or easement in property as the Board of Commissioners, may deem necessary for any of the purposes mentioned in this Act, and such property or interest in such property may be so acquired whether or not the same is owned or hold for public use by corporations, associations or persons having the power or eminent domain or otherwise held or used for public purposes; provided, however, such prior public use will not be interfered with by this use. Such power of condemnation may be exercised in the mode or method of procedure prescribed by Sections 3109 to 3134, Code of Tennessee, 1932, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain; provided, however, that where title to any property sought to be condemned is defective, further, that where condemnation proceedings become necessary the Court in which such proceedings are filed shall, upon application by the District and upon the posting of a bond with the Clerk of the Court in such amount as the Court may deem commensurate with the Clerk of the Court in such amount as the Court of possession shall issue immediately or as soon and upon such terms as the Court, in its discretion, may deem proper and just.

SEC. 22. That if any provision of this Act, or the application of such provision to any person, body or circumstances shall be held invalid, the remainder of this Act, or the application of such provision to persons, bodies, or circumstances, other than those as to which it shall have been held invalid, shall not be affected thereby.

SEC. 23. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 14, 1947.

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