
Anderson County Board of Commissioners

Regular Agenda **Tuesday, January 21, 2020 @ 6:30 p.m.**

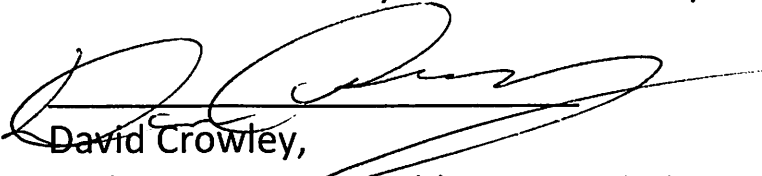
- 1. Call to Order / Roll Call**
- 2. Prayer / Pledge of Allegiance**
- 3. Appearance of Citizens**
- 4. Approval and Correction of Agendas**
 - Consent Agenda
 - Regular Agenda
- 5. Public Hearing Report – by Vice Chairman Joshua Anderson**
 - Rezoning of Property at 1127 Oliver Springs Hwy. Parcel 216.0, Tax Map 087 from R-1 District to C-1 District
- 6. Committee Reports**
 - Budget Report by Robby Holbrook, Interim Finance Director
 - Finance Report by Robby Holbrook, Interim Finance Director
- 7. Departments**
 - Delinquent Tax Attorney, Trippy Teno – Update on current and delinquent property taxes and the Tax Freeze Program
- 8. Director of Schools**
 - No Report
- 9. County Mayor**
 1. Approval of TDEC Education and Outreach Grant Amendment
 - a. Debt Management Policy Review
 - b. Annual Cash Flow Forecast
 - c. Documented system of internal controls (TCA Section 9-18-102)
 2. Approval of Resolution Nos. 20-1-797, 20-1-798 and 20-1-799.
- 10. Law Director**
 - A. Contract Approvals
 - B. Lawsuit Update –
 - Devin, D. v. AC-Detention Facility – Dismissed by U.S. District Court
 - Duncan, James David v. AC – Detention Facility – Dismissed by U.S. District Court
 - C. Resolution 20-01-796 to allow employees of Anderson County Government to carry concealed firearms subject to authorization granted in Tennessee Law provided employees obtain lawful Carry permits
- 11. Committees/Boards Reports**
 - Operations Committee Report – by Chairman Isbel
 - Legislative Committee Report – by Chairman Mead

12. **Old Business**
13. **New Business**
14. **Adjourn**

**Respectfully Submitted,
Tracy Wandell, Chairman**

LEGAL NOTICE OF PUBLIC HEARING
[Published in Compliance with TCA 13-7-105]

The Anderson County Board of Commissioners will hold a Public Hearing on January 21, 2020 in Room 312 of the Anderson County Courthouse, 100 N. Main Street, Clinton, Tennessee to consider an amendment to the Anderson County Zoning Resolution to include the rezoning of the property at 1127 Oliver Springs Highway, Clinton, TN Parcel 216.0; Anderson County Tax Map 087 from R-1 District to C-1 District. A copy of the proposed zoning amendment is available at the Planning and Zoning Office of the Anderson County Public Works Department.


David Crowley,
Anderson County Building Commissioner

WHEREAS the Anderson County Regional Planning Commission has reviewed and made recommendations regarding the proposed amendment of the “Zoning Resolution of Anderson County, Tennessee”, in accordance with Section 13-7-105 (a) of the Tennessee Code Annotated; and

NOW, THEREFORE, BE IT RESOLVED that the Anderson County Board of Commissioners does hereby amend the Anderson County Zoning Resolution.

This resolution shall take effect immediately after its notification and passage, the public welfare requiring it.

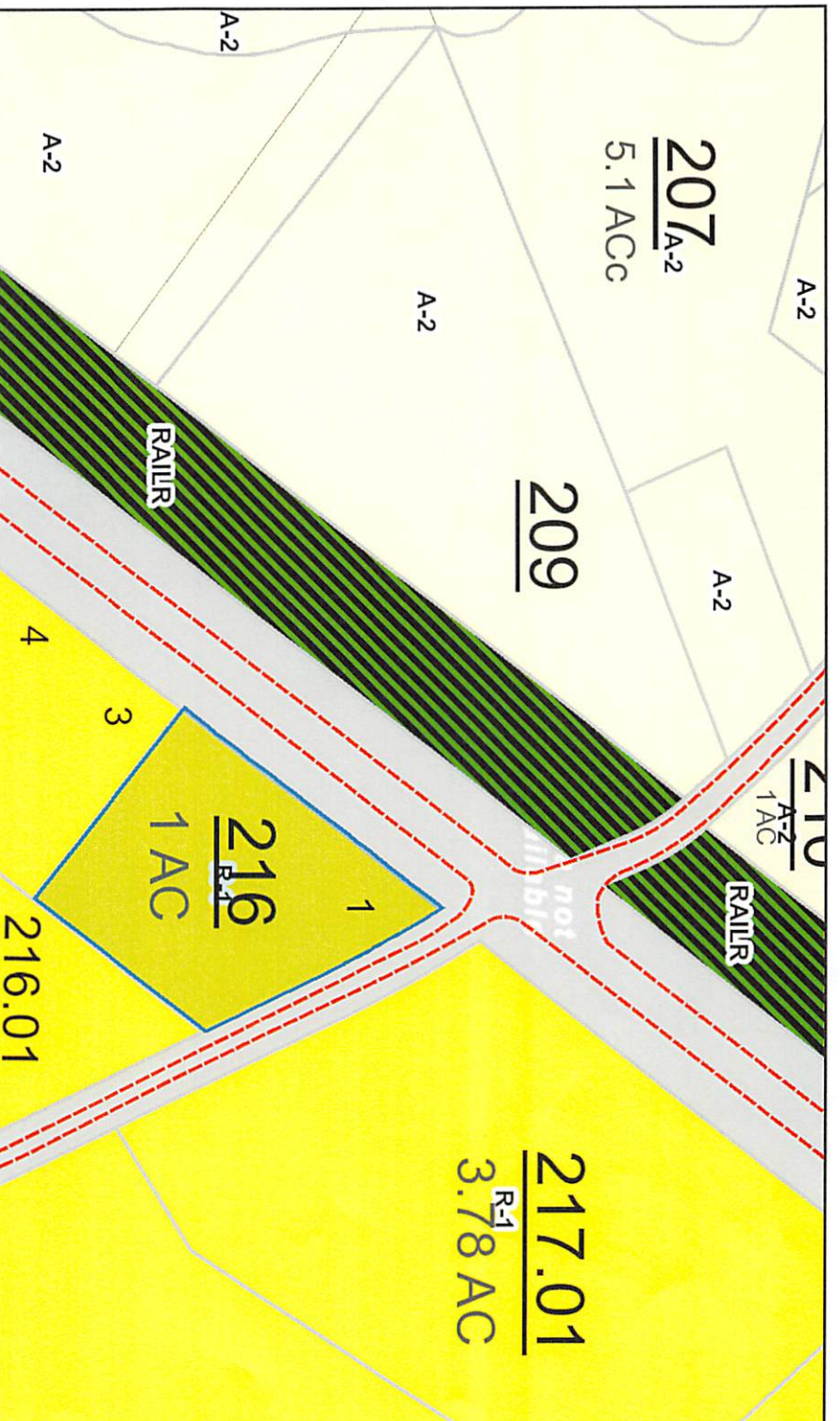
Tracy Wandell , Chairman

ATTEST:

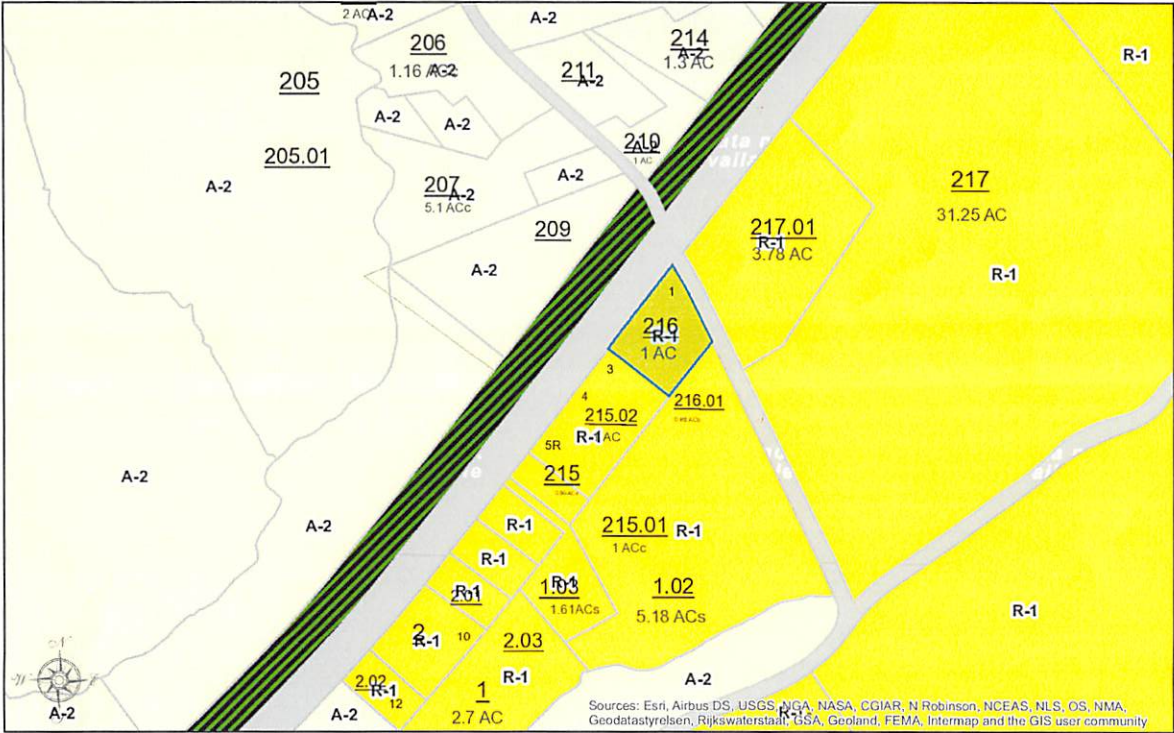
Jeff Cole, County Clerk

DATE:

Wanda Russell Rezoning

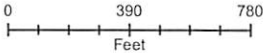


Wanda Russell Rezoning



ANDERSON COUNTY, TENNESSEE

DISCLAIMER: THIS MAP IS FOR PROPERTY TAX ASSESSMENT PURPOSES ONLY. IT WAS CONSTRUCTED FROM PROPERTY INFORMATION RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS AND IS NOT CONCLUSIVE AS TO LOCATION OF PROPERTY OR LEGAL OWNERSHIP.
MAP DATE: November 20, 2019



RESOLUTION 20 01 786

A RESOLUTION AMENDING THE “ZONING RESOLUTION OF ANDERSON COUNTY, TENNESSEE” BY REZONING PARCEL 216; ANDERSON COUNTY TAX MAP 87 FROM R-1 (Suburban – Residential District) TO C -1 (General Commercial District)

WHERE AS, The Anderson County Commission, in accordance with Section 13-7-105 of *Tennessee code Annotated*, may amend the zoning resolution and the “Zoning Map of Anderson County, Tennessee” and

WHERE AS, the Anderson County Regional Planning Commission has forwarded its recommendation to the Anderson County Commission regarding the amendment to the “Zoning Map of Anderson County, Tennessee”;

NOW, THEREFORE BE IT ORDAINED by the Anderson County Commission of Anderson County, Tennessee that:

Section 1. The zoning Map of Anderson County, Tennessee is hereby amended by rezoning Parcel 216.0; Anderson County Tax Map 087 from R-1 (Suburban-Residential District) to C-1 (General Commercial District). Said territory located at 1127 Oliver Springs Highway Clinton, TN; and being more clearly defined by the attached map that is made a part of this resolution:

Section 2. This resolution shall be effective from and after its passage and publication, as required by Section 13-7-105 (b) of *Tennessee Code Annotated*, the public welfare requiring it.

Adopted this _____ day of _____, _____.

_____	_____
Tracy Wandell	Terry Frank
Chairman	Mayor

Public Hearing Held _____

Resolved and Approved _____

Jeff Cole Clerk

ANDERSON COUNTY GOVERNMENT SUMMARY OF BUDGET AMENDMENTS

January 9, 2020

<u>PAGE NO.</u>	<u>ITEM NO.</u>	<u>FUND - DEPARTMENT</u>	<u>AMOUNT</u>
Group 1 Consent Agenda - Transfers (No Commission Action Necessary)			
1	1	Fund 101 - Pre-Trial Release	\$ 1,450.00
1	2	Fund 101 - County Commission	\$ 1,000.00
2	3	Fund 263 - Employee Benefit Fund	\$ 12,000.00
2	4	Fund 143 - Central Cafeteria	\$ 4,500.00
2	5	Fund 141 - Instruction	\$ 7,575.42
3	6	Fund 141 - Student Services	\$ 5,000.00
3	7	Fund 141 - Board of Education	\$ 4,000.00
4	8	Fund 141 - Business Office	\$ 2,250.00
Group 2 - Transfers - School (Commission Approval by Board Vote)			
Group 3 - Appropriations - School (Commission Approval by Board Vote)			
4	9	Fund 141 - Business Office	\$ 40,000.00
4	10	Fund 141 - Business Office	\$ 50,000.00
Group 4 - Appropriations - NonSchool (Commission Approval by Board Vote)			
5	11	Fund 101 - AC Dental Clinic	\$ 1,000.00
5	12	Fund 101 - Clerk & Master	\$ 4,680.00
6	13	Fund 101 - County Clerk	\$ 3,639.00
6	14	Fund 101 - Animal Control	\$ 10,000.00
7	15	Fund 101 - Sheriff's Department	\$ 1,365.80
7	16	Fund 101 - Sheriff's Department	\$ 5,423.63
7	17	Fund 131 - Highway	\$ 5,000.00
8	18	Fund 131 - Highway	\$ 50,000.00
8	19	Fund 116 - Solid Waste	\$ 13,600.00
9	20	Fund 116 - Solid Waste	\$ 295.00
Group 5 - Transfers - NonSchool (Commission Approval by Board Vote)			
9	21	Fund 101 - Preservation of Records	\$ 20,000.00
Group 6 - Appropriations - General Fund Unassigned Fund Balance (Commission Approval by Board Vote)			
9	22	Fund 101 - Law Director	\$ 14,541.48
Group 7 - Miscellaneous			
10	A	Budget Guidelines & Calendar	Motion passed
10	B	Vehicle Replacement Plan	No action taken
10	C	Unassigned Fund Balance Policy	Motion Passed
10	D	Senior Center Buildings Comparison	No action taken
Group 8 - Additional Items not discussed during budget committee (requires 3/4 majority vote)			

**ANDERSON COUNTY GOVERNMENT
CASH AND FUND BALANCE REPORT
December 30, 2019**

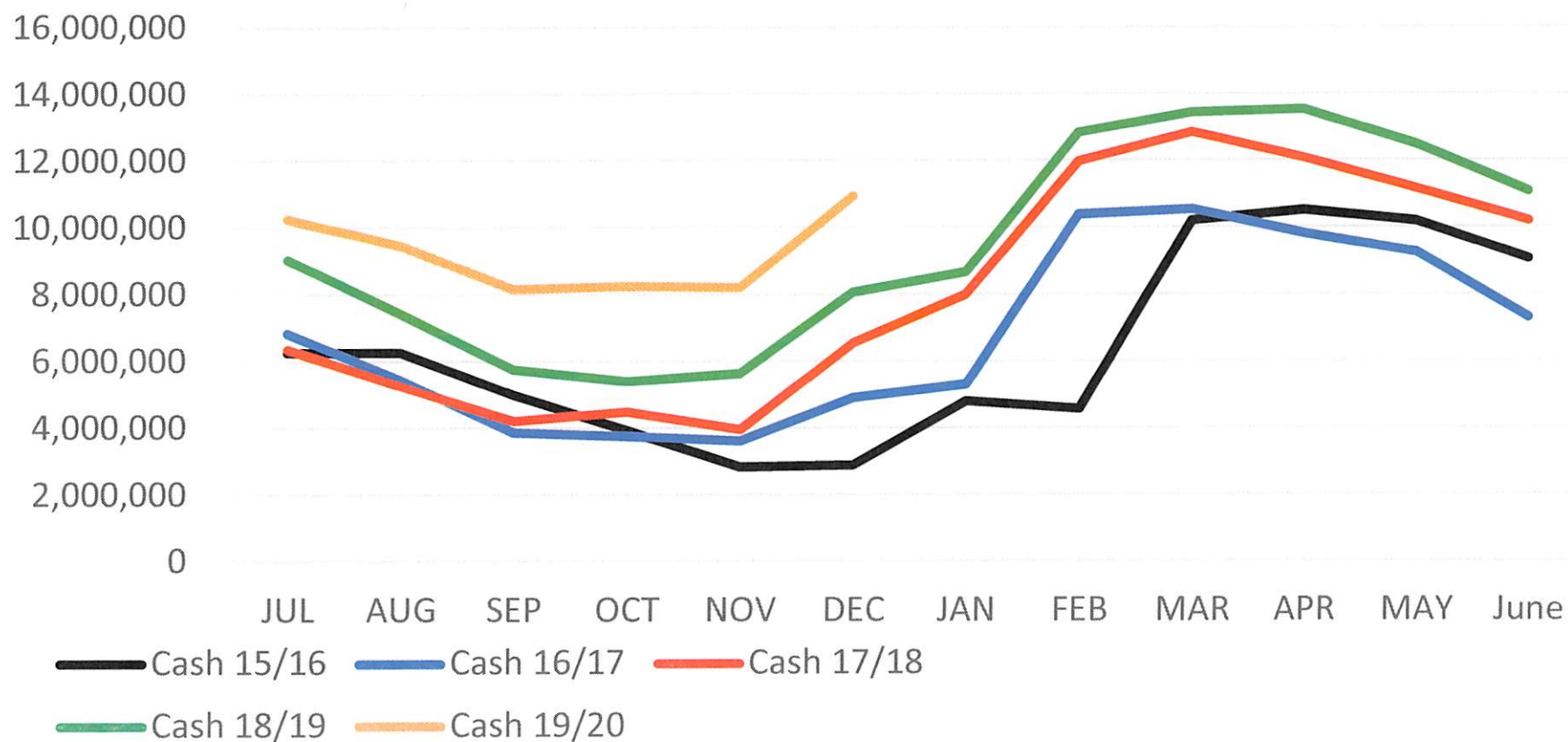
FUND	DESCRIPTION	NON- SPENDABLE	RESTRICTED FUNDS	COMMITTED FUNDS	ASSIGNED FUNDS	UNASSIGNED FUND BALANCE	TOTAL FUND BALANCE	CASH
101	General Fund	\$ -	\$ 1,479,243	\$ 2,059,015	\$ 519,857	\$ 4,736,131	* \$ 8,794,246	\$ 10,955,193
115	Library Fund	\$ -	\$ 269,006		\$ -	\$ -	\$ 269,006	\$ 341,326
116	Solid Waste/Sanitation Fund	\$ -	\$ 87,962		\$ -	\$ -	\$ -	\$ 334,824
118	Ambulance Fund	\$ -	\$ 250	\$ -	\$ -	\$ 238,104	\$ 238,354	\$ 525,528
122	Drug Control Fund	\$ -	\$ 195,285	\$ 2,104	\$ -	\$ -	\$ 197,389	\$ 275,258
127	Channel 95 Fund	\$ -	\$ -	\$ -	\$ 112,383	\$ -	\$ 112,383	\$ 57,037
128	Tourism Fund	\$ -	\$ 297,853	\$ -	\$ -	\$ -	\$ 297,853	\$ 398,097
131	Highway Fund	\$ 35,560	\$ 269,737	\$ 2,546,006	\$ -	\$ -	\$ 2,851,303	\$ 3,963,499
141	General Purpose School Fund	\$ -	\$ -	\$ 5,992,046	\$ -	\$ -	\$ 5,992,046	\$ 9,193,110
143	Central Cafeteria	\$ 81,580	\$ 1,216,363	\$ -	\$ -	\$ -	\$ 1,297,943	\$ 1,225,426
151	General Debt Service Fund	\$ -	\$ 1,600,217	\$ 306,894	\$ -	\$ -	\$ 1,907,111	\$ 2,328,998
152	Rural Debt Service Fund	\$ -	\$ 816,050	\$ -	\$ -	\$ -	\$ 816,050	\$ 640,835
156	Education Debt Service Fund	\$ -	\$ 172,403	\$ 118,995	\$ -	\$ -	\$ 291,398	\$ 1,022,176
171	Capital Projects Fund	\$ -	\$ 101,339	\$ -	\$ -	\$ -	\$ 101,339	\$ 157,274
177	Education Capital Projects Fund		\$ 491	\$ 5,996	\$ -	\$ -	\$ 6,487	\$ 960,957
263	Employee Benefit Fund	\$ 43,650	\$ -	\$ -	\$ 547,591	\$ -	\$ 591,241	\$ 1,219,148

* General Unassigned Fund Balance limit of \$4.0MM requiring 2/3 (11) votes for budget amendments.

**Cash Trends
December**

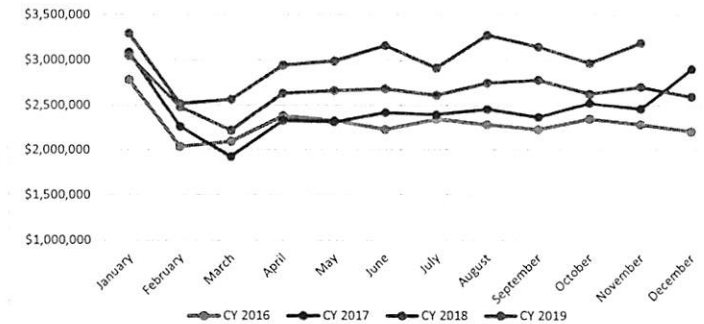
Cash 15/16	2,887,373
Cash 16/17	4,910,542
Cash 17/18	6,549,912
Cash 18/19	8,073,422
Cash 19/20	10,955,193

General Fund Cash Trends



	Anderson Co.	Clinton	Rocky Top	Norris	Oak Ridge	Oliver Springs	Total	+/-
2018								
January	\$279,043.60	\$681,920.01	\$74,957.21	\$25,780.37	\$1,896,213.39	\$94,601.66	\$3,052,516.24	-1%
February	\$212,494.47	\$509,652.66	\$60,051.65	\$12,682.69	\$1,615,104.72	\$70,119.20	\$2,480,105.39	10%
March	\$240,980.36	\$526,046.52	\$61,966.71	\$12,213.95	\$1,297,994.18	\$74,212.73	\$2,213,414.45	15%
April	\$191,003.17	\$679,912.72	\$74,428.74	\$29,068.32	\$1,564,213.61	\$93,157.99	\$2,631,784.55	13%
May	\$178,773.24	\$586,199.76	\$68,047.90	\$18,369.93	\$1,719,989.01	\$90,175.73	\$2,661,555.57	15%
June	\$245,973.36	\$635,782.19	\$74,090.66	\$20,830.72	\$1,615,372.13	\$91,450.23	\$2,683,499.29	11%
July	\$226,892.30	\$597,213.63	\$75,307.22	\$22,876.83	\$1,604,903.40	\$81,209.68	\$2,608,403.06	9%
August	\$222,126.86	\$612,953.37	\$72,734.88	\$22,556.54	\$1,729,726.71	\$86,938.40	\$2,747,036.76	12%
September	\$216,609.24	\$607,568.41	\$66,226.96	\$20,919.17	\$1,775,671.35	\$93,184.01	\$2,780,179.14	18%
October	\$220,700.56	\$590,185.54	\$66,568.34	\$22,052.55	\$1,630,183.73	\$95,992.21	\$2,625,682.93	4%
November	\$218,030.39	\$617,575.60	\$63,631.36	\$22,287.48	\$1,692,556.77	\$91,355.52	\$2,705,437.12	10%
December	\$197,206.06	\$581,308.90	\$65,131.77	\$19,557.91	\$1,645,532.57	\$87,059.31	\$2,595,796.52	-11%
Totals:	\$2,649,833.61	\$7,226,319.31	\$823,143.40	\$249,196.46	\$19,787,461.57	\$1,049,456.67	\$31,785,411.02	
2019								
January	\$262,394.18	\$794,904.04	\$68,231.26	\$25,023.95	\$2,049,448.99	\$94,145.30	\$3,294,147.72	8%
February	\$198,705.33	\$565,750.82	\$56,778.41	\$17,002.09	\$1,596,959.08	\$81,196.98	\$2,516,392.71	1%
March	\$243,438.83	\$588,926.17	\$58,050.57	\$17,984.40	\$1,549,661.81	\$105,266.45	\$2,563,328.23	16%
April	\$289,531.59	\$659,344.90	\$75,479.83	\$25,112.88	\$1,771,163.16	\$120,236.58	\$2,940,868.94	12%
May	\$233,123.71	\$617,648.11	\$63,856.62	\$21,106.78	\$1,975,073.95	\$75,961.05	\$2,986,770.22	12%
June	\$277,858.48	\$689,704.80	\$68,482.77	\$25,116.23	\$2,010,843.70	\$86,403.53	\$3,158,409.51	18%
July	\$257,767.29	\$644,478.72	\$74,586.55	\$28,313.31	\$1,826,736.78	\$79,546.35	\$2,911,429.00	12%
August	\$350,270.73	\$673,246.39	\$82,380.45	\$27,270.76	\$2,053,312.40	\$87,663.95	\$3,274,144.68	19%
September	\$257,844.81	\$641,347.37	\$73,011.62	\$24,271.62	\$2,072,170.32	\$75,540.99	\$3,144,186.73	13%
October	\$246,816.97	\$628,342.37	\$74,380.93	\$24,661.51	\$1,913,786.32	\$80,268.79	\$2,968,256.89	13%
November	\$293,945.41	\$641,815.82	\$75,938.96	\$25,441.19	\$2,077,688.60	\$75,313.23	\$3,190,143.21	18%
December							\$0.00	-100%
Totals:	\$2,911,697.33	\$7,145,509.51	\$771,177.97	\$261,304.72	\$20,896,845.11	\$961,543.20	\$32,948,077.84	

Local Option Sales Tax - Total Net Collections



Anderson County
Summary Financial Statement
December 2019

118 Ambulance Service		Year-To-Date			Month-To-Date		
Account	Description	Budget Estimate	Actual	% of Budget	Estimate Avg/Mth	Actual	% of Avg
Revenue							
40110	Current Property Taxes	247,331.00	(112,394.07)	45.44 %	20,610.92	(72,721.64)	352.83 %
40120	Trustee's Collection-Prior Yr	0.00	(10,118.52)	0.00 %	0.00	(687.28)	0.00 %
40125	Trustee's Collections - Bankruptcy	0.00	(39.93)	0.00 %	0.00	(24.37)	0.00 %
40140	Interest & Penalty	0.00	(1,070.42)	0.00 %	0.00	(101.29)	0.00 %
43120	Patient Charges	4,900,000.00	(2,542,805.62)	51.89 %	408,333.33	(393,358.77)	96.33 %
43190	Other General Service Charges	150,000.00	(29,653.46)	19.77 %	12,500.00	0.00	0.00 %
43350	Copy Fees	1,200.00	(159.00)	13.25 %	100.00	(75.00)	75.00 %
43517	Tuition-Other	1,500.00	(1,337.00)	89.13 %	125.00	(200.00)	160.00 %
44120	Lease/Rentals	0.00	(3,525.00)	0.00 %	0.00	(500.00)	0.00 %
47240	Medicaid	400,000.00	(313,010.96)	78.25 %	33,333.33	(69,166.20)	207.50 %
49600	Proceeds From Sale Of Capital Assets	0.00	(2,360.00)	0.00 %	0.00	(2,360.00)	0.00 %
49700	Insurance Recovery	951.00	(1,138.23)	119.69 %	79.25	0.00	0.00 %
49800	Transfers In	65,925.00	0.00	0.00 %	5,493.75	0.00	0.00 %
	Total Revenue	5,766,907.00	(3,017,612.21)	52.33 % <i>Revenue</i>	480,575.58	(539,194.55)	112.20 %
Expenditures							
55130	Ambulance/Emergency Medical	(5,972,947.70)	2,931,086.17	49.07 %	(497,745.64)	413,028.40	82.98 %
82310	General Government	(35,250.00)	1,125.00	3.19 %	(2,937.50)	0.00	0.00 %
	Total Expenditures	(6,008,197.70)	2,932,211.17	48.80 % <i>Exp.</i>	(500,683.14)	413,028.40	82.49 %
Total 118	Ambulance Service	(241,290.70)	(85,401.04)	-35.39 %	(20,107.56)	(126,166.15)	-627.46

Template Name: LGC Statement of
Created by: LGC

Anderson County
Statement of Expenditures and Encumbrances
December 2019

User:
Date/Time:

rhobrook
1/7/2020 10:42 AM
Page 5 of 5

Fund : 118 Sub-Fund:

Object	Cost Center	Sub Object	Original Budget/ Amendments	Total Budget	YTD Expenditures/ Encumbrances	Funds Available	% Used	MTD Actual/ Encumbrance
Total For Fund:	118		(5,995,068.42)	(6,008,197.70)	2,569,300.71	(3,075,986.53)	48.80 %	433,873.02
			(13,129.28)		362,910.46			(20,844.62)

Anderson County
Statement of Expenditures and Encumbrances
December 2019

Fund : 118 Sub-Fund:

Object	Cost Center	Sub Object	Original Budget/ Amendments	Total Budget	YTD Expenditures/ Encumbrances	Funds Available	% Used	MTD Actual/ Encumbrance
55130		Ambulance/Emergency Medical Services						
105			(72,609.82)	(72,609.82)	34,643.06	(37,966.76)	47.71%	5,542.66
	Supervisor/ Director		0.00		0.00			0.00
119			(182,787.71)	(182,787.71)	61,293.61	(121,494.10)	33.53%	9,721.60
	Accountants/Bookkeepers		0.00		0.00			0.00
131			(1,837,139.89)	(1,837,139.89)	879,778.39	(957,361.50)	47.89%	144,164.64
	Medical Personnel		0.00		0.00			0.00
169			(90,000.00)	(90,000.00)	50,424.25	(39,575.75)	56.03%	9,145.88
	Part-Time Help		0.00		0.00			0.00
187			(1,002,825.00)	(1,002,825.00)	510,791.98	(492,033.02)	50.94%	82,634.27
	Overtime Pay		0.00		0.00			0.00
201			(196,501.00)	(196,501.00)	93,795.95	(102,705.05)	47.73%	14,662.60
	Social Security		0.00		0.00			0.00
204			(232,315.00)	(232,315.00)	102,298.74	(130,016.26)	44.03%	14,590.51
	State Retirement		0.00		0.00			0.00
206			(2,496.00)	(2,496.00)	2,024.53	(471.47)	81.11%	361.00
	Life Insurance		0.00		0.00			0.00
207			(539,880.00)	(539,880.00)	190,559.50	(349,320.50)	35.30%	31,074.50
	Medical Insurance		0.00		0.00			0.00
208			(24,918.00)	(24,918.00)	10,358.64	(14,559.36)	41.57%	1,751.96
	Dental Insurance		0.00		0.00			0.00
209			(21,503.00)	(21,503.00)	3,599.59	(17,903.41)	16.74%	545.80
	S/T Disability Insurance		0.00		0.00			0.00
210			(4,200.00)	(4,200.00)	533.40	(3,666.60)	12.70%	330.79
	Unemployment Compensation		0.00		0.00			0.00
212			(45,956.00)	(45,956.00)	21,905.36	(24,050.64)	47.67%	3,429.08
	Employer Medicare		0.00		0.00			0.00
307			(14,000.00)	(14,000.00)	6,006.52	(6,501.34)	53.56%	1,336.50
	Communication		0.00		1,492.14			(832.02)
307	0100		(20,000.00)	(20,000.00)	0.00	(20,000.00)	0.00%	0.00
	Communication		0.00		0.00			0.00

Template Name: LGC Statement of
Created by: LGC

Anderson County
Statement of Expenditures and Encumbrances
December 2019

User:
Date/Time:

rhobrook
1/7/2020 10:42 AM
Page 2 of 5

Fund : 118 Sub-Fund:

Object	Cost Center	Sub Object	Original Budget/ Amendments	Total Budget	YTD Expenditures/ Encumbrances	Funds Available	% Used	MTD Actual/ Encumbrance
307	0200		(8,500.00)	(8,500.00)	4,352.16	0.00	100.00%	1,430.77
	Communication		0.00		4,147.84			(1,430.77)
309	KICK		(138,622.00)	(138,622.00)	32,130.88	(106,491.12)	23.18%	32,130.88
	Contracts With Governmental Agencies		0.00		0.00			0.00
317			(3,500.00)	(3,500.00)	1,655.76	(860.00)	75.43%	324.26
	Data Processing Services		0.00		984.24			(324.26)
320			(1,500.00)	(1,500.00)	765.00	(735.00)	51.00%	0.00
	Dues And Memberships		0.00		0.00			0.00
329			(41,000.00)	(41,000.00)	14,990.00	(18,010.00)	56.07%	7,220.74
	Laundry Service		0.00		8,000.00			(7,230.74)
334			(23,000.00)	(23,000.00)	20,713.53	(2,286.47)	90.06%	0.00
	Maintenance Agreements		0.00		0.00			0.00
335			(15,000.00)	(15,000.00)	7,360.06	(1,500.00)	90.00%	76.92
	Maint & Repair -- Building		0.00		6,139.94			(76.92)
336			(7,500.00)	(7,500.00)	741.95	(2,500.00)	66.67%	0.00
	Maint & Repair Equipment		0.00		4,258.05			0.00
338			(75,000.00)	(75,951.00)	32,386.08	(39,951.00)	47.40%	0.00
	Repairs And Maintenance Vehicles		(951.00)		3,613.92			0.00
338	1000		(29,000.00)	(29,000.00)	2,101.40	(18,000.00)	37.93%	98.95
	Repairs And Maintenance Vehicles		0.00		8,898.60			(98.95)
347			(1,260.00)	(1,260.00)	0.00	(1,260.00)	0.00%	0.00
	Pest Control		0.00		0.00			0.00
348			(500.00)	(500.00)	66.50	(433.50)	13.30%	24.00
	Postal Charges		0.00		0.00			0.00
349			(800.00)	(800.00)	0.00	(800.00)	0.00%	0.00
	Printing, Stationary & Forms		0.00		0.00			0.00
351			(24,000.00)	(24,000.00)	14,000.00	0.00	100.00%	2,000.00
	Rentals		0.00		10,000.00			(2,000.00)
355			(7,000.00)	(7,000.00)	2,040.74	(4,008.84)	42.73%	0.00
	Travel		0.00		950.42			0.00

Template Name: LGC Statement of
Created by: LGC

Anderson County
Statement of Expenditures and Encumbrances
December 2019

User:
Date/Time:

rhobrook
1/7/2020 10:42 AM
Page 3 of 5

Fund : 118 Sub-Fund:

Object	Cost Center	Sub Object	Original Budget/ Amendments	Total Budget	YTD Expenditures/ Encumbrances	Funds Available	% Used	MTD Actual/ Encumbrance
356			(17,000.00)	(17,000.00)	0.00	(17,000.00)	0.00%	0.00
	Tuition		0.00		0.00			0.00
359			(2,000.00)	(2,000.00)	450.48	(1,549.52)	22.52%	0.00
	Disposal Fees		0.00		0.00			0.00
399			(410,000.00)	(410,000.00)	155,759.28	(96,578.40)	76.44%	29,579.35
	Other Contracted Services		0.00		157,662.32			(24,527.05)
410			(9,000.00)	(9,000.00)	4,685.45	(3,999.35)	55.56%	2,910.74
	Custodial Supplies		0.00		315.20			(2,910.09)
413			(240,000.00)	(240,000.00)	68,795.52	(141,936.09)	40.86%	15,023.96
	Drugs & Medical Supplies		0.00		29,268.39			(11,523.96)
413	1000		(1,500.00)	(1,500.00)	0.00	0.00	100.00%	0.00
	Drugs & Medical Supplies		0.00		1,500.00			0.00
414			(500.00)	(500.00)	0.00	(500.00)	0.00%	0.00
	Duplicating Supplies		0.00		0.00			0.00
425			(130,000.00)	(130,000.00)	50,972.83	(27,112.09)	79.14%	9,948.81
	Gasoline		0.00		51,915.08			31,312.69
434			(7,000.00)	(7,000.00)	647.69	(6,352.31)	9.25%	363.66
	Natural Gas		0.00		0.00			0.00
435			(2,500.00)	(2,500.00)	566.20	(1,500.00)	40.00%	169.88
	Office Supplies		0.00		433.80			(169.88)
450			(20,000.00)	(20,000.00)	3,510.84	(7,500.00)	62.50%	554.04
	Tires And Tubes		0.00		8,989.16			(554.04)
451			(30,000.00)	(30,000.00)	6,242.96	(7,581.01)	74.73%	1,744.13
	Uniforms		0.00		16,176.03			(1,744.13)
452			(34,000.00)	(34,000.00)	16,520.37	(17,479.63)	48.59%	2,132.43
	Utilities		0.00		0.00			0.00
453			(10,000.00)	(10,000.00)	5,143.38	(1,496.97)	85.03%	202.60
	Vehicle Parts		0.00		3,359.65			(202.60)
453	1000		(32,000.00)	(32,000.00)	6,667.35	(13,337.09)	58.32%	1,571.79
	Vehicle Parts		0.00		11,995.56			3,128.21

Anderson County
Statement of Expenditures and Encumbrances
December 2019

Fund : 118 Sub-Fund:

Object	Cost Center	Sub Object	Original Budget/ Amendments	Total Budget	YTD Expenditures/ Encumbrances	Funds Available	% Used	MTD Actual/ Encumbrance
499			(12,000.00)	(12,000.00)	3,593.77	(4,991.08)	58.41%	695.22
	Other Supplies & Materials		0.00		3,415.15			(695.22)
502			(5,000.00)	(5,000.00)	2,500.00	(2,500.00)	50.00%	0.00
	Building & Contents Insurance		0.00		0.00			0.00
506			(22,612.00)	(22,612.00)	11,306.00	(11,306.00)	50.00%	0.00
	Liability Insurance		0.00		0.00			0.00
510			(63,893.00)	(63,893.00)	29,597.98	(34,295.02)	46.32%	5,413.21
	Trustee's Commission		0.00		0.00			0.00
511			(11,500.00)	(11,500.00)	5,750.00	(5,750.00)	50.00%	0.00
	Vehicle & Equipment Insurance		0.00		0.00			0.00
513			(180,000.00)	(180,000.00)	90,000.00	(90,000.00)	50.00%	0.00
	Workman's Comp Ins		0.00		0.00			0.00
524			(28,000.00)	(28,000.00)	2,587.52	(6,041.00)	78.43%	338.31
	Staff Development		0.00		19,371.48			(338.31)
708			(5,000.00)	(17,178.28)	0.00	(17,178.28)	0.00%	0.00
	Communication Equipment		(12,178.28)		0.00			0.00
709			(10,000.00)	(10,000.00)	0.00	(3,216.00)	67.84%	0.00
	Data Processing Equipment		0.00		6,784.00			0.00
711			(6,000.00)	(6,000.00)	1,388.55	(2,700.00)	55.00%	626.58
	Furniture And Fixtures		0.00		1,911.45			(626.58)
790			(7,000.00)	(7,000.00)	171.96	(5,500.00)	21.43%	0.00
	Other Equipment		0.00		1,328.04			0.00
Total 55130 Ambulance/Emergency			(5,959,818.42)	(5,972,947.70)	2,568,175.71	(3,041,861.53)	49.07 %	433,873.02
			(13,129.28)		362,910.46			(20,844.62)
82310	General Government							
602			(33,000.00)	(33,000.00)	0.00	(33,000.00)	0.00%	0.00
	Principal On Notes		0.00		0.00			0.00
604			(2,250.00)	(2,250.00)	1,125.00	(1,125.00)	50.00%	0.00
	Interest On Notes		0.00		0.00			0.00
Total 82310 General Government			(35,250.00)	(35,250.00)	1,125.00	(34,125.00)	3.19 %	0.00
			0.00		0.00			0.00

BUDGET COMMITTEE MINUTES

JANUARY 9, 2020

Members Present:

Jerry White, Commissioner – Chairman
Denver Waddell, Commissioner
Shain Vowell, Commissioner
Rick Meredith, Commissioner
Chuck Fritts, Commissioner
Theresa Scott, Commissioner
Catherine Denenberg, Commissioner
Bob Smallridge, Commissioner

Members Absent:

Meeting Facilitator: Robby Holbrook, Interim Finance Director

TRANSFERS (Approved through Consent Agenda)

THE 1st ITEM, to be presented to the Anderson County Budget Committee, was a written request from Heidi Miller, PreTrial Release, that the following **TRANSFER** in General Fund 101 be approved.

Increase Expenditure Code:

101-53900-709	Data Processing Equipment	\$1,450.00
---------------	---------------------------	------------

Decrease Expenditure Code:

101-53900-499	Other Supplies & Materials	\$1,450.00
---------------	----------------------------	------------

Justification: To cover the cost of replacing two computers in the Pre-Trial Release office. One computer has crashed and the other is running very slow. IT has recommended replacing the equipment. We have a balance of \$2,700.00 budgeted in the Other Supplies & Materials; this request will leave \$1,250.00 in the code.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 2nd ITEM, to be presented to the Anderson County Budget Committee, was a written request from Annette Prewitt, County Commission, that the following **TRANSFER** in General Fund 101 be approved.

Decrease Expenditure Codes:

101-51100-334	Maintenance Agreements	\$500.00
101-51100-337	Maintenance Office Equipment	200.00
101-51100-348	Postal Charges	<u>300.00</u>

Total Decreased Expenditures	\$1,000.00
<u>Increase Expenditure Code:</u>	
101-51100-307-0100 Communications	\$1,000.00

Justification: Transfer to Communications to pay monthly invoices until the end of June 2020.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 3rd ITEM, to be presented to the Anderson County Budget Committee, was a written request from Randy Walters, Finance Department, that the following **TRANSFER** in Employee Benefit Fund 263 be approved.

<u>Increase Expenditure Code:</u>	
263-51900-399-BCBS Other G&A- Other Contracted Services BCBS	\$12,000.00

<u>Decrease Expenditure Code:</u>	
263-51900-340-BCBS Blue Cross/Blue Shield Medical Claims	\$12,000.00

Justification: Corrects original budget allocation for FY2018-19 BCBS run-out fees.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 4th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Margaret Burrell, School Nutrition Program, that the following **TRANSFER** in Central Cafeteria Fund 143 be approved.

<u>Increase Expenditure Code:</u>	
143-73100-524 Food Services Staff Development	\$4,500.00

<u>Decrease Expenditure Code:</u>	
143-73100-710 Food Service Equipment	\$4,500.00

Justification: Preliminary participation data supports more staff development for our breakfast programs. We hope to use these training dollars to have some speakers from the State and USDA and also send some staff in June to a seminar for building breakfast participation.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 5th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Julie Minton, Instruction, that the following **TRANSFER** in General Purpose School Fund 141 be approved.

Increase Expenditure Code:

141-71100-399	Other Contracted Services	\$7,575.42
---------------	---------------------------	------------

Decrease Expenditure Codes:

141-71100-210	Unemployment Compensation	\$5,575.42
141-71100-534	Refund of Applicant for Background Check	<u>2,000.00</u>
	Total Decreased Expenditures	\$7,575.42

Justification: To transfer funds to provide payment for the educational services students in residential programs in Tennessee. This cost is extremely difficult to predict in original budget as various factors affect student placement in a residential program.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 6th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Heather Heatherly, Student Services, that the following **TRANSFER** in General Purpose School Fund 141 be approved.

Increase Expenditure Code:

141-72130-499	Other Supplies & Materials	\$5,000.00
---------------	----------------------------	------------

Decrease Expenditure Code:

141-72130-399	Other Contracted Services	\$5,000.00
---------------	---------------------------	------------

Justification: To transfer funds for materials and supplies for Student Services and ELL classrooms, such as file folders, headphones, books, and dry erase boards.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 7th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Julie Minton, Board of Education, that the following **TRANSFER** in General Purpose School Fund 141 be approved.

Increase Expenditure Code:

141-72310-599	Other Charges	\$4,000.00
---------------	---------------	------------

Decrease Expenditure Code:

141-72310-513	Worker's Compensation	\$4,000.00
---------------	-----------------------	------------

Justification: To transfer funds to provide payment for the employer provided Hepatitis B vaccines (for employees' susceptible areas of exposure) and system provided Influenza vaccines (for students without health insurance coverage). These funds are a result in the Workers Comp Program.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

THE 8th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Julie Minton, Business Office, that the following **TRANSFER** in General Purpose School Fund 141 be approved.

Increase Expenditure Code:

141-72510-499	Others Materials & Supplies	\$2,250.00
---------------	-----------------------------	------------

Decrease Expenditure Code:

141-72510-799	Other Capital Outlay	\$2,250.00
---------------	----------------------	------------

Justification: To transfer funds to provide other materials and supplies as needed for operation of Business Office.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Bob Smallridge, and passed to approve the transfer request.

APPROPRIATIONS REQUIRING FULL COMMISSION APPROVAL

THE 9th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Julie Minton, Business Office, that the following **APPROPRIATION** in General Purpose School Fund 141 be approved.

Decrease Reserve Code:

141-39000	Unassigned Fund Balance	\$40,000.00
-----------	-------------------------	-------------

(amendment will be from 141-34615 Committed for Finance and a JE will replenish the reserve for 39000)

Increase Expenditure Code:

141-99100-590	Transfers to Other Funds	\$40,000.00
---------------	--------------------------	-------------

Justification: To appropriate funds to provide system support to the Employee Child Care Fund for operating costs.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Shain Vowell, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 10th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Julie Minton, Business Office, that the following **APPROPRIATION** in General Purpose School Fund 141 be approved.

Decrease Reserve Code:

141-39000	Unassigned Fund Balance	\$50,000.00
-----------	-------------------------	-------------

(amendment will be from 141-34615 Committed for Finance and a JE will replenish the reserve for 39000)

Increase Expenditure Code:

141-99100-590	Transfers to Other Funds	\$50,000.00
---------------	--------------------------	-------------

Justification: To appropriate funds for adequate cash flow in the School Federal Projects Fund. These funds will become a permanent transfer until no longer required in the School Federal Project Fund.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Shain Vowell, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 11th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Art Miller, Anderson County Dental Clinic, that the following **APPROPRIATION** in General Fund 101 be approved.

Increase Expenditure Code:

101-55160-709	Data Processing Equipment	\$1,000.00
---------------	---------------------------	------------

Increase Revenue Code:

101-43180	Dental Health Collections	\$1,000.00
-----------	---------------------------	------------

Justification: This \$1,000 was a one-time Grant payment from United Way of Anderson County to assist with the purchase of data equipment and software.

Motion by Commissioner Rick Meredith, seconded by Commissioner Theresa Scott, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 12th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Harold P. Cousins, Jr., Clerk & Master, that the following **APPROPRIATION** in General Fund 101 to be approved.

Increase Expenditure Code:

101-53400-709	Clerk & Master's Data Processing Equipment	\$4,680.00
---------------	--	------------

Decrease Reserve Code:

101-39000	Unassigned Fund Balance	\$4,680.00
-----------	-------------------------	------------

(amendment will be from 101-34520-7000 Restricted Clerk & Master Data Processing and a JE will replenish the reserve for 39000)

Justification: Need eight (8) new desktop computers to support Windows 10. (The last update was 2014.)

Motion by Commissioner Theresa Scott, seconded by Commissioner Rick Meredith, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 13th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Jeff Cole, Anderson County Clerk, that the following **APPROPRIATION** General Fund 101 to be approved.

Increase Revenue Code:

101-46990-6000	County Clerk Business Tax Process Fee	\$3,639.00
----------------	---------------------------------------	------------

Increase Expenditure Codes:

101-52500-435	Office Supplies	\$639.00
101-52500-709	Data Processing Equipment	1,000.00
101-52500-411	Data Processing Supplies	<u>2,000.00</u>
	Total Increased Expenditures	\$3,639.00

Justification: Transfer to office supplies for copy paper purchased that should be paid from Business Tax Process Fees. To install a glass wall around Kiosk in the Oak Ridge Clerk's office. To pay for toner cartridges for remainder of F/Y.

Motion by Commissioner Rick Meredith, seconded by Commissioner Chuck Fritts, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 14th ITEM to be presented to the Anderson County Budget Committee, was a written request from Brian Porter, Animal Control, that the following **APPROPRIATION** General Fund 101 to be approved.

Increase Revenue Code:

101-43194-ANML	Service Charges- Animal Holding	\$10,000.00
----------------	---------------------------------	-------------

Increase Expenditure Code:

101-55120-399-ANML	Rabies and Animal Control-	\$10,000.00
	Other Contracted Services-Animal Holding	

Justification: To pay monthly vet bills.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Catherine Denenberg, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 15th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Sheriff Barker/ Tyler Mayes, Sheriff's Department, that the following **APPROPRIATION** in General Fund 101 to be approved.

Increase Revenue Code:

101-44990	Other Local Revenues	\$1,365.80
-----------	----------------------	------------

Increase Expenditure Codes:

101-54110-307-0100	Communication- Cell Phone	\$750.00
101-54110-451	Uniforms	615.80
	Total Increased Expenditures	\$1,365.80

Justification: This appropriation is reimbursing our office for SRO expenditures that the schools agree to pay throughout the school year.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Catherine Denenberg, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 16th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Sheriff Barker/ Tyler Mayes, Sheriff's Department, that the following **APPROPRIATION** in General Fund 101 to be approved.

Increase Revenue Code:

101-49700	Insurance Recovery	\$5,423.65
-----------	--------------------	------------

Increase Expenditure Code:

101-54110-718	Motor Vehicle	\$5,423.63
---------------	---------------	------------

Justification: The insurance funds mentioned above are from Progressive Insurance. This recovery is from the MVA dated 9/26/19 on a 2011 Ford Crown Victoria that was totaled. We are placing these funds back into the motor vehicle account.

Motion by Commissioner Chuck Fritts, seconded by Commissioner Catherine Denenberg, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 17th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Gary Long, Highway Superintendent, that the following **APPROPRIATION** in Highway Fund 131 to be approved.

Increase Expenditure Code:

131-63100-433	Lubricants	\$5,000.00
---------------	------------	------------

Decrease Reserve Code:

131-34550	Restricted for Highway	\$5,000.00
-----------	------------------------	------------

Justification: To cover projected/ potential shortfalls for budget year ending June 30, 2020.

Motion by Commissioner Shain Vowell, seconded by Commissioner Bob Smallridge, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 18th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Gary Long, Highway Superintendent, that the following **APPROPRIATION** in Highway Fund 131 to be approved.

Increase Expenditure Code:

131-62000-402	Asphalt	\$50,000.00
---------------	---------	-------------

Decrease Reserve Code:

131-34550	Restricted for Highway	\$50,000.00
-----------	------------------------	-------------

Justification: To cover projected/ potential shortfalls for budget year ending June 30, 2020.

Motion by Commissioner Shain Vowell, seconded by Commissioner Bob Smallridge, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 19th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Geoff Trabalka, Solid Waste, that the following **APPROPRIATION** in Solid Waste Fund 116 to be approved.

Increase Expenditure Code:

116-55732-399-GLALP	Other Contracted Services- Glen Alpine	\$13,600.00
---------------------	--	-------------

Decrease Reserve Code:

116-34530	Restricted for Public Health & Welfare	\$13,600.00
-----------	--	-------------

Justification: 116-55732-399-GLALP- The cost for the binder and top coat of paving inside the new Convenience Center went over budget \$10,083.20 and the binder and top coat for the road work and turn lane went over budget \$5,999.80. Other reductions in cost resulted in a final charge of \$13,087.34 for completion of the Convenience Center project. The final quote for landscaping went over budget of \$5,000.00 by \$1,660.80. Remaining funds will cover some of the cost, however the amendment is needed to complete all work at the new Convenience Center.

Motion by Commissioner Theresa Scott, seconded by Commissioner Denver Waddell, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 20th ITEM, to be presented to the Anderson County Budget Committee, was a written request from Geoff Trabalka, Solid Waste, that the following **TRANSFER (major line item)** in Solid Waste Fund 116 to be approved.

Increase Expenditure Code:

116-55732-355	Convenience Center- Travel	\$295.00
---------------	----------------------------	----------

Decrease Expenditure Code:

116-55710-425	Gasoline	\$295.00
---------------	----------	----------

Justification: Vernon Davis has been using his own vehicle while overseeing the 441 project. This is a reimbursement for him.

Motion by Commissioner Theresa Scott, seconded by Commissioner Denver Waddell, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 21st ITEM, to be presented to the Anderson County Budget Committee, was a written request from Terry Frank, County Mayor/ Preservation of Records, that the following **TRANSFER (major line item)** in General Fund 101 to be approved.

Increase Expenditure Code:

101-51910-169	Part-Time Help	\$20,000.00
---------------	----------------	-------------

Decrease Expenditure Code:

101-51910-162	Clerical Personnel	\$20,000.00
---------------	--------------------	-------------

Justification: The director of the program has been out of work on leave. The part-time person has been working 40 hours per week to make sure the program has someone present to assist county departments and citizens with requests for files kept in Archives.

Motion by Commissioner Theresa Scott, seconded by Commissioner Catherine Denenberg, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

THE 22nd ITEM, to be presented to the Anderson County Budget Committee, was a written request from Jay Yeager, Law Director, that the following **APPROPRIATION** in General Fund 101 to be approved.

Increase Expenditure Code:

101-51400-331	Legal Services	\$14,541.48
---------------	----------------	-------------

Decrease Reserve Code:

101-39000	Unassigned Fund Balance	\$14,541.48
-----------	-------------------------	-------------

Justification: Legal services billing, please see attached email.

Motion by Commissioner Theresa Scott, seconded by Commissioner Catherine Denenberg, and passed to refer to the Anderson County Board of County Commissioners with a recommendation for approval.

SECTION A, Interim Finance Director Robby Holbrook presented FY2020-21 draft budget guidelines, budget calendar, and forms for approval by the Committee.

Motion by Commissioner Catherine Denenberg, seconded by Commissioner Bob Smallridge, to accept the budget guidelines, budget calendar, and forms as proposed.

Motion by Commissioner Shain Vowell Scott, seconded by Commissioner Rick Meredith, to amend the budget guidelines to require all departments and offices to: a) propose expenditure budgets that do not exceed their total budgeted expenditures for the 2019-2020 fiscal year; and b.) identify areas for reducing their expenditure budgets by at least one-half of 1%.

Motion Passed.

SECTION B, Fleet Services Manager John Vickery presented a Vehicle Replacement Plan for discussion.

No action taken.

SECTION C, Mayor Terry Frank presented an amended General Fund Unassigned Fund Balance Policy, increasing the required minimum fund balance to \$4,500,000, for approval.

Motion Passed Unanimously.

SECTION D, Mayor Terry Frank presented a brief update on the status of the Faith Promise Church property as an option for the Senior Center.

No action taken.

Meeting Adjourned.

Robby Holbrook, Interim Finance Director

BUDGET COMMITTEE AGENDA
January 09, 2020 AT 4:00 PM ROOM 312



1. Cash and Fund Balance Report, etc.....Robby Holbrook
2. Consent Agenda Transfers, not requiring Commission approval (1-8)
3. AC Schools/Julie MintonTransfers/Appropriations (9-10)
4. AC Dental Clinic/Art Miller..... Appropriation (11)
5. Clerk & Master/Hal Cousins..... Appropriation (12)
6. County Clerk/Jeff Cole Appropriation (13)
7. Animal Control/Brian Porter Appropriation (14)
8. Sheriff/Russell BarkerAppropriations (15-16)
9. Highway Department/Gary LongAppropriations (17-18)
- 10.Solid Waste/Geoff Trabalka..... Appropriation/Transfer (19-20)
- 11.Preservation of Records/Mayor Frank..... Transfer (21)
12. Law Director/Jay Yeager Appropriation (22)

SECTIONS:

- Budget Guidelines & Calendar..... (A)
- Vehicle Replacement Plan/John Vickery (B)
- Unassigned Fund Balance Policy Change/Mayor Frank..... (C)
- Senior Center Update/Mayor Frank..... (D)

Page ____ of ____

TYPE OF AMENDMENT

0001196

FROM:

Heidi Miller

DATE 1.7.2020

INCREASE / DECREASE (circle one)	CODE DESCRIPTION	
101-53900-499	Other Supplies & Materials	\$1,450.00
I		
Motion <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded _____		
Motion		\$ 1,450.00

2700

~~JAN 7 '20 AM 11:52 FINANCE~~

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase) one-time amendment

Please attach additional sheet if more information is needed

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ___ of ___

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☒

APPROPRIATION: ☐

0004197

DEPARTMENT: County Commission

FROM: Annette Prewitt

Decrease	CODE DESCRIPTION	AMOUNT
101-51100-334	Maintenance Agreements	\$ 500.00
101-51100-337	Maintenance Office Equipment	\$ 200.00
101-51100-348	Postal Charges	\$ 300.00
	TOTAL	\$ 1,000.00

Increase	CODE DESCRIPTION	
101-51100-307-0100	Communications	\$ 1,000.00
	TOTAL	\$ 1,000.00

<p>Motion</p> <p><input type="checkbox"/> To Approve</p> <p><input type="checkbox"/> To Refer</p> <p><input type="checkbox"/> With <input type="checkbox"/> W/O</p> <p>Seconded _____</p> <p>Motion</p>	
--	--

Detailed Justification / Explanation :

Transfer to Communications to pay monthly invoices until the end of June 2020.

Impact on 19/20 budget -

One Time Increase

Please attach additional sheet if more information is needed

2

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ___ of ___

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☒

APPROPRIATION: ☐

0001198

DEPARTMENT:

FROM:

FINANCE

Randy Walters

INCREASE	CODE DESCRIPTION	AMOUNT
263-51900-399-BCBS	Other G & A -Other Contracted Services BCBS	\$ 12,000.00
TOTAL		\$ 12,000.00

DECREASE	CODE DESCRIPTION	
263-51900-340-BCBS	Blue Cross/Blue Shield Medical Claims	\$ 12,000.00
TOTAL		\$ 12,000.00

199,129

<p>Motion</p> <p><input type="checkbox"/> To Approve</p> <p><input type="checkbox"/> To Refer</p> <p style="margin-left: 40px;"><input type="checkbox"/> With <input type="checkbox"/> W/O</p> <p>Seconded _____</p> <p>Motion _____</p>	
---	--

Detailed Justification / Explanation :

JAN 6 '20 PM 4:22 FINANCE

Corrects original budget allocation for FY2018-19 BCBS run-out fees

Impact on 19/20 budget -

No impact.

Please attach additional sheet if more information is needed

3

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☒

APPROPRIATION: ☐

0081199

DEPARTMENT:

FROM:

School Nutrition Program

Margaret Burrell

DATE 12/12/2019

INCREASE / DECREASE (circle one)			CODE DESCRIPTION	AMOUNT
143	73100	524	Food Service Staff Development	\$ 4,500.00
			Total	\$ 4,500.00
Decrease			CODE DESCRIPTION	
143	73100	710	Food Service Equipment	\$ 4,500.00
			Total	\$ 4,500.00

172343

Motion

☐

To Approve

☐

To Refer

☐

With

☐

W/O

Seconded

Motion

Detailed Justification / Explanation :

Preliminary participation data supports more staff development for our breakfast programs. We hope to use these training dollars to have some speakers from the State and USDA and also send some staff in June to a seminar for building breakfast participation.

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☒

APPROPRIATION: ☐

0001200

DEPARTMENT: Instruction

FROM: Julie Minton

DATE 12/20/2019

INCREASE	CODE DESCRIPTION	AMOUNT
141-71100-399	Other Contracted Services	\$ 7,575.42
TOTAL		\$ 7,575.42
DECREASE		
141-71100-210	Unemployment Compensation	\$ 5,575.42 557542
141-71100-534	Refund to Applicant for Background Check	\$ 2,000.00 4317
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>Motion</p> <div style="display: flex; align-items: center;"> <input type="checkbox"/> To Approve <div style="margin-left: 20px;"><input type="checkbox"/> To Refer</div> <div style="margin-left: 20px;"><input type="checkbox"/> With</div> <div style="margin-left: 20px;"><input type="checkbox"/> W/O</div> </div> <p>Seconded _____</p> <p>Motion _____</p> </div> <div style="width: 40%;"></div> </div>		
TOTAL		\$ 7,575.42

Detailed Justification / Explanation

To transfer funds to provide payment for the educational services to students in residential programs in Tennessee.
 This cost is extremely difficult to predict in original budget as various factors affect student placement in a residential program.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

0081201

TRANSFER: ☒

APPROPRIATION: ☐

DATE: 12/11/19

DEPARTMENT: Student Services FROM: Heather Heatherly

INCREASE	CODE DESCRIPTION	AMOUNT
141-72130-499	Other Supplies & Materials	\$ 5,000.00
TOTAL		\$ 5,000.00

DECREASE	CODE DESCRIPTION	AMOUNT
141-72130-399	Other Contracted Services	\$ 5,000.00

Motion		
<input type="checkbox"/> To Approve		
<input type="checkbox"/> To Refer		
<input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded		
Motion		
TOTAL		\$ 5,000.00

Detailed Justification / Explanation

To transfer funds for materials and supplies for Student Services and ELL classrooms, such as file folders, headphones, books, and dry erase boards.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

(6)

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

0081202

TRANSFER: ☒

APPROPRIATION: ☐

DEPARTMENT: Board of Education

FROM: Julie Minton

DATE 12/19/2019

INCREASE	CODE DESCRIPTION	AMOUNT
141-72310-599	Other Charges	\$ 4,000.00
TOTAL		\$ 4,000.00
DECREASE		
141-72310-513	Worker's Compensation	\$ 4,000.00
Motion <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <input type="checkbox"/> With <input type="checkbox"/> W/O Seconded _____ Motion _____		
TOTAL		\$ 4,000.00

45310

Detailed Justification / Explanation :

To transfer funds to provide payment for the employer provided Hepatitis B vaccines (for employees susceptible areas of exposure) and system provided Influenza vaccines (for students without health insurance coverage).

These funds are a result of savings in the Workers Compensation Program.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

0081203

TRANSFER: ☒ X

APPROPRIATION: ☐

DEPARTMENT: Business Office

FROM: Julie Minton

DATE 12/30/2019

INCREASE	CODE DESCRIPTION	AMOUNT
141-72510-499	Other Materials and Supplies	\$ 2,250.00
TOTAL		\$ 2,250.00
DECREASE		
141-72510-799	Other Capital Outlay	\$ 2,250.00
Motion <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded _____		
Motion _____		
TOTAL		\$ 2,250.00

2,250

Detailed Justification / Explanation

To transfer funds to provide other materials and supplies as needed for operation of Business Office.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

(8)

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ☒

0081204

DEPARTMENT: Business Office

FROM: Julie Minton

DATE 12/19/2019

DECREASE	CODE DESCRIPTION	AMOUNT
141-34615	Committed for Finance	\$ 40,000.00 <i>27 million</i>
TOTAL		\$ 40,000.00
INCREASE		
141-99100-590	Transfers to Other Funds	\$ 40,000.00
Motion <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded _____		
Motion _____		
TOTAL		\$ 40,000.00

Detailed Justification / Explanation :

To appropriate funds to provide system support to the Employee Child Care Fund for operating costs.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

⑨

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ☒

0081205

DEPARTMENT: Business Office

FROM: Julie Minton

DATE 12/19/2019

DECREASE	CODE DESCRIPTION	AMOUNT
141-34615	Committed for Finance	\$ 50,000.00
TOTAL		\$ 50,000.00
INCREASE		
141-99100-590	Transfers to Other Funds	\$ 50,000.00
Motion		
<input type="checkbox"/> To Approve		
<input type="checkbox"/> To Refer		
<input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded		
Motion		\$ 50,000.00
TOTAL		

Detailed Justification / Explanation :

To appropriate funds for adequate cash flow in the School Federal Projects Fund. These funds will become a permanent transfer until no longer required in the School Federal Projects Fund.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

Page 1 of 1

0081206

DATE 12/4/2019

INCREASE / DECREASE (circle one)	CODE DESCRIPTION	
101-43180	Dental Health Collections	\$ 1,000.00
Motion <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded _____		
Motion		\$ 1,000.00

Please attach additional sheet if more information is needed

11

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page 1 of 2

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ☒

DEPARTMENT:

FROM:

Clerk & Master - Chancery Court

Harold F. Cousins, Jr.

12/17/2019

0081207

INCREASE / DECREASE (circle one)			CODE DESCRIPTION	AMOUNT
101	53400	709	Clerk & Master's Data Processing Equipment	\$ 4,680.00
TOTAL				\$ 4,680.00

INCREASE / DECREASE (circle one)			CODE DESCRIPTION	AMOUNT
101	34520	7000	Restricted Clerk & Master Data Process	\$ 4,680.00
TOTAL				\$ 4,680.00

Motion ☐ To Approve ☐ To Refer ☐ With ☐ W/O

Seconded _____

Motion _____

12098

Detailed Justification / Explanation :

Need eight (8) new Desktop Computers to support Windows 10 . (The last update was in 2014)

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

One Time Amendment

12

Central Technologies, Inc.
P.O. Box 30867
Knoxville, TN 37930
865-566-0230 Fax: 865-312-8190

12/13/2019
Quote #: 37772
Page: 1

Quoted To:
Anderson County Purchasing
100 North Main Street
Room 214
Clinton, TN 37716

Phone: 865-457-5400

Cust PO:

Reference:

Terms: Due On Receipt
Ship Via: Best Way

Salesperson: LDC
Valid Through: 3/12/2020

Stock Code	Description	Quantity	Price	Extended
SYSLN10VG000SUS	Lenovo ThinkCentre M715q 10VG000SUS Desktop Computer - AMD Ryzen 5 PRO 2400GE 3.20 GHz - 8 GB DDR4 SDRAM - 256 GB SSD - Windows 10 Pro 64-bit - Tiny - Black	8.00	575.00	4,025.00 4600.00
SYSLN4XF0N03161	LENOVO TINY VESA MOUNT II - SYSTEM MOUNTING BRACKET 4XF0N03161	8.00	10.00	70.00 80.00

SubTotal: 4,095.00

Total \$4,680.00

Tax: 0.00
Shipping: 0.00
Total: 4,095.00

TN Alarm Systems Contractor License Number- 2138 TN Contractor License Number - 67550
ALL PRODUCTS CARRY A MFR. DIRECT WARRANTY - RETURN OF NON-DEFECTIVE, UNOPENED ITEMS ACCEPTED 10 DAYS FROM SHIP DATE
AND WILL REQUIRE PRODUCT MFR. APPROVAL PRIOR TO RETURN - A 15% RESTOCK FEE WILL APPLY - DAMAGED OR MISSING ITEMS
MUST BE REPORTED WITHIN 48 HOURS - A FINANCE CHARGE OF 1.5% PER MONTH WILL BE APPLIED TO OVERDUE BALANCES - SPECIAL

12

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ____ of ____

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ██████████

0081208

DEPARTMENT:

FROM:

County Clerk _____

Jeff Cole

Increase	CODE DESCRIPTION	AMOUNT
101-46990-6000	County Clerk Business Tax Process Fee	\$ 3,639.00
	TOTAL	\$ 3,639.00

Increase	CODE DESCRIPTION	
101-52500-435	Office Supplies	\$ 639.00
101-52500-709	Data Processing Equipment	\$ 1,000.00
101-52500-411	Data Processing Supplies	\$ 2,000.00
	TOTAL	\$ 3,639.00

<p>Motion</p> <div style="margin-left: 20px;"> <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <input type="checkbox"/> With <input type="checkbox"/> W/O </div> </div> <p>Seconded _____</p> <p>Motion</p>	
---	--

Detailed Justification / Explanation :

Transfer to office supplies for copy paper purchased that should

be paid from Business Tax Process Fees.

To install a glass wall around Kiosk in the Oak Ridge Clerk's Office.

To pay for toner cartridges for remainder of F/Y

Impact on 19/20 budget

One Time Increase

13

Please attach additional sheet if more information is needed

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ____ of ____

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TRANSFER: ☐

APPROPRIATION: XXXXXXXXXX

DEPARTMENT:

FROM:

0081209

Budget Animal Control Brian Porter

Increase	CODE DESCRIPTION	AMOUNT
101-43194-ANML	Service Charges - Animal Holding	\$ 10,000.00
TOTAL		\$ 10,000.00

Increase	CODE DESCRIPTION	AMOUNT
101-55120-399-ANML	Rabies And Animal Control - Other Contracted Services - Animal Holding	\$ 10,000.00
TOTAL		\$ 10,000.00

Motion <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="border: 1px solid black; width: 100px; height: 20px; margin-right: 10px;"></div> <div> To Approve <div style="border: 1px solid black; width: 100px; height: 20px; margin-top: 5px;"></div> To Refer <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> With <input type="checkbox"/> W/O </div> </div> </div>	
Seconded	
Motion	

Detailed Justification / Explanation :

To pay monthly vet bills.

Impact on 20/21 budget - NO

14

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ████████

0081210

DEPARTMENT:

FROM:

Sheriff's Department

Sheriff Barker/Tyler Mayes

DECREASE <i>Increase</i>	CODE DESCRIPTION	AMOUNT
101-44990	Other Local Revenues	\$ 1,365.80
TOTAL		\$ 1,365.80

INCREASE	CODE DESCRIPTION	
101-54110-307-0100	Communication - Cell Phone	\$ 750.00
101-54110-451	Uniforms	\$ 615.80
TOTAL		\$ 1,365.80

<p>Motion</p> <p><input type="checkbox"/> To Approve</p> <p><input type="checkbox"/> To Refer</p> <p style="margin-left: 40px;"><input type="checkbox"/> With <input type="checkbox"/> W/O</p> <p>Seconded _____</p> <p>Motion</p>	
---	--

Detailed Justification / Explanation :

This appropriation is reimbursing our office for SRO expenditures that the schools agree to pay throughout the school year.

JAN 7 '20 PM12:03 FINANCE

Impact on 19/20 budget - No impact.

15



OFFICE OF THE SHERIFF
RUSSELL BARKER, SHERIFF
ANDERSON COUNTY, TN

MEMORANDUM

TO: FINANCE DIRECTOR JIM WOODWARD
FROM: DIRECTOR OF ADMIN. SERVICES, TYLER MAYES
SUBJECT: SRO REIMBURSEMENT
DATE: NOVEMBER 7, 2019

Reimbursement for SRO Program – Quarter Ending 10/31/19

Please find below the amount for reimbursement this quarter. If you have any questions, please let me know.

	<u>100%</u>	<u>50%</u>
Total for Salaries and Benefits	\$155,537.99	\$77,769.00
Total for Cell Phone Use	\$750.00	School pays 100%
Total for Uniforms	615.80	School pays 100%
Total Owed by School	\$79, 134.80	

(5)

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ☐

0081211

DEPARTMENT:

FROM:

Sheriff's Department

Sheriff Barker/Tyler Mayes

DECREASE Increase	CODE DESCRIPTION	AMOUNT
101-49700	Insurance Recovery	\$ 5,423.63
	TOTAL	\$ 5,423.63

INCREASE	CODE DESCRIPTION	
101-54110-718	Motor Vehicle	\$ 5,423.63
	TOTAL	\$ 5,423.63

Motion			
<input type="checkbox"/>	To Approve		
<input type="checkbox"/>	To Refer		
<input type="checkbox"/>	With	<input type="checkbox"/>	W/O
Seconded			
Motion			

Detailed Justification / Explanation :

The insurance funds mentioned above are from Progressive Insurance. This recovery is from the MVA dated 9/26/19 on a 2011 Ford Crown Victoria that was totaled. We are placing these funds back into the motor vehicle account.

JAN 7 '20 AM 10:09 FINANCE

Impact on 19/20 budget -

No impact.

16

**Anderson County
Miscellaneous Receipt**

Misc. Receipt No: 3280
POS Receipt No: 100342
Receipt Date: 12/05/2019

Received By: Peyton Webb
Received On: 12/05/2019 10:40 AM

Customer ID: 528
Name: Progressive Insurance
Description: Insurance Recovery- 2011 Crown Vic

Miscellaneous Receipt Total
\$5,423.63

GL Account Number	GL Account Description	Debit	Credit
101. -49700	Insurance Recovery	\$0.00	\$5,423.63
Miscellaneous Receipt Totals:		\$0.00	\$5,423.63

Thank You!

(16)

Progressive
P.O. Box 512926
Los Angeles, CA 90051

PROGRESSIVE®

512055 13798 1 MB 0.428 CMBPI01N 046 013798

Page 1 of 1

ANDERSON COUNTY SHERIFFS DEPARTMENT
ATTENTION MIA BOUNDS
101 S MAIN ST STE 400
CLINTON, TN 37716-3624



ADVICE FOR PAYMENT 2029340426

Payee: ANDERSON COUNTY SHERIFF	Payment Date	11/22/2019
	Total Payment Amount	\$5,423.63
	Total Number of Invoices	1

If you have any questions regarding this payment, please call us at 1-800-274-4499.

Details

Claim Number: 191866612	Name: ANDERSON COUNTY SHER, IFFS DEPARTMENT	Date of Loss: 09/26/2019	Invoice Number: 65765859	Company: Progressive Hawaii Insurance Corp			
Type	Description	*Coverage	Reference	Identifier	Service Dates	Deductible	Payment Amount
Total Loss	Subrogation	PD	N/A	11 FORD CROWN VICTORIA 138417	N/A	\$0.00	\$5,423.63

Total Payment Amount	\$5,423.63
-----------------------------	------------

***Full Description of Coverage:**

PD - Property Damage Liability

16

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ____ of ____

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

January Commission

TRANSFER: ☐

APPROPRIATION: ☒

DEPARTMENT:

12/5/2019

0001212

Highway _____

Gary Long Road Superintendent _____

Increase	CODE DESCRIPTION	AMOUNT
131-63100-433	Lubricants	\$ 5,000.00
	TOTAL	\$ 5,000.00

Decrease	CODE DESCRIPTION	
131-34550	RESTRICTED FOR HIGHWAY	\$ 5,000.00
	TOTAL	\$ 5,000.00

3.7M

<p>Motion</p> <p><input type="checkbox"/> To Approve</p> <p><input type="checkbox"/> To Refer</p> <p style="margin-left: 40px;"><input type="checkbox"/> With <input type="checkbox"/> W/O</p> <p>Seconded _____</p> <p>Motion _____</p>	
---	--

Detailed Justification / Explanation :

To cover projected / potential shortfalls for budget year ending June 30, 2020

Gary Long

17

Page ____ of ____

TYPE OF AMENDMENT




12/23/2019

Gary Long Road Superintendent

Motion		
<input type="checkbox"/> To Approve		
<input type="checkbox"/> To Refer		
<input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded		
Motion		

To cover projected / potential shortfalls for budget year ending June 30, 2020



18

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ____ of ____

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

TRANSFER: ☐

APPROPRIATION: ☒

0081214

DEPARTMENT:

FROM:

Solid Waste

Geoff Trabalka

DATE January 2020 Meeting

INCREASE <input checked="" type="checkbox"/> DECREASE <input type="checkbox"/> (circle one)	CODE DESCRIPTION	AMOUNT
116-34530	Restricted For Public Health & Welfare	\$ 13,600.00
		\$ 13,600.00

104,082

INCREASE <input checked="" type="checkbox"/> DECREASE <input type="checkbox"/> (circle one)	CODE DESCRIPTION	
116-55732-399 GLALP	Other Contracted Services – Glen Alpine	\$ 13,600.00
Motion <input type="checkbox"/> To Approve <input type="checkbox"/> To Refer <input type="checkbox"/> With <input type="checkbox"/> W/O		
Seconded _____		
Motion		\$ 13,600.00

Detailed Justification / Explanation :

116-34530 – GLALP – The cost for the binder and top coat of paving inside the new Convenience Center went over budget \$10,083.20 and the binder and top coat for the road work and turn lane went over budget \$5999.80, other reductions in cost resulted in a final change order for \$13,087.34 for completion of the Convenience Center project. The final quote for landscaping went over the planned budget of \$5000.00 by \$1660.80. Remaining funds will cover some of the cost, however the amendment is needed to complete all work at the new Convenience Center.

One time amendment.

Please attach additional sheet if more information is needed

19

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ___ of ___

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TYPE OF AMENDMENT

0081215

TRANSFER: ☒ Major Line Item
DEPARTMENT: _____

APPROPRIATION: ☐
FROM: Solid Waste
Geoff Trabakla

INCREASE / DECREASE (circle one)	CODE DESCRIPTION	AMOUNT
INCREASE	116-55732-355 Convenience Center La travel code	\$295.00
	TOTAL	\$

INCREASE / DECREASE (circle one)	CODE DESCRIPTION	AMOUNT
DECREASE	116-55710-425 Gasoline	\$295.00 3229
	TOTAL	\$

Motion		
<input type="checkbox"/> To Approve		
<input type="checkbox"/> To Refer		
<input type="checkbox"/> With	<input type="checkbox"/> W/O	
Seconded		
Motion		

Detailed Justification / Explanation :

Vernon Davis has been using his own vehicle while overseeing the 441 project. Re-imbursement for him.

What Impact does this amendment/appropriation have on next year's budget? (One time amendment or permanent increase)

20

Page ____ of ____

TYPE OF AMENDMENT

DATE 1.7.2020

Please attach additional sheet if more information is needed

ANDERSON COUNTY BUDGET AMENDMENT REQUEST

Page ____ of ____

Important Note: this form is due to the budget Director's Office by 2:00 P.M. ON Tuesday before the Budget Committee meeting.

TRANSFER: ☐

APPROPRIATION:

0081217

DEPARTMENT:

FROM:

Budget Law Director

Jay Yeager

Decrease	CODE DESCRIPTION	AMOUNT
101-39000	Unassigned	\$ 14,541.48
TOTAL		\$ 14,541.48

4.7m

Increase	CODE DESCRIPTION	
101-51400-331	Legal Services	\$ 14,541.48
TOTAL		\$ 14,541.48

<p>Motion <input type="checkbox"/> To Approve</p> <p><input type="checkbox"/> To Refer</p> <p style="margin-left: 40px;"><input type="checkbox"/> With <input type="checkbox"/> W/O</p>	
Seconded _____	
Motion _____	

Detailed Justification / Explanation :

Legal services billing, please see attached email.

Impact on 20/21 budget - NO

22

Robby Holbrook

From: Nichole Brooks <nbrooks@aclawdirector.com>
Sent: Thursday, January 2, 2020 4:32 PM
To: Robby Holbrook
Subject: Transfer

Robby,

Jay wanted me to get with you about you doing a transfer from the undesignated fund to our legal services code. We have two different bills for Art Knight right now in the amount of \$14,541.48
Please let me know what you need from me.

Thanks!
Nichole

51400-331

(22)

ANDERSON COUNTY GOVERNMENT BUDGET GUIDELINES 2020/2021

January X, 2020

1. Objective

The County desires to prepare a “structurally balanced budget” generating revenues sufficient to cover planned expenses. Deficit budgets that are balanced using fund balance reserves are not sustainable over the longer term.

With the objective of preparing a structurally balanced budget, some expenditures will need to decrease to offset increases in other areas. Departments, offices and agencies are encouraged to proactively identify cost-saving opportunities that will decrease operating expenses.

2. Guidelines

The budgets proposed for fiscal year 2020/2021 are to be based on the following:

- Revenues should be forecasted based on actual trends and/or actual commitments.
- Expenses should be estimated based on actual expenditures and adjusted for anticipated changes. All increases over prior year expenditures must include a justification.
- Proposed budgets that include any increase in staffing or compensation need to be justified.
- Health Insurance costs will be budgeted by the Finance Department.
- Capital outlay for equipment should not be budgeted in operational department budgets.

3. Budget Process

The Finance Department is a resource to the County throughout the entire budget cycle. The Budget Committee encourages departments, offices and agencies to invite the Finance Director and staff to be a part of their budget preparation. The Finance Director is a resource in constructing proposed budgets prior to submission as well as assisting in preparation for Budget Committee presentations and discussions.

The Budget Committee will vote to approve or reject proposed budgets before they are submitted to County Commission for consideration. Budgets that adhere to the *Budget Guidelines for Fiscal Year 2020/2021* may be approved without much, if any, additional discussion. However, budgets that do not adhere to the *Guidelines* and/or budgets that need additional review may be discussed in the Budget Committee meetings and at any scheduled hearing.

The timeline for the budgetary approval process is detailed in the “*Budget Schedule for the 2020/2021 Fiscal Year.*” This schedule is included as part of the budget materials. It details all of the tentative dates for specific budget activities to meet the deadlines set by state law. The budget approval process for

Grap A

ANDERSON COUNTY GOVERNMENT BUDGET GUIDELINES 2020/2021

January X, 2020

Anderson County Schools will follow a separate calendar that is incorporated within the *"Budget Schedule for the 2020/2021 Fiscal Year."*

4. Budget Forms & Worksheets

Each department/office/agency is to complete certain documents as part of their proposed budget. These documents are consistent with those used in previous years. These forms may be distributed, prepared and returned in hardcopy and/or electronic format; electronic format is preferred. The budget forms and worksheets are as follows:

- *"Budget Worksheet"* by general ledger departmental account code for respective revenues and expenditures.
- *"Employee Payroll Tax & Fringe Benefit Calculations"* for full-time and part-time staff.
 - The calculations in the worksheet reflect the anticipated payroll taxes and fringe benefit costs. The Finance Department will budget the health insurance object codes 206, 207 and 208.
 - Salaries and compensation are to be the same as, or lower than, the amounts in the 2019/2020 amended appropriations. Any increase requires justification and presentation to the Budget Committee during the hearing process.
- *"Explanation of Expenditure Codes"* is used to provide expenditure descriptions and details for object codes 300 to 999, especially if several expenditures are consolidated in one account code. This document useful to discuss several expenditures consolidated into one code; one-time, non-recurring costs; and significant purchases that are expected.
- *"Five-Year Capital Outlay Worksheet"* is used for planning capital purchases anticipated over the next 5 fiscal years. These purchases should not be included within the departmental operating budget. Approved capital purchases will have an object code of 700-799.
 - Refer to the *"Capital Project Prioritization"* form for determining the priority of the needed asset.
- *"County Government Grant Pre-Application Notification Form"* is to be completed for any grant that is new and/or renewing in the fiscal year. A copy of the *"Grant Amendment"* form that details the contract number, State/Federal funding, and other grant information is to be submitted as additional documentation.

5. Summary

The Finance Director will hold an informational meeting for departments, offices and agencies to ask questions about the budget calendar, forms, guidelines, etc. If any other questions or concerns arise through the budget cycle, please feel free to contact the Interim Finance Director, Robby Holbrook, via email at rhobrook@andersontn.org or by phone at 865.264.6311.

ANDERSON COUNTY GOVERNMENT BUDGET GUIDELINES 2020/2021

January X, 2020

The Budget Committee approved the budget documents at the Committee meeting on January X, 2019.

Budget Schedule for the 2020/2021 Fiscal Year

Dates for specific activities: Tenn. Code Ann. §§ 5-21-110 and 5-21-111		
PHASE 1	Adoption of Budgeting System	
January 9 th 4:00 pm	Budget Committee	Budget Committee establishes calendar, forms and procedures as well as guidelines and direction in projecting budget needs. (TCA §-110 a)
January 9 th through January 15 th	Finance Department	Budget forms prepared with historical data pertaining to prior and current year expenditures. Transmittal letter developed with budget guidelines and instructions. Departments/offices provided with 6 months expenditures to date.
January 15 th - 17 th in Room 312	Finance Director	Finance Director will have an informational meeting(s) for departments/offices to discuss the budget calendar, forms, procedures and guidelines approved by the Budget Committee.
January 17 th	All Departments	Budget forms and information distributed to all departments/offices. (TCA §-110 e 1)
PHASE 2	Departments Prepare Budgets	
February 14 th	All Departments	All departments/offices submit their proposed budget to Finance Director, except for Schools. (TCA §-110 b & -110 e 2)
February 15 th through February 28 th	Finance Department	Information received from departments/offices is reviewed and compiled. Initial revenue projections are calculated. Proposed budget document is prepared. (TCA §-110 e 1-3)
March 2 nd	Finance Director	Finance Director distributes the proposed budgets to the Budget Committee. (TCA §-110 d 1-3)
PHASE 3	Review, Analysis and Recommendations	
March 5 th 4:00 pm	Budget Committee	Budget Committee discusses the departments/offices proposed budgets and determines those to present at budget hearings.
March to 6 th through March 12 th	Departments and Finance Director	Budget meetings between departments/offices with Finance Department as needed, except Schools.
March 12 th 4:00 pm	Budget Committee	Budget hearings held by Budget Committee with departments/offices, except Schools.

Budget Schedule for the 2020/2021 Fiscal Year

March 26 th 4:00 pm	Budget Committee	Budget Committee votes on proposed budgets to approve or reject, except for Schools. (TCA §-110 e 3 A & -110 e 6)
March 27 th	Finance Director	Finance Director departments/offices of rejected budgets. Finance Director notifies Commission as to the budgets that were approved or rejected. Finance Director shall forward the approved, proposed budgets to Commission. (TCA §-110 e 3 B-C & 110 e 3 B)
April 9 th	Departments	If previously rejected, departments/offices submit new proposal from the rejected budget to the Finance Director. (TCA §-110 e 3 C)
April 9 th 4:00 pm	Finance Director	New proposed budgets presented to the Budget Committee. Budget Committee votes to approve or reject newly proposed budgets.
April 27 th	Schools	Schools submit proposed budget to the Finance Director. (TCA §-110 e 4)
End of April	Finance Director	Review Annual Budget Memo from the Tennessee Comptroller of the Treasury, Office of State and Local Finance.
May 1 st	Finance Director	Finance Director distributes the School's proposed budget to the Budget Committee.
May 7 th 4:00 pm	Budget Committee	Budget Committee to review School's proposed budget and votes to approve or reject. Budget Committee also reviews resubmitted budgets from departments/offices previously rejected and votes again to approve or reject. (TCA §-110 e 5 A)
May 8 th	Finance Director	If the Budget Committee approved the School's budget, then the School's budget will be forwarded to Commission. If the Budget Committee rejected the School's budget, then the schedule and meeting dates for the remainder of the budget process will be revised accordingly. (TCA §-110 e 5 B-C & -110 e 6) Budget Committee shall vote on the School's proposed budget no later than June 1st and the director shall notify the School. (TCA §-110 e 5 A)
Prior to May 18 th	Finance Director	Publish notice of public hearing of proposed budget at least 10 days prior to presentation to Commission for approval. Publication shall also contain a notice of public hearing conducted by the Budget Committee and allow for citizens to appear and state their views with 5 days written request. (TCA §-111 a 1-2)

Budget Schedule for the 2020/2021 Fiscal Year

PHASE 4	Review of Budget by County Legislative Body	
June 4 th 4:00 pm	Budget Committee	Budget Committee holds final public hearing, including budget appropriation resolution and tax levy resolution. (TCA §-111 a 2)
June 15 th 6:00 pm	Commission	Commission discusses the budget approved by the Budget Committee, including appropriation resolution and tax levy resolution. Commission may vote on the proposed budgets unless another special called meeting is desired. (TCA §-110 e 7 & -110 f & -111 b-e)
June 25 th 6:00 pm	Commission	Commission adopts the budget, including appropriation resolution and tax levy resolution. If necessary, Commission approves appropriations needed for fiscal year end. (TCA §-111 f-h) Commission must adopt the budget on/before August 31st, unless an extension is approved by the Comptroller's Office of State and Local Finance. (TCA §-111 f-2)
PHASE 5	Preparation and Dissemination of Adopted Budgets	
Prior to July 18 th	Finance Director	Seek approval from the State of Tennessee.
August	Finance Director	Approval from the State of Tennessee. The Budget will be posted on the County's website.
Each Month	Finance Director	Status of budgeted receipts and expenditures reported to Commission and departments/offices.
As Required	Departments	Budget amendments prepared and submitted to the Budget Committee and/or Commission for approval prior to the expenditure of such funds.

2020 Calendar

January 2020						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

May 2020						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September 2020						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

February 2020						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

June 2020						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

October 2020						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

March 2020						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

July 2020						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November 2020						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

April 2020						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

August 2020						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

December 2020						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Budget Worksheet Example

Statement of Proposed Operations
Fiscal Year Ending June 30, 2021

Account Number

Estimated/Appropriated/Actual

Revenue

		Actual 2019	Original Budget 2020	Amended Budget Thru November 2019	Est & Bgt Thru November 2019	Department Request	Budget Committee	Commission Approved
42140	Drug Control Fines	2,804	4,000	4,000	575	0	0	0
42340	Drug Control Fines	430	500	500	115	0	0	0
42865	Forfeitures And Seizures	217	0	0	0	0	0	0
42910	Proceeds From Confiscated Prop	28,720	25,000	25,000	10,821	0	0	0
42910- - 1000	Proceeds From Confiscated Prop - Surplus	3,913	30,000	30,000	980	0	0	0
44110	Interest Earned	2,343	500	500	0	0	0	0
47990	Federal Drug Asset Sharing - Other Direct	2,240	0	0	0	0	0	0
Total	Revenue	40,667	60,000	60,000	12,491	0	0	0

Estimated/Appropriated/Actual

Expenditures

54150 Drug Enforcement

54150-307	Communication	3,534	3,000	3,000	838	0	0	0
54150-307- 0100	Communication Cellular/Pager Service	3,155	4,500	4,500	1,150	0	0	0
54150-307- 0300	Communication	1,643	2,500	2,500	140	0	0	0
54150-312	Contracts With Private Agencies	978	1,500	1,500	978	0	0	0
54150-319	Drug Control Payments	0	10,000	6,500	0	0	0	0
54150-320	Dues And Memberships	500	1,000	1,000	500	0	0	0
54150-340	Medical & Dental Services	0	500	500	0	0	0	0
54150-353	Towing Services	960	3,000	3,000	2,490	0	0	0
54150-355	Travel	1,111	4,000	4,000	913	0	0	0
54150-357	Veterinary Services	3,411	5,000	5,000	2,000	0	0	0
54150-401	Animal Food And Supplies	4,071	2,500	2,500	1,452	0	0	0
54150-425	Gasoline	2,006	10,000	10,000	5,000	0	0	0
54150-431	Law Enforcement Supplies	1,956	1,500	1,500	1,301	0	0	0
54150-435	Office Supplies	373	500	500	0	0	0	0
54150-451	Uniforms	1,961	2,000	2,000	0	0	0	0
54150-499	Other Supplies & Materials	458	500	500	360	0	0	0
54150-510	Trustee's Commission	354	1,000	1,000	136	0	0	0
54150-511	Vehicle & Equipment Insurance	3,000	3,000	3,000	3,000	0	0	0
54150-524	Staff Development	5,315	2,000	5,500	3,620	0	0	0
54150-599	Other Charges	825	2,000	2,000	0	0	0	0
54150-716	Law Enforcement Equipment	0	0	90,000	7,420	0	0	0
54150-718	Motor Vehicle	101,973	0	0	0	0	0	0
54150-799	Other Capital Outlay	44,908	0	0	(389)	0	0	0
Total	Drug Enforcement	182,492	60,000	150,000	30,909	0	0	0

D

**ANDERSON COUNTY GOVERNMENT
EMPLOYEE PAYROLL TAX & FRINGE BENEFIT CALCULATIONS
BUDGET YEAR 2020/2021**

DEPARTMENT: _____

PREPARED BY: _____

Calculations: Calculations:

201 Social Security - Multiply Gross Salary by 6.2% (.062)

204 Retirement - Multiply Gross Salary by 7.33% (.0733) for full-time employees

206 Life Insurance - Single coverage \$66.00/year - Family coverage \$78.00/year for full-time employees

207 Medical GOLD - Single \$5,268. Single+1 \$13,368. Family \$15,720 per year for full-time employees

207 Medical SILVER - Single \$5,268. Single+1 \$13,872. Family \$14,712 per year for full-time employees

208 Dental Ins.- Single coverage \$289/year. Family coverage \$550/year for full-time employees

209 Short-term Disability Ins - Salary by 0.68% (.0068) for full time employees

210 Unemployment - First \$7,000 per person by .6% (.006) or \$42 per person per year for full-time employees

212 Medicare - Gross Annual Salary by 1.45% (.0145).

Finance Department
will complete codes
206, 207 & 208

Please list employees separately by budget code.

Budget code distinguishes between department head/official, full-time and part-time staff.

Employee Name	Position	Budget Code	Hourly Rate	Gross Annual Salary	Social Security 201	Retirement 204	Life Insurance 206	Medical Insurance 207	Dental Insurance 208	S/T Disability 209	Unemployment 210	Medicare 212
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
				\$0	\$0	\$0				\$0	\$0	\$0
Total by object code				\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

TOTAL

\$0

D

**ANDERSON COUNTY GOVERNMENT
EXPLANATION OF EXPENSE CODES
BUDGET YEAR 2020/2021**

DEPARTMENT: _____

PREPARED BY: _____

ACCOUNT CODE (300-999)	DETAILS RELATED TO THE EXPENDITURES, SUCH AS VENDOR, PURPOSE AND AMOUNTS
<i>Example: 101-51800-399</i>	<i>Expenses for Industiral Refrigeration for (HVAC Maintenance \$24,000); Simplex Grinnell (Service on Fire Alarm/Detection/Monitoring \$8,000); Johnson Controls (Planned Service Agreement \$9,400)</i>

A

ANDERSON COUNTY GOVERNMENT
FIVE-YEAR CAPITAL OUTLAY WORKSHEET
BUDGET YEAR 2020/2021

DEPARTMENT:

PREPARED BY:

ASSET DESCRIPTION	ESTIMATED COSTS BY FISCAL YEAR					PRIORITY & JUSTIFICATION
	2020/2021	2021/2022	2022/2023	2023/2024	2024/2025	

ANDERSON COUNTY GOVERNMENT CAPITAL PROJECT PRIORITIZATION

Budget for Fiscal Year 2020-2021

CAPITAL PROJECT IMPROVEMENTS PRIORITIZATION CATEGORIES

1. Priority 1 – Imperative (Must Do)

Projects that cannot reasonable be postponed in order to avoid harmful or otherwise undesirable consequences.

- Corrects a condition dangerous to public health or safety.
- Satisfies a legal obligation.
- Alleviates an emergency service disruption or deficiency
- Prevents irreparable damage to a valuable public facility.

2. Priority 2 – Essential (Should Do)

Projects that address clearly demonstrated needs or objectives.

- Rehabilitates or replaces an obsolete public facility or attachment thereto.
- Stimulates economic growth and private capital investment.
- Reduces future operating and maintenance costs.
- Leverages available state or federal funding.

3. Priority 3 – Important (Could Do)

Projects that benefit the community, but may be delayed without detrimental effects to basic services.

- Provides a new or expanded level of service.
- Promotes intergovernmental cooperation.
- Reduces energy consumption.
- Enhance cultural or natural resources.

4. Priority 4 – Desirable (Another Year)

Desirable projects included within the 5-year program, but have funding limitations.

ANDERSON County Government Grant Pre-Application Notification Form	
Department or Organization Applying for Grant :	
Grant/Program Title:	
Grant Beginning Period :	
Grant Ending Period :	
Grant Amount:	
Funding Agency (i.e. State, Federal , Private):	
Funding Agency Contact Information	
Name	
Address	
Phone	
Fax	
Email	
Funding Percentage or Match (i.e. 100% or 75%/ 25%):	
Funding Type (Revenue Advanced or Reimbursed) :	
Ongoing Funding Requirements(Yes/No & Length Required):	
Indirect Cost Availability (Yes/No) :	
Grant Beneficiary:	
Purpose of Grant:	
Person/Dept. Responsible for Grant Program Management :	
Person/ Dept. Responsible for Reporting Expenditures:	
Person/ Dept. Responsible for Requesting Revenue Claims:	
Grant Requirements for Continuation of Program or Cooperative Agreements:	
Grant Requirements for Equipment, Ownership & Insurance :	
Grant Requirements for Annual Cost of Upgrade/Maintenance, etc.:	
Grant Requirements for Employment or Contracted Services:	
Will this grant add Value to Anderson County Fixed Assets? (Yes/ No):	
Will this grant add Expense to Anderson County's Insurance Expense? (Yes/No):	
Approving Official Signature:	Date:

A

COMPLIANCE WITH BUDGET GUIDELINES

FUND/DEPARTMENT: _____

- ☐ Compensation codes are the same or lower than the amended budget
- ☐ Operating expenses are the same or lower than the amended budget
- ☐ Suitable explanation of expense codes
- ☐ Grant forms submitted and included in proposed budget

COMMENTS FROM FINANCIAL REVIEW:

- ☐ Submitted capital outlay request

January 2, 2020

To: Anderson County Board of Commission

Re: Vehicle Replacement Plan

Dear Chairman Wandell, Chairman White and County Commissioners,

I was asked at the Budget Committee level what my recommendation is for an optimal replacement schedule.

As vehicles age, maintenance and repair costs tend to increase. There is an optimal point for replacement that can provide Anderson County with the lowest total lifecycle cost on a vehicle.

Based on the question, I have put together a set of spreadsheets that analyzes our current fleet, makes recommendations for addressing current needs, and replacements and gets us on track for optimal replacements going forward.

In the spreadsheet you can see vehicles in the county fleet that have been neglected for some time. Some notes to help you understand what I've outlined in the spreadsheets:

1. Any asset number in a red block is mission critical due to age and/or rising cost of maintenance.
2. Columns H-N show age of vehicles to the total vehicle cost.
3. Column O is an *estimated* replaced cost.
4. Column P Critical: 3 of these have been funded under capital outlay.
5. Column Q Backlog vehicles that are behind on replacement, age/ maintenance cost.
6. Columns R and S are *estimated* replacement cost for this year and next year in order to bring the fleet up to date.
7. Columns T- ? is the projected replacement date of vehicles.
8. Row 40 has the *estimated* cost per year for replacement.

Green Tab at the bottom of the spreadsheet (Designated for Disposal) shows asset and year to be disposed of via GovDeals.

Column I is KBB trade-in value. As you go down, you will find that the trade-in value increases; this is due to disposing of vehicles at a better useful life (this is the goal, that is, timing the replacement to gain highest return on the vehicle while achieving lowest county lifecycle cost the vehicle).

If you have any further questions, feel free to reach out. I will attend the Budget Committee in order to discuss and/or answer questions.

Sincerely,

John Vickery

Group B

License #	Asset #	Year	Make	Model	Type	Description	Life Cycle Years	Current Age	Date Purchased	Projected LC Replacement		Up-Fitting Costs
										Date	Purchase Price	
GW6097		2006	Chevrolet	Silverado	1/2 ton Pick up	reg cab long bed	5	13	3/15/2006	7/1/2011	\$18,370.00	\$9,975.00
GV3224	3Z307564	2003	Chevrolet	Silverado	1/2 ton Pick up	reg cab short bed	8	16	6/30/2004	7/1/2014	\$15,807.00	
GY6428		2002	Chevrolet	Silverado	1/2 ton Pick up	extra cab short bed	7	17	5/11/2009	7/1/2009	\$9,205.00	
GV3324	3Z329141	2003	Chevrolet	Silverado	1/2 ton Pick up	reg cab long bed	10	16	5/23/2003	7/1/2013	\$13,596.00	
0295GC	4ED67303	2004	Ford	F350	Dump Truck	reg cab dump bed	15	15	1/28/2013	7/1/2018	\$14,200.00	
GV3233	4LB11034	2003	Ford	Expedition	SUV		7	16	1/22/2004	7/1/2011	\$26,218.00	
GR2855		1995	Ford	F150	1/2 ton Pick up	reg cab short bed	7	24	10/2/1995	7/1/2002	\$17,500.00	
GY6492		1999	Jeep	Cherokee	SUV	Sport suv	7	20	1/13/199	7/1/2006	\$23,275.00	
GW6172	7EA81531	2007	Ford	F250	3/4 ton pick up	4 door short bed	7	12	11/27/2006	7/1/2013	\$54,309.14	
GY6521		2008	Ford	F250	3/4 ton pick up	reg cab utility service bed	7	11	1/3/2008	7/1/2015	\$18,364.00	\$13,540.00
GI2423	YE211744	2000	Chevrolet	Silverado	1/2 ton Pick up	extra cab short bed	8	19	7/1/2014	7/1/2008	Drug seize	
GR7768		1999	Mazda	B2500	1/2 ton Pick up	reg cab short bed	10	20	11/20/1998	7/1/2009	\$9,750.00	
GV3205	3K108699	2003	Chevrolet	Blazer	Suv	S10	7	16	9/3/2003	7/1/2010	\$16,624.00	
8546GA	9R189619	2009	Chevrolet	Tahoe	suv	4 door suv	7	10	12/6/2011	7/1/2016	\$25,088.00	
GU5783	29143990	2002	Chevrolet	Impala	sedan	4 door sedan	7	17	4/4/2002	7/1/2009	\$17,146.00	
GY6475	9DA77102	2009	Ford	E350	Econoline	1 ton 15 passenger van	9	10	4/20/2010	7/1/2018	\$17,200.00	
GY6512	7NA78607	2007	Ford	F150	1/2 pick up	reg cab long bed	7	12	11/16/2007	7/1/2014	\$12,500.00	
GY6525	28187670	2002	Chevrolet	S10	pick up	Pick up with tommy lift gate	10	17	2/22/2008	7/1/2012		
GY6516	3E189828	2003	Chevrolet	Silverado	3500	1 ton long bed with stake bed	15	16	1/3/2008	7/1/2018	\$15,300.00	
GY6533	8KD60252	2008	Ford	F150	1/2 ton Pick up	reg cab short bed	10	11	3/28/2008	7/1/2018	\$17,411.00	
GY6526		2000	Chevrolet	Astro	Mini van	Mini van	10	19	2/22/2008	7/1/2010		
4281GF	KED14173	2018	Ford	F250	Truck	Animal Control Box Truck	5	1	8/16/2018	7/1/2023	\$25,456.00	\$13,540.00
1572GF	KED00453	2018	Ford	F250	Truck	Parks Maintenance	7	1	8/15/2018	7/1/2025	\$27,471.00	
	N1000488	1992	E one		Fire truck	4 door Fire Truck	20	17				
GW6249	6ED09960	2006	Ford	F350	3/4 ton pick up	4 door utility	15	13	5/22/2006	7/1/2021	\$55,800.00	
0293GC	5H140321	2006	FERRARA		Fire Truck	Fire Truck	15	18	1/4/2006	7/1/2021	\$417,322.97	
Orange	E1046322	2014	Husler		trailer	Skid Steer trailer	20	5	7/1/2015	7/1/2035		
1119GC	DN742764	2013	Nissan	Frontier	1/2 ton Pick up	reg cab	7	6	7/8/2013	7/1/2020	\$19,998.00	
5700GD	GL887289	2016	Nissan	Versa	sedan	sedan	7	3	6/2/2016	7/1/2023	\$12,382.00	
	F0351313	2002	Case	70XT	SSL	Skid Steer	20	17	4/9/2008	7/1/2028	\$16,682.00	
0873GE	JGA99390	2018	Ford	Explorer	suv	suv	8	1	12/15/2017	7/1/2025	\$30,555.46	
4310GF	KKA40420	2019	Ford	Transit	250	3/4 transit cargo	10	1	10/10/2018	7/1/2028	\$27,652.00	

Total Vehicle Cost	Projected Future Replacement Cost	Critical /	Backlog	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
28,345.00	FUNDED		FUNDED	FUNDED									
15,807.00	30,380.00		30,380.00	30,380.00									
9,205.00	30,880.00		30,880.00	30,880.00									
13,596.00	26,890.00		26,890.00	26,890.00									
14,200.00	75,000.00		75,000.00		75,000.00								
26,218.00	43,472.00		43,472.00		43,472.00								
17,500.00	FUNDED		FUNDED	FUNDED									
23,275.00	FUNDED		FUNDED	FUNDED									
54,309.14	65,274.72		65,274.72		65,274.72								
31,904.00	54,150.00		54,150.00	54,150.00									
-	33,925.00		33,925.00		33,925.00								
9,750.00	29,963.00		29,963.00	29,963.00									
16,624.00			-	May be funded	on a grant								
25,088.00	38,810.00		38,810.00		38,810.00								
17,146.00	20,975.00		20,975.00		20,975.00								
17,200.00	29,350.00		29,350.00		29,350.00								
12,500.00	26,543.00		26,543.00		26,543.00								
-	30,975.00		30,975.00	30,975.00									
15,300.00	40,695.00		40,695.00	40,695.00									
17,411.00	26,543.00		26,543.00		26,543.00								
-	23,975.00		23,975.00	23,975.00									
-	-		-										
38,996.00	42,009.77					42,009.77							
27,471.00	30,488.55									30,488.55			
-	-												
55,800.00	69,762.95					69,762.95							
417,322.97	521,750.56					521,750.56							
-	-												
19,998.00	23,975.00				23,975.00								
12,382.00	18,742.00							18,742.00					
16,682.00	22,468.24												22,468.24
30,555.46	34,420.50									34,420.50			
27,652.00	32,091.27												32,091.27
-	-	Est.Total		267,908.00	384,317.72	591,513.51		60,751.77		64,909.05			54,559.51
-	-												
-	-												
Total by Year			627,800.72	535,816.00	408,292.72	591,513.51	-	-	-	-	-	-	-
Total # Vehicles			25	3	8	3	8	3	6	4	5	11	5



Assets Designated for Disposal

							Kelly Blue Brook	
Asset #	Year	Model	Description	Type	Description	Disposal Year	Trade in	
GW6097		2006	Silverado	Chevrolet	reg cab long bed	1/2 ton Pick up	2019	\$1,000
GR2855		1995	F150	Ford	1/2 ton Pick up	reg cab short bed	2019	\$800
GY6492		1999	Cherokee	Jeep	SUV	4 x4 suv	2019	\$1,200
GV3224	3Z307564	2003	Chevrolet	Silverado	1/2 ton Pick up	reg cab short bed	2019	\$1,700
GY6428		2002	Chevrolet	Silverado	1/2 ton Pick up	extra cab short bed	2019	\$800
GV3324	3Z329141	2003	Chevrolet	Silverado	1/2 ton Pick up	reg cab long bed	2019	\$1,700
GY6521		2008	Ford	F250	3/4 ton pick up	reg cab utility service bed	2019	\$1,500
GR7768		1999	Mazda	B2500	1/2 ton Pick up	reg cab short bed	2019	\$1,000
GV3205	3K108699	2003	Chevrolet	Blazer	Suv	S10	TBA	
GY6525	28187670	2002	Chevrolet	S10	pick up	Pick up with tommy lift gate	2019	\$800
GY6516	3E189828	2003	Chevrolet	Silverado	3500	1 ton long bed with a stake bed	2019	\$1,100
GY6526		2000	Chevrolet	Astro	Mini van	Mini van	2019	\$500
0295GC	4ED67303	2004	Ford	F350	Dump Truck	reg cab dump bed	2020	\$10,000
GV3233	4LB11034	2003	Ford	Expedition	SUV	4x4	2020	\$900
GW6172	7EA81531	2007	Ford	F250	3/4 ton pick up	4 door short bed	2020	\$12,000
GI2423	YE211744	2000	Chevrolet	Silverado	1/2 ton Pick up	extra cab short bed	2020	\$1,900
8546GA	9R189619	2009	Chevrolet	Tahoe	suv	4 door suv	2020	\$3,700
GU5783	29143990	2002	Chevrolet	Impala	sedan	4 door sedan	2020	\$1,300
GY6475	9DA77102	2009	Ford	E350	Econoline	1 ton 15 passenger van	2020	\$5,500
GY6512	7NA78607	2007	Ford	F150	1/2 pick up	reg cab long bed	2020	\$5,600
GY6533	8KD60252	2008	Ford	F150	1/2 ton Pick up	reg cab short bed	2020	\$3,100
1119GC	DN742764	2013	Nissan	Frontier	1/2 ton Pick up	reg cab	2020	\$6,500
GW6249	6ED09960	2006	Ford	F350	3/4 ton pick up	4 door utility	2021	becomes a back up
	N1000488	1992	E one	Fire truck	4 door Fire Truck		2021	to be replaced with front line truck
0293GC	5H140321	2006	FERRARA	Fire Truck	Fire Truck		2021	becomes a back up
5700GD	GL887289	2016	Nissan	Versa	sedan	sedan	2023	
4281GF	KED14173	2018	Ford	F250	Truck	Animal Control Box Truck	2023	
1572GF	KED00453	2018	Ford	F250	Truck	Parks Maintenance	2025	
0873GE	JGA99390	2018	Ford	Explorer	suv	suv	2025	
	F0351313	2002	Case	70XT	SSL	Skid Steer	2028	
4310GF	KKA40420	2019	Ford	Transit	250	3/4 transsit cargo	2028	
Orange	E1046322	2014	Husler	trailer	Skid Steer trailer		2035	

2

Comments:

	First Tab	Column	Explanation
1	Revised	A & B	Changing the date updates the spreadsheet
2	Annual Inflation Rate	M & N	Changing the inflation rate updates the spreadsheet
3	Current Age	H	Calculates the Current Age from the Date Purchased entered in Column I
4	Proj LC Replacement Date	J	Calculates the Proj LC Replacement Date from the Life Cycle Years entered in Column G
5	Total Vehicle Costs	M	Column K + Column L
6	Projected Future Replacement Cost	N	Calculated considering LC, Inflation Rate, and LC



ANDERSON COUNTY GOVERNMENT

TERRY FRANK
COUNTY MAYOR

January 7, 2020

Jerry White, Chairman
Anderson County Budget Committee

Dear Chairman White and Honorable Members of Budget Committee,

I have attached a proposed change to our fund balance policy requesting that we raise the amount from \$4,000,000 to \$4,500,000 and likewise, that appropriations from the fund balance would require a 2/3 affirmative vote if the appropriation results in the unassigned fund balance failing below the \$4,500,000 mark.

Please see attached proposed policy amendment.

My best regards,

A handwritten signature in black ink, appearing to read "Terry Frank", is written over a horizontal line.

Terry

Gray
C

**ANDERSON COUNTY, TENNESSEE
POLICY AMENDING THE FUND BALANCE POLICY
GENERAL FUND**

GENERAL FUND:

The General Fund unassigned fund balance will be maintained at a level sufficient to provide for the required resources to meet operating cost needs, to allow for unforeseen needs of an emergency nature, and to permit orderly adjustment to changes resulting from fluctuations of revenue sources. Given that current property tax collections do not begin until the fourth month of the fiscal year, and based on guidance provided by the Government Finance Officers Association (GFOA), Anderson County will maintain at least a \$4,500,000 (four million, five hundred thousand) minimum fund balance.

Any amounts remaining in the fiscal year-end unassigned fund balance in excess of \$4,500,000 will be available for appropriation by the County Commission to cover such items as revenue shortfalls and unanticipated expenditures, and to ensure stable tax rates. The County Commission will attempt whenever possible to avoid appropriating such funding for recurring expenses, and will require a 2/3 affirmative vote to appropriate funds from the unassigned fund balance if the appropriation results in the unassigned fund balance falling below the \$4,500,000 balance.

Passed this 9th day of January, 2020, by the Anderson County Budget Committee and recommended for approval by the Anderson County Finance Committee and Anderson County Board of Commissioners.

Terry Frank, County Mayor

Robert J. Holbrook, Interim Finance Director

Grapp
C

Anderson County Board of Commissioners

Financial Management Committee Minutes

January 13, 2020
3:30 PM, Room 312

Members Present: Tim Parrott (Chair), Tim Isbel, Terry Frank, Phil Yager, and Gary Long.

Members Absent: Chuck Fritts and Rick Meredith.

Meeting Facilitator: Robby Holbrook (Interim Finance Director)

Call to Order: The meeting was called to order by Tim Parrott (Chair).

I. Amendment of Fund Balance Policy

Terry Frank presented an amendment to the General Fund Unassigned Fund Balance Policy requiring a minimum fund balance of \$4,500,000 for discussion.

Motion by Phil Yager, seconded by Terry Frank, to modify the current General Fund Unassigned Fund Balance Policy by increasing the required minimum fund balance to \$4,500,000. Motion Passed.

II. Discussion of Phone Policy and Vehicle Policy

Terry Frank presented ideas for possible improvement of both policies for discussion. The Finance Department will conduct research and report back to the committee. No action taken.

III. Discussion Debt Policy

Terry Frank presented ideas for possible improvement of the Debt Policy for discussion. The Finance Department will conduct research and report back to the committee. No action taken.

IV. Old Business

Kim Jeffers-Whitaker (Director of Human Resources and Risk Management) presented date options for Finance Director candidate interviews/statements. Monday, February 10, 2020 at 9:00 a.m. was selected. No action taken.

V. Meeting Adjourned

Motion by Terry Frank, seconded by Gary Long to adjourn. Motion Passed.

Anderson County Board of Commissioners
Financial Management Committee
Meeting Agenda

January 13, 2020
3:30 PM, Room 312

Purpose of Meeting: Regularly scheduled meetings to discuss topics as they relate to the County Financial Management System of 1981.

Meeting Facilitator: Robby Holbrook

Invitees: Tim Parrott, Phil Yager, Chuck Fritts, Terry Frank, Tim Isbel, Gary Long, and Rick Meredith

- I. Amendment of Fund Balance Policy
- II. Discussion of Phone Policy & Vehicle Policy
- III. Discussion of Debt Policy
- IV. Old Business
- V. New Business
- VI. Adjourn



ANDERSON COUNTY GOVERNMENT

TERRY FRANK
COUNTY MAYOR

January 7, 2020

Jerry White, Chairman
Anderson County Budget Committee

Dear Chairman White and Honorable Members of Budget Committee,

I have attached a proposed change to our fund balance policy requesting that we raise the amount from \$4,000,000 to \$4,500,000 and likewise, that appropriations from the fund balance would require a 2/3 affirmative vote if the appropriation results in the unassigned fund balance falling below the \$4,500,000 mark.

Please see attached proposed policy amendment.

My best regards,

A handwritten signature in black ink, appearing to read "Terry Frank", is written over a horizontal line.

Terry

Gray
C

**ANDERSON COUNTY, TENNESSEE
POLICY AMENDING THE FUND BALANCE POLICY
GENERAL FUND**

GENERAL FUND:

The General Fund unassigned fund balance will be maintained at a level sufficient to provide for the required resources to meet operating cost needs, to allow for unforeseen needs of an emergency nature, and to permit orderly adjustment to changes resulting from fluctuations of revenue sources. Given that current property tax collections do not begin until the fourth month of the fiscal year, and based on guidance provided by the Government Finance Officers Association (GFOA), Anderson County will maintain at least a \$4,500,000 (four million, five hundred thousand) minimum fund balance.

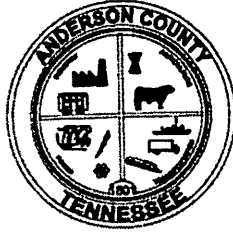
Any amounts remaining in the fiscal year-end unassigned fund balance in excess of \$4,500,000 will be available for appropriation by the County Commission to cover such items as revenue shortfalls and unanticipated expenditures, and to ensure stable tax rates. The County Commission will attempt whenever possible to avoid appropriating such funding for recurring expenses, and will require a 2/3 affirmative vote to appropriate funds from the unassigned fund balance if the appropriation results in the unassigned fund balance falling below the \$4,500,000 balance.

Passed this 9th day of January, 2020, by the Anderson County Budget Committee and recommended for approval by the Anderson County Finance Committee and Anderson County Board of Commissioners.

Terry Frank, County Mayor

Robert J. Holbrook, Interim Finance Director

Grapp
C



ANDERSON COUNTY GOVERNMENT

TERRY FRANK
COUNTY MAYOR

January 15, 2020

Commissioner Tracy Wandell
Chairman, Anderson County Board of Commissioners

Dear Chairman Wandell and Honorable Members of Commission,


I wish to add the following items to the agenda:

1. Approval of TDEC Education and Outreach Grant Amendment. See attached.
2. Per the requirements of being a participating member of the State of Tennessee's Three Star Program, I am requesting three separate motions acknowledging the items listed below:
 - a. The county mayor has reviewed with the county commission at an official meeting the county's debt management policy that is currently on file with the Comptroller of the Treasury Office. Debt Policy attached/included.
 - b. The county mayor and county commission acknowledge that an annual cash flow forecast must be prepared and submitted to the Comptroller prior to issuance of debt.
 - c. The county mayor and county commission acknowledge that all county offices are required to have documented system of internal controls (TCA Section 9-18-102).
3. Approval of Resolutions No. 20-01-797, 20-01-798, 20-01-799. Authorizing the issuance of general obligation bonds including the refunding of General Fund, Rural Elementary and Rural High School. The authorized refunding will not extend the term of debt. I am requesting separate motions for each resolution. See attached resolutions.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Frank", is written over a horizontal line.

19-0142-A1

 GRANT AMENDMENT					
Agency Tracking # 32701-03736		Edison ID PO _____		Contract # 61357	
Amendment # One				Edison Vendor ID 0000004145	
Contractor Legal Entity Name Anderson County					
Amendment Purpose & Effect(s) Revise Section A. for Revised Grant Application Timeline for Project Completion and Section D.8.					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				End Date: February 29, 2024	
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):					\$ 0.00
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2019	\$1,295.00				\$1,295.00
TOTAL:	\$1,295.00				\$1,295.00
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.					CPO USE
Speed Chart (optional) EN000016386		Account Code (optional) 71301000			

327.42

19-0142-#1

**AMENDMENT ONE
OF GRANT CONTRACT 61357 RFS 32701-03736**

This Grant Contract Amendment is made and entered by and between the State of Tennessee, Department of Environment and Conservation, hereinafter referred to as the "State" and Anderson County, hereinafter referred to as the "Grantee." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Grant Contract is hereby amended as follows:

1. Grant Contract section A.5. is deleted in its entirety and replaced with the following:
 - A.5. The Grantee shall perform all approved activities related to the grant project as described and detailed in the Grantee's revised and approved grant application proposal, which is incorporated into this Grant Contract by reference. The revised and approved grant application proposal shall supersede any previous grant application proposal relative to this Grant Contract.
2. Grant Contract section A.10.b. is deleted in its entirety and replaced with the following:
 - b. The Grantee's revised and approved grant application proposal.
3. Grant Contract section D.8. is deleted in its entirety and replaced with the following:
 - D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Cavene McHayle, Financial Officer
Department of Environment and Conservation
Division of Solid Waste Management
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Ave., 14th Floor
Nashville TN 37243
Cavene.McHayle@tn.gov
Telephone # (615) 253-7322

The Grantee:

The Honorable Terry Frank, Mayor
Anderson County
100 North Main Street, Room 208,
Clinton, TN 37716-3687
tfrank@andersontn.org
Telephone# (865) 457-5400
Fax# (865) 457-6270

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

19-0142-A1

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective January 1, 2020. All other terms and conditions of this Grant Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

ANDERSON COUNTY:

GRANTEE SIGNATURE

DATE

THE HONORABLE TERRY FRANK, MAYOR

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION:

DAVID W. SALYERS, P.E., COMMISSIONER

DATE

19-0142-A1



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Solid Waste Management
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 14th Floor
Nashville, Tennessee 37243

December 10, 2019

The Honorable Terry Frank, Mayor
Anderson County
100 North Main Street, Room 208
Clinton, TN 37716-3687

**SUBJECT: Education and Outreach Grant Contract # 32701-03736
Edison # 61357
Timeline Approval**

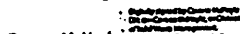
Dear Honorable Mayor Frank:

We have completed the review of the revised timeline submitted by Anderson County on October 4, 2019 for the Education and Outreach Grant Contract. Based upon your submission, the State shall hold Anderson County accountable to the following deadlines:

**January 30, 2020- Final Request for Grant Reimbursement Submitted
All Contract Actions Completed**

The County shall incur no penalties for early completion. In the event Anderson County does not meet a date deadline, the Grant Contract shall be considered for Termination for Cause. Thank you for your cooperation with this amendment process. If you have any questions regarding this matter, please call me at (615) 253-7322 or your Grant Coordinator, Taylor Collins at (615) 532-0219.

Sincerely,


Cavene McHayle
Financial Officer

Cavene McHayle
Financial Officer

cc: Mr. Geoff Trabalka, Solid Waste Supervisor, Anderson County
Mr. Roydon Crocker, Purchasing Agent, Anderson County
Ms. Shelby Pressley, Grants Coordinator, TDEC-Materials Management

RCVD JAN14'20AM6:59
A.C. COV. PURCHASING



Anderson County Purchasing Department

Royden Crocker
Anderson County Courthouse
100 North Main Street, Room 214
Clinton, Tennessee 37716-3617

Phone - (865) 457-6251
Fax - (865) 264-6252
Email - rcrocker@andersontn.org
Web - www.anderson-county.com

Memorandum

Date: January 14, 2020

To: Jay Yeager, Law Director

From: Royden Crocker

Subject: GRANT CONTRACT AMENDMENT

- State of Tennessee, Department of Environment and Conservation
- Revised Timeline for Project Completion and Section D.8
- Anderson County Solid Waste
- Term: 12/10/2019 to 2/29/2024

Please review the enclosed contract and approve to legal form. Thank you.

ANDERSON COUNTY TENNESSEE

Debt Management Policy

Originally Adopted: August 15, 2011

Amended and Formally Adopted: November 21, 2016

TABLE OF CONTENTS

Introduction	i
Introductory Statement	1
Goals and Objectives	1
Procedures for the Issuance of Debt	2
Credit Quality and Credit Enhancement	3
Affordability	3
Debt Structure	4
Debt Types	5
Refinancing Outstanding Debt.	9
Methods of Issuance	10
Professionals	12
Compliance	13
Debt Policy Review	14

INTRODUCTION

This Debt Management Policy (the “Debt Policy”) is a written guideline with parameters that affect the amount and type of debt that can be issued by Anderson County, Tennessee (the “County”), the issuance process and the management of the County’s debt. The purpose of this Debt Policy is to improve the quality of management and legislative decisions and to provide justification for the structure of debt issuances consistent with the Debt Policy’s goals while demonstrating a commitment to long-term capital planning. It is also the intent of the County that this Debt Policy will signal to credit rating agencies, investors and the capital markets that the County is well managed and will always be prepared to meet its obligations in a timely manner. This Debt Policy fulfills the requirements of the State of Tennessee regarding the adoption of a formal debt management policy on or before January 1, 2012. This updated policy amends the previously adopted Debt Policy on August 15, 2011.

This Debt Policy provides guidelines for the County to manage its debt and related annual costs within both current and projected available resources while promoting understanding and transparency for our citizens, taxpayers, rate payers, businesses, investors and other interested parties.

The County may, from time to time, review this Debt Policy and make revisions and updates, if warranted.

ANDERSON COUNTY, TENNESSEE

DEBT MANAGEMENT POLICY

I. INTRODUCTORY STATEMENT

In managing its Debt (defined herein as tax-exempt or taxable bonds, capital outlay notes, other notes, capital leases, interfund loans or notes and loan agreements); it is the County's policy to:

- Achieve the lowest cost of capital within acceptable risk parameters
- Maintain or improve credit ratings
- Assure reasonable cost access to the capital markets
- Preserve financial and management flexibility
- Manage interest rate risk exposure within acceptable risk parameters
- Regularly review this Debt Policy and perform a risk assessment on debt management process and related internal controls

II. GOALS AND OBJECTIVES

Debt policies and procedures are tools that ensure that financial resources are adequate to meet the County's long-term capital planning objectives. In addition, the Debt management policy (the "Debt Policy") helps to ensure that financings undertaken by the County have certain clear, objective standards which allow the County to protect its financial resources in order to meet its long-term capital needs.

The Debt Policy formally establishes parameters for issuing debt and managing a debt portfolio which considers the County's specific capital improvement needs; ability to repay financial obligations; and, existing legal, economic, and financial market conditions. Specifically, the policies outlined in this document are intended to assist in the following:

- To guide the County in policy and debt issuance decisions
- To maintain appropriate capital assets for present and future needs
- To promote sound financial management
- To protect the County's credit rating

- To ensure the County's debt is issued legally under applicable state and federal laws
- To promote cooperation and coordination with other parties in the financing
- To evaluate debt issuance options
- To issue debt with a level or declining payment structure to create future debt capacity and financial flexibility
- To manage and mitigate the impact of past balloon indebtedness on the County's revenues

III. PROCEDURES FOR ISSUANCE OF DEBT

1) Authority

- a. The County will only issue Debt by utilizing the statutory authorities provided by *Tennessee Code Annotated* as supplemented and revised ("TCA") and the Internal Revenue Code (the "Code").
- b. The County will adhere to any lawfully promulgated rules and regulations of the State and those promulgated under the Code.
- c. All Debt must be formally authorized by resolution of the County's Legislative Body.

2) Transparency

- a. It is recognized that the issuance of Debt must have various approvals and on occasion, written reports provided by the State of Tennessee Comptroller's office either prior to adoption of resolutions authorizing such Debt, prior to issuance and/or following issuance. The County, in conjunction with any professionals (including, but not limited to, financial advisors, underwriters, bond counsel, etc. which may individually or collectively be referred to herein as "Financial Professionals") will ensure compliance with TCA, the Code and all federal and State rules and regulations. Such State compliance will include, but not be limited to, compliance with all legal requirements regarding adequate public notice of all meetings of the County related to consideration and approval of Debt. Additionally, the County shall provide the Tennessee Comptroller's office sufficient information on the Debt to not only allow for transparency regarding the issuance, but also assuring that the Comptroller's office has sufficient information to adequately report or approve any formal action related to the sale and issuance of Debt. The

County will also make this information available to its legislative body, citizens and other interested parties.

- b. The County will file its Audited Financial Statements and any Continuing Disclosure document prepared by the County or its Dissemination Agent. To promote transparency and understanding, these documents should be furnished to members of the Legislative Body and made available electronically or by other usual and customary means to its citizens, taxpayers, rate payers, businesses, investors and other interested parties by posting such information on-line or in other prominent places.

IV. CREDIT QUALITY AND CREDIT ENHANCEMENT

The County's Debt management activities will be conducted in order to maintain or receive the highest possible credit ratings. The Mayor and Finance Director in conjunction with any Financial Professionals that the County may choose to engage will be responsible for maintaining relationships and communicating with one or more rating agencies.

The County will consider the use of credit enhancements on a case-by-case basis, evaluating the economic benefit versus cost for each case. Only when clearly demonstrable savings can be shown shall an enhancement be considered. The County will consider each of the following enhancements as alternatives by evaluating the cost and benefit of such enhancements:

1) Insurance

The County may purchase bond insurance when such purchase is deemed prudent and advantageous. The predominant determination shall be based on such insurance being less costly than the present value of the difference in the interest on insured bonds versus uninsured bonds.

2) Letters of Credit

The County may enter into a letter-of-credit ("LOC") agreement when such an agreement is deemed prudent and advantageous. The County or its Financial Professionals, if any, may seek proposals from qualified banks or other qualified financial institutions pursuant to terms and conditions that are acceptable to the County.

V. AFFORDABILITY

The County shall consider the ability to repay Debt as it relates to the total budget resources, the wealth and income of the community and its property tax base and other revenues available to service the Debt. The County may consider debt ratios and other benchmarks

compared to its peers when analyzing its Debt including materials published by the nationally recognized credit rating agencies.

VI. DEBT STRUCTURE

The County shall establish all terms and conditions relating to the issuance of Debt and will invest all bond proceeds pursuant to the terms of its investment policy, if any. Unless otherwise authorized by the County, the following shall serve as the Debt Policy for determining structure:

1) Term

All capital improvements financed through the issuance of Debt will be financed for a period not to exceed the useful economic life of the improvements and in consideration of the ability of the County to absorb such additional debt service expense. The term of Debt shall be determined by, but not limited to, the economic life of the assets financed, conditions in the capital markets, the availability of adequate revenue streams to service the Debt and the existing pattern of Debt payable from such identifiable fund or enterprise activity, but in no event will the term of such Debt exceed forty (40) years, as outlined in TCA.

2) Capitalized Interest

From time to time, certain financings may require the use of capitalized interest from the date of issuance until the County is able to realize beneficial use and/or occupancy of the financed project. Interest may be capitalized through a period permitted by federal law and TCA if it is determined that doing so is beneficial to the financing by the Legislative Body and is appropriately memorialized in the legislative action authorizing the sale and issuance of the Debt.

3) Debt Service Structure

General Obligation debt issuance shall be planned to achieve relatively net level debt service or level principal amortization considering the County's outstanding debt obligations, while matching debt service to the useful economic life of facilities. Absent events or circumstances determined by its Legislative Body, the County shall avoid the use of bullet or balloon maturities (with the exception of sinking fund requirements required by term bonds). Debt which is supported by project revenues and is intended to be self-supporting should be structured to achieve level proportional coverage to expected available revenues.

4) Balloon Debt

It is in the best interest of the citizens to maintain a debt portfolio utilizing individual debt issues in a manner that minimizes interest paid and other related costs as well as repaying principal as rapidly as possible to create financial flexibility and future debt capacity. Balloon indebtedness does not generally meet these objectives. The County Commission will make sure to additionally comply with T.C.A. § 9-21-134 and its Balloon Debt Management Plan, as attached as Exhibit A. This will include the requirements for balloon indebtedness found in the Tennessee State Funding Board's guidance on debt management policies and balloon indebtedness.

5) Call Provisions

In general, the County's Debt should include a call feature no later than ten (10) years from the date of delivery of the bonds. The County will avoid the sale of long-term debt which carries longer redemption features unless a careful evaluation has been conducted by the Mayor and Finance Director and/or Financial Professionals, if any, with respect to the value of the call option.

6) Original Issuance Discount/Premium

Debt with original issuance discount/premium will be permitted.

7) Deep Discount Bonds

Deep discount debt may provide a lower cost of borrowing in certain capital markets. The Mayor and Finance Director and/or Financial Professionals, if any, should carefully consider their value and effect on any future refinancing as a result of the lower-than-market coupon.

VII. DEBT TYPES

When the County determines that Debt is appropriate, the following criteria will be utilized to evaluate the type of debt to be issued.

1) Security Structure

a. General Obligation Bonds

The County may issue Debt supported by its full faith, credit and unlimited ad valorem taxing power ("General Obligation Debt"). General Obligation Debt shall be used to finance capital projects that do not have significant independent creditworthiness or significant on-going revenue streams or as additional credit

support for revenue-supported Debt, if such support improves the economics of the Debt and is used in accordance with these guidelines.

b. Revenue Debt

The County may issue Debt supported exclusively with revenues generated by a project or enterprise fund ("Revenue Debt"), where repayment of the debt service obligations on such Revenue Debt will be made through revenues generated from specifically designated sources. Typically, Revenue Debt will be issued for capital projects which can be supported from project or enterprise-related revenues.

c. Capital Leases

The County may use capital leases to finance projects assuming the Mayor and Finance Director and/or Financial Professionals, if any, determine that such an instrument is economically feasible.

2) Duration

a. Long-Term Debt

The County may issue long-term debt when it is deemed that capital improvements should not be financed from current revenues or short-term borrowings. Long-term debt will not be used to finance current operations or normal maintenance. Long-term debt will be structured such that financial obligations do not exceed the expected useful economic life of the project(s) financed. Long-term debt will be structured with a level or declining payment structure, unless the County determines that a Balloon Debt structure is in the best interest of its citizens and additionally complies with T.C.A. § 9-21-134 and its Balloon Debt Management Plan, as attached as Exhibit A.

- i. *Serial and Term Debt.* Serial and Term Debt may be issued in either fixed or variable rate modes to finance capital infrastructure projects;
- ii. *Capital Outlay Notes ("CONs").* CONs may be issued to finance capital infrastructure projects with an expected life up to twelve years; or
- iii. *Capitalized Leases.* Capitalized Leases may be issued to finance infrastructure projects or equipment with an expected life not greater than its expected useful life.

b. Short-Term Debt

Short-term borrowing may be utilized for:

- i. Financing short economic life assets;
- ii. The construction period of -long-term projects;
- iii. For interim financing; or
- iv. For the temporary funding of operational cash flow deficits or anticipated revenues subject to the following policies:
 - a. *Bond Anticipation Notes ("BANs")*. BANs, including commercial paper notes issued as BANs, may be issued instead of capitalizing interest to reduce the debt service during the construction period of a project or facility. The BANs shall not mature more than 2 years from the date of issuance. BANs can be rolled in accordance with federal and state law. BANs shall mature within 6 months after substantial completion of the financed facility.
 - b. *Revenue Anticipation Notes ("RANs") and Tax Anticipation Notes ("TANs")*. RANs and TANS shall be issued only to meet cash flow needs consistent with a finding by bond counsel that the sizing of the issue fully conforms to federal IRS and state requirements and limitations.
 - c. *Lines of Credit*. Lines of Credit shall be considered as an alternative to other short-term borrowing options. A line of credit shall only be structured to federal and state requirements.
 - d. *Interfund Loans*. Interfund Loans shall only be used to fund operational deficiencies among accounts or for capital projects to be paid from current fiscal year revenues. Such interfund loans shall be— approved by the State Comptroller's office and shall only be issued in compliance with state regulations and limitations.
 - e. *Other Short-Term Debt*. Other Short-Term Debt including commercial paper notes, BANs, Capitalized Leases and CONs may be used when it provides an interest rate advantage or as interim financing until market conditions are more favorable to issue debt in a fixed or variable rate mode. The County will determine and utilize the most advantageous method for short-term borrowing. The County may issue short-term Debt when there is a defined repayment source or amortization of principal.

3) **Interest Rate Modes**

a. Fixed Rate Debt

To maintain a predictable debt service schedule, the County may give preference to debt that carries a fixed interest rate.

b. Variable Rate Debt

The targeted percentage of net variable rate debt outstanding (excluding an amount of debt considered to be naturally hedged to short-term assets in the Unreserved General and/or Debt Service Fund Balance) shall not exceed 35% of the County's total outstanding debt and will take into consideration the amount and investment strategy of the County's operating cash.

The following circumstances may result in the consideration of issuing variable rate debt:

- i. *Asset-Liability Matching;*
- ii. *Construction Period Funding;*
- iii. *High Fixed Interest Rates.* Interest rates are above historic averages;
- iv. *Diversification of Debt Portfolio;*
- v. *Variable Revenue Stream.* The revenue stream for repayment is variable and is anticipated to move in the same direction as market-generated variable interest rates or the dedication of revenues allows capacity for variability; and
- vi. *Adequate Safeguard against Risk.* Financing structure and budgetary safeguards are in place to prevent adverse impacts from interest rate shifts such structures could include, but are not limited to, interest rate caps and short-term cash investments in the County's General Fund.

An analysis by the Mayor and Finance Director and/or Financial Professionals, if any, shall be conducted to evaluate and quantify the risks and returns associated with the variable rate Debt including, but not limited to, a recommendation regarding the use of variable rate debt.

4) Zero Coupon Debt

Zero Coupon Debt may be used if an analysis has been conducted by the Mayor and Finance Director and/or Financial Professionals, if any, and the risks and returns associated with the Zero Coupon Debt have been made. The analysis shall include, but not be limited to a recommendation regarding the use of Zero Coupon Debt as the most

feasible instrument considering available revenues streams, the need for the project and other factors determined by the Legislative Body.

5) Synthetic Debt

The County will not enter into any new interest rate swaps or other derivative instruments unless it adopts a Debt Derivative Policy consistent with the requirements of TCA and only after approval of the State Comptroller's office and affirmative action of the Legislative Body.

VIII. REFINANCING OUTSTANDING DEBT

The Mayor and Finance Director, in conjunction with Financial Professionals, if any, shall have the responsibility to analyze outstanding Debt for refunding opportunities. The Mayor and Finance Director will consider the following issues when analyzing possible refunding opportunities:

1) Debt Service Savings

Absent other compelling considerations such as the opportunity to eliminate onerous or restrictive covenants contained in existing Debt documents, the County has established a minimum net present value savings threshold of at least 3.0 percent of the advance refunded Debt principal amount. Current refunding opportunities may be considered by the County using any savings threshold if the refunding generates positive net present value savings. The decision to take less than 3.0 percent net present value savings for an advance refunding or to take the savings in any manner other than a traditional year-to-year level savings pattern must be approved by the Legislative Body or delegated to the County's Chief Executive.

2) Balloon Debt

It is in the best interest of the citizens to maintain a debt portfolio utilizing individual debt issues in a manner that minimizes interest paid and other related costs as well as repaying principal as rapidly as possible to create financial flexibility and future debt capacity. Balloon indebtedness does not generally meet these objectives. The County Commission will make sure to additionally comply with T.C.A. § 9-21-134 and its Balloon Debt Management Plan, as attached as Exhibit A. This will include the requirements for balloon indebtedness found in the Tennessee State Funding Board's guidance on debt management policies and balloon indebtedness.

3) Restructuring for economic purposes

The County may also refund Debt when it is in its best financial interest to do so. Such a refunding will be limited to restructuring to meet unanticipated revenue expectations,

achieve cost savings, mitigate irregular debt service payments, release reserve funds or remove unduly restrictive bond covenants or any other reason approved by the Legislative Body in its discretion. The County aspires to issue refunding debt with a level or declining debt payment structure and whenever possible mitigate previously issued balloon indebtedness structures.

4) Term of Refunding Issues

Normally, the County will refund Debt equal to or within its existing term. However, the Mayor and Finance Director may consider maturity extension, when necessary to achieve desired outcomes, provided that such extension is legally permissible and it is approved by the Legislative Body. The Mayor and Finance Director may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful economic life of the financed facility and the concept of intergenerational equity should guide these decisions.

5) Escrow Structuring

The County shall utilize the least costly securities available in structuring refunding escrows. In the case of open market securities, a certificate will be provided by a third party agent, who is not a broker-dealer stating that the securities were procured through an arms-length, competitive bid process, that such securities were more cost effective than State and Local Government Obligations (SLGS), and that the price paid for the securities was reasonable within Federal guidelines. In cases where taxable Debt is involved, the Mayor and Finance Director, with the approval of bond counsel, may make a direct purchase as long as such purchase is the most efficient and least costly. Under no circumstances shall an underwriter, agent or any Financial Professionals sell escrow securities involving tax-exempt Debt to the County from its own account.

6) Arbitrage

The County shall take all necessary steps to optimize escrows and to avoid negative arbitrage in its refunding. Any positive arbitrage will be rebated as necessary according to Federal guidelines.

IX. METHODS OF ISSUANCE

The Mayor and Finance Director may consult with a Financial Professional regarding the method of sale of Debt. Subject to approval by the Legislative Body, the Mayor and Finance Director will determine the method of issuance of Debt on a case-by-case basis consistent with the options provided by prevailing State law.

1) Competitive Sale

In a competitive sale, the County's Debt will be offered in a public sale to any and all eligible bidders. Unless bids are rejected, the Debt shall be awarded to the bidder providing the lowest true interest cost as long as the bid adheres to the requirements set forth in the official notice of sale.

In a competitive sale, a financial advisor may bid on an issue for which they are providing advisory services

2) Negotiated Sale

The County recognizes that some securities are best sold through a negotiated sale with an underwriter or group of underwriters. The County shall assess the following circumstances in determining whether a negotiated sale is the best method of sale:

- a. State requirements on negotiated sales;
- b. Debt structure which may require a strong pre-marketing effort such as those associated with a complex transaction generally referred to as a "story" bond;
- c. Size or structure of the issue which may limit the number of potential bidders;
- d. Market conditions including volatility wherein the County would be better served by the flexibility afforded by careful timing and marketing such as is the case for Debt issued to refinance or refund existing Debt;
- e. Whether the Debt is to be issued as variable rate obligations or perhaps as Zero Coupon Debt;
- f. Whether an idea or financing structure is a proprietary product of a single firm;
- g. In a publicly offered or privately placed, negotiated sale, a financial advisor, if any, shall not be permitted to resign as the financial advisor in order to underwrite or privately place an issue for which they are or have been providing advisory services;
- h. The underwriter shall clearly identify itself in writing as an underwriter and not as a financial advisor from the earliest stages of its relationship with the County with respect to the negotiated issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's length commercial transaction and that it has financial and other interests that differ from those of the County. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the Legislative Body (or its designated official) in advance of the pricing of the debt.

3) Private Placement

From time to time, the County may elect to privately place its Debt. Such placement shall only be considered if this method is demonstrated to be advantageous to the County.

X. PROFESSIONALS

1) Financial Professionals

As needed, the County may select Financial Professionals to assist in its Debt issuance and administration processes. In selecting Financial Professionals, consideration should be given with respect to:

- a. relevant experience with municipal government issuers and the public sector;
- b. indication that the firm has a broadly based background and is therefore capable of balancing the County's overall needs for continuity and innovation in capital planning and Debt financing;
- c. experience and demonstrated success as indicated by its experience;
- d. the firm's professional reputation;
- e. professional qualifications and experience of principal employees; and
- f. the estimated costs, but price should not be the sole determining factor.

2) Miscellaneous

a. Written Agreements

- i. Any Financial Professionals engaged by the County shall enter into written agreements including, but not limited to, a description of services provided and fees and expenses to be charged for the engagement.
- ii. The County shall enter into an engagement letter agreement with each lawyer or law firm representing the County in a debt transaction. No engagement letter is required for any lawyer who is an employee of the County or lawyer or law firm which is under a general appointment or contract to serve as counsel to the County. The County does not need an engagement letter with counsel not representing the County, such as underwriters' counsel.

- iii. The County shall require all Financial Professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the County and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.

b. Conflict of Interest

- i. Financial Professionals involved in a debt transaction hired or compensated by the County shall be required to disclose to the County existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisors, swap advisors, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the County to appreciate the significance of the relationships.
- ii. Financial Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

XI. COMPLIANCE

1) Continuing Annual Disclosure

Normally at the time Debt is delivered, the County will execute a Continuing Disclosure Certificate in which it will covenant for the benefit of holders and beneficial owners of the publicly traded Debt to provide certain financial information relating to the County by not later than twelve months after each of the County's fiscal years, (the “Annual Report and provide notice of the occurrence of certain enumerated events. The Annual Report (and audited financial statements, if filed separately) will be filed with the MSRB through the operation of the Electronic Municipal Market Access system (“EMMA”) and any State Information Depository established in the State of Tennessee (the “SID”). If the County is unable to provide the Annual Report to the MSRB and any SID by the date required, notice of each failure will be sent to the MSRB and any SID on or before such date. The notices of certain enumerated events will be filed by the County with the MSRB through EMMA and any SID. The specific nature of the information to be contained in the Annual Report or the notices of significant events is provided in each Continuing Disclosure Certificate. These covenants are made in order to assist underwriters in complying with SEC Rule 15c2-12(b) (the “Rule”).

2) Arbitrage Rebate

The County will also maintain a system of record keeping and reporting which complies with the arbitrage rebate compliance requirements of the Internal Revenue Code (the "Code").

3) Records

The County will also maintain records required by the Code including, but not limited to, all records related to the issuance of the debt including detailed receipts and expenditures for a period up to 6 years following the final maturity date of the Debt or as required by the Code.

4) Internal Controls

In accordance with the requirements of T.C.A. § 9-18-102, the County Commission using its audit committee and appropriate County personnel shall perform a risk assessment of any funds associated with the payment of debt.

XII. DEBT POLICY REVIEW

1) General Guidance

The guidelines outlined herein are only intended to provide general direction regarding the future issuance of Debt. The County Commission maintains the right to modify this Debt Policy and may make exceptions to any of its guidelines at any time to the extent that the execution of such Debt achieves the goals of the County as long as such exceptions or changes are consistent with TCA and any rules and regulations promulgated by the State.

The County Commission shall regularly review this Debt Policy and perform a risk assessment on the related internal control procedures. Further the Debt Policy will be reviewed from time to time as circumstances, such as during the planning of new debt issuances, rules and regulations warrant. Any amended Debt Policy will be filed with the Office of State and Local Finance in accordance with State Funding Board requirements.

2) Designated Official

The County Mayor and Finance Director are responsible for ensuring substantial compliance with this Debt Policy.

EXHIBIT A

**ANDERSON COUNTY
TENNESSEE**

Balloon Debt Management Plan

TABLE OF CONTENTS

Introduction	1
Goals and Objectives	2
<u>History</u>	
County's General Debt Service Fund Debt	3
County's Rural School Debt Service Fund Debt (Rural Elementary School)	4
County's Education Debt Service Fund Debt (Rural High School)	4
County's General Purpose School Fund Debt	5
<u>Policy</u>	
New Debt.....	6
Outstanding Balloon Indebtedness.....	7
Debt Plan Review.....	8
Outstanding General Debt Service Fund Graph	9
Outstanding Rural School Debt Service Fund Debt (Rural Elementary School) Graph	10
Outstanding Education Debt Service Fund Debt (Rural High School) Graph	11
Outstanding General Purpose School Fund Debt Graph	12

Anderson County, Tennessee Balloon Debt Management Plan

I. INTRODUCTION

This Balloon Debt Management Plan (the “Debt Plan”) is a written guideline to manage, reduce, and mitigate the effect of existing balloon indebtedness on the County’s financial condition and to issue future debt structured with level principal payments or a level debt amortization. The County has previously issued balloon indebtedness as defined by Public Chapter 766, Acts of 2014 (“Balloon Debt”). This outstanding balloon indebtedness has reduced the County’s future capacity to issue debt and its financial flexibility to meet future needs. The purpose of this Debt Plan is to improve the quality of management and legislative decisions for the County regarding the structure of its current and future debt issuances consistent with the County’s Debt Management Policy’s (“DMP”) goals and to do what is in the best interest of the County and its taxpayers.

Policy Statement: It is in the best interest of the County’s citizens to maintain a debt portfolio utilizing individual debt issues in a manner that minimizes interest paid, the real cost of debt, and other related costs as well as repaying principal as rapidly as possible to create financial flexibility and future debt capacity. Balloon indebtedness does not generally meet these objectives.

This Debt Plan formally establishes parameters for structuring debt and managing a debt portfolio that considers:

- specific current capital improvement needs,
- future capital improvement needs,
- ability to repay financial obligations,
- impact on future debt capacity and revenues available for operations, and
- existing legal, economic, and financial market conditions.

Specifically, the intent of the plan outlined in this document is to assist in the following:

- To guide the County Commission in debt issuance decisions
- To establish a County Commission policy to issue new money debt that is not balloon indebtedness as defined by T.C.A. § 9-21-134
- To manage and mitigate the County’s currently outstanding balloon indebtedness
- To promote sound financial management
- To protect the County's credit rating

The Debt Plan will be divided into four (4) sections for each of the major funds that have debt: County’s General Debt Service Fund, Rural School Debt Service Fund (Rural

Elementary School Fund), Education Debt Service Fund (Rural High School Fund) and General Purpose School Fund.

The County Commission will regularly review this Debt Plan and its DMP and make revisions and updates, if warranted. The County Commission will utilize this Debt Plan with its DMP when planning future debt issues. If the County Commission plans to issue Balloon Debt in the future, it will review this Debt Plan and ensure it follows the Debt Plan guidance.

II. GOALS AND OBJECTIVES

The County's goal is to issue debt structured in a manner that:

- minimizes the real cost of debt: interest payments;
- creates future debt capacity within its projected future revenue stream to meet the County's capital needs; and
- provides financial flexibility by reducing future calls on the County's revenues for annual debt service.

Objective 1: Create future debt capacity within the projected debt service revenue stream with an overall declining structure for the County's debt portfolio and the flexibility to use that debt service revenue stream for future operations or other needs of the County.

Objective 2: Issue new debt with a level or declining debt payment structure.

Objective 3: Manage the County's currently outstanding balloon indebtedness in a manner that mitigates its effects on the County's future revenues, if possible, by:

- restructuring;
- early repayment;
- delaying of capital projects until capacity is available to issue debt structured with level or declining payment;
- or such action available within its financial capacity to manage debt.

Objective 4: Understand any proposed transaction and requested alternatives before taking action

Objective 5: Explain to the County's citizens any proposed transaction including the cost and risks.

Objective 6: Protect and improve the County's credit rating by managing the County's current balloon indebtedness and by issuing future debt with a level or declining payment structure.

Objective 7: Use the Debt Plan as a guide to determine when it is in the citizens' best interest to incur additional interest and other costs and risks incurred with the issuance of debt with a balloon structure.

III. HISTORY

In 2011, the County's cash position was dangerously low and the County was unwilling to raise revenues to fund additional debt issues while still struggling from the significant economic downturn that started during the Great Recession of 2008.

COUNTY'S GENERAL FUND DEBT

In the past, the County issued Balloon Debt as described by T.C.A. § 9-21-134.

- a. In 2011, the County refunded then existing fixed rate debt and delay principal payments to bring general debt service expenses in line with the estimated revenues.
- b. The County also issued new debt to fund a jail expansion in 2011. That debt was structured as Balloon Indebtedness. The County structured the repayment schedule to create an overall level amortization of the County's portfolio of debt. This required that the debt for the jail expansion be delayed until the County's other debt was retired. The County did this with the understanding that any major future borrowing would require new revenue sources to fund the new debt service.

Impact of Outstanding Balloon Indebtedness

- Due to its low cash position experienced during the Great Recession, the County implemented its current General Fund - Fund Balance Policy. This policy has resulted in the County's General Fund balance to be over \$10,000,000 of restricted and unrestricted funds at year ended June 30, 2016.
- The County also placed a stronger emphasis on funding the Capital Project Fund to fund smaller projects and equipment purchase since nearly all of the revenues of the General Debt Service Fund are utilized until 2035.

At the time of the writing of this policy, total annual debt service payments are approximately level until 2028. Under the current revenue stream, the County does not have sufficient debt capacity to issue any new debt for substantial capital needs. As a result, the County will not be able to issue future debt for new projects as level debt utilizing the existing revenue stream, as described by T.C.A. § 9-21-134. See attached County GDSF Debt Chart.

RURAL SCHOOL DEBT SERVICE FUND (Rural Elementary School)

In the past, the County issued Balloon Debt as described by T.C.A. § 9-21-134.

- a. In 2011, the County refunded existing variable rate debt paid from the Rural Debt Service Fund (RDSF) to delay principal payments to bring debt service expenses in line with the estimated revenues for the RDSF and to lower interest rate risk by issuing the refunding debt as fixed interest rate.
- b. The County also issued new debt in 2011 to fund renovations and expansions and new construction with the County's school system. That debt was structured as Balloon Indebtedness to delay the repayment of a majority of the principal.
- c. In 2014, the County issued more debt to finance energy conservation projects and additional renovations at its schools. The County selected a repayment structure to match the projected savings from the energy conservation improvements and as a result a portion of the principal was delayed resulting in Balloon Debt.

Impact of Outstanding Balloon Indebtedness

The County structured the 2011 RDSF debt issues with the understanding that any major future borrowing would require either a new revenue source or an increase in the current source to fund new debt service or that it would issue future debt with a balloon indebtedness structure to delay principal payments, potentially increasing the total cost of debt for the original project(s). This balloon indebtedness structure reduced future debt capacity within the revenue stream for the RDSF. Subsequently, the County issued additional debt with a balloon indebtedness structure in fiscal year 2014.

The total annual payments are approximately level until 2026, then the payments decrease by approximately \$540,000 per year. Due to the annual debt payments being approximately level, the County will need to find new revenue sources for any substantial new debt in the future. As a result, the County will not be able to issue future debt for new projects as level debt, as described by T.C.A. § 9-21-134, until 2027 and annual debt service cannot exceed \$540,000 during the period 2027 to 2031. See attached County RDSF (Rural Elementary School) Debt Chart.

EDUCATION DEBT SERVICE FUND (Rural High School)

In the past, the County issued Balloon Debt as described by T.C.A. § 9-21-134.

- a. In 2011, the County refunded existing variable rate debt paid from the Education Debt Service Fund (EDSF) to delay principal payments to bring debt service expenses in line with the estimated revenues for the EDSF and to lower interest rate risk by issuing the refunding debt as fixed interest rate.

- b. The County also issued new debt in 2011 to finance renovations and expansions and new construction within the County's school system. That debt was structured as Balloon Indebtedness to delay the repayment of a majority of the principal.
- c. In 2014, the County issued more debt to finance energy conservation projects and additional renovations at its schools. The County selected a repayment structure to match the projected savings from the energy conservation improvements and as a result a portion of the principal was delayed resulting in Balloon Debt.

Impact of Outstanding Balloon Indebtedness

The County structured these EDSF debt issues with the understanding that any major future borrowing would require either a new revenue source or an increase in the current source to fund new debt service or that it would issue future debt with a balloon indebtedness structure delaying principal payments, potentially increasing the total cost of debt for the original project(s). This balloon indebtedness structure reduced future debt capacity within the revenue stream for the RDSF. Subsequently, the County issued additional debt with a balloon indebtedness structure in fiscal year 2014.

The total annual payments are approximately level until 2031 when the payments on the outstanding debt are complete. Due to the annual debt payments being approximately level, the County will need to find new revenue sources for any substantial new debt in the future. As a result, the County will not be able to issue future debt for new projects as level debt, as described by T.C.A. § 9-21-134, until 2031. See attached County EDSF (Rural High School) Debt Chart.

GENERAL PURPOSE SCHOOL FUND DEBT

The General Purpose School Fund aspires to issue future debt as level debt.

The small amount of General Purpose School Fund debt will be retired in in 2022. See attached General Purpose School Fund Debt Chart.

IV. POLICY

The County Commission aspires to issue future debt for new large capital projects as level debt. The County Commission aspires to fund certain smaller capital projects using the monies appropriated and accumulated in the Capital Project Fund. The County Commission, within its available financial resources, aspires to take action to mitigate the effects of its currently outstanding balloon indebtedness on the County's future revenues. The intent is to create sufficient future debt capacity to issue debt for capital projects without restructuring outstanding debt into balloon indebtedness or issuing new money debt as balloon indebtedness.

If it is determined that is in the public interest to issue balloon indebtedness, the County Mayor will present a Plan of Balloon Indebtedness, as prepared by the County's staff and/or its supporting financial professionals, that details the transaction and will include the requisite information as outlined in the sections below entitled New Debt and Outstanding Balloon Indebtedness, as applicable, and why it is in the public's interest to the Office of State and Local Finance for approval in accordance with T.C.A. § 9-21-134.

A debt authorization resolution that structures the debt as balloon indebtedness will not be adopted until approval of the Plan of Balloon Indebtedness is received from the Office of State and Local Finance. If the County Commission determines it will issue debt structured as balloon indebtedness, it will provide the Plan of Balloon Indebtedness and the approval from the Office of State and Local Finance to the public.

New Debt

It is the aspiration of the County Commission to issue all new debt with a level debt structure. Balloon indebtedness structures can oftentimes increase the interest cost for a capital project, reduce future available debt capacity, and decrease the financial flexibility of the County Commission to use its revenue streams for other purposes. Such payment structures can sometimes be an indicator of financial stress.

If the County Commission considers issuance of debt structured as Balloon Indebtedness (as described by T.C.A. § 9-21-134) for future new projects, it will determine if it is in the public's best interest to utilize Balloon Indebtedness. The County will ensure that any projected revenues used to secure debt will:

- be sufficient to pay for the debt being considered,
- be sufficient to pay all of its other existing outstanding debt service secured by the same projected revenues, and
- not hinder the County's ability to fund future capital needs or to fund future debt service in a level payment structure.

The County Commission will evaluate the specific justification for issuing debt structured as balloon indebtedness. At the time the County Commission considers whether a proposed debt issue with a balloon indebtedness structure is in the public's best interest, it will disclose to the public an analysis which will include the following:

- the proposed debt structure, including the principal and interest payments, and terms and life of the debt issue;
- a schedule or graph showing the County's total debt service for the fund in which the proposed debt is being issued, both pre and post issuance, showing the revenue required to service the debt for each fiscal year debt remains outstanding.
- a schedule or graph showing the percentage of debt retired every five years on both the proposed debt and overall debt;

- a schedule(s) or graph(s) showing whether the proposed structure, when compared to a level debt structure:
 - increases the interest cost for a capital project,
 - reduces future available debt capacity, or
 - decreases the financial flexibility of the County Commission to use its revenue streams for other purposes compared to a level debt structure

Outstanding Balloon Indebtedness

The County Commission will manage currently outstanding balloon indebtedness in a manner that mitigates its effects on the County's future revenues, if possible, by:

- restructuring;
- early repayment;
- delaying of capital projects until capacity is available to issue debt structured with level or declining payment; or
- such action available within its financial capacity to manage debt.

Whenever possible, the County Commission aspires either to restructure such balloon indebtedness into a more level debt payment structure or to repay at a faster rate than the original structure.

If the County Commission considers issuing refunding debt structured as Balloon Indebtedness (as described by T.C.A. § 9-21-134) to refund outstanding debt with a balloon indebtedness structure, it will determine if it is in the public's best interest. In making its determination, the County Commission will consider whether the benefits of a balloon indebtedness structure outweigh:

- the possible reduction of the County's future debt capacity within the current projected revenue stream; and
- the flexibility to use future revenues for other purposes.

The County Commission will be provided with an analysis that will allow it to determine that any projected revenues used to secure debt will:

- be sufficient to pay for the debt being considered,
- be sufficient to pay all of its other existing outstanding debt service secured by the same projected revenues, and
- not hinder the County's ability to fund future capital needs or to fund future debt service in a level payment structure.

The County Commission will evaluate the specific justification for issuing debt structured as balloon indebtedness. At the time the County Commission considers whether a proposed

debt issue with a balloon indebtedness structure is in the public's best interest, it will disclose to the public an analysis which will include the following:

- the proposed debt structure, including the principal and interest payments, and terms and life of the debt issue, exhibiting that the proposed refunding debt's structure is more level or declining than the refunded debt's structure;
- a schedule or graph showing the County's total debt service for the fund in which the proposed debt is being issued, both pre and post issuance, showing the revenue required to service the debt for each fiscal year debt remains outstanding.
- a schedule or graph showing the percentage of debt retired every five years on both the proposed debt and overall debt;
- a schedule(s) or graph(s) showing whether the proposed structure, when compared to a level debt structure:
 - increases the interest cost for a capital project,
 - reduces future available debt capacity, or
 - decreases the financial flexibility of the County Commission to use its revenue streams for other purposes compared to a level debt structure

V. DEBT PLAN REVIEW

1) General Guidance

The guidelines outlined herein are only intended to provide general direction regarding the future issuance of Debt. The County Commission maintains the right to modify this Debt Plan and may make exceptions to any of its guidelines at any time to the extent that the execution of such Debt achieves the goals of the County as long as such exceptions or changes are consistent with TCA and any rules and regulations promulgated by the State.

This Debt Plan should be reviewed regularly with the DMP by the County Commission and from time to time as circumstances, such as during the planning of new debt issuances, rules and regulations warrant.

2) Designated Official

The County Mayor and Finance Director are responsible for ensuring substantial compliance with this Debt Plan.

**OFFICE OF THE COUNTY LAW DIRECTOR
ANDERSON COUNTY, TENNESSEE**

101 South Main Street, Suite 310
CLINTON, TENNESSEE 37716

N. JAY YEAGER
TELEPHONE: (865) 457-6290
FACSIMILE: (865) 457-3775
Email: jycager@aclawdirector.com

MEMORANDUM

TO: Ms. Annette Prewitt, Chief Deputy to the County Commission

CC: County Commission

FROM: N. Jay Yeager

DATE: January 15, 2020

RE: Law Director's Report – January 21, 2020 – County Commission Meeting

A. Contract Approvals:

1. Anderson County Animal Shelter Lease- Mayor's Office
2. University of Tennessee- Schools
3. City of Oak Ridge- 7th Task Force
4. Teresa Portwood Lease- Senior Center
5. Henry Schein- EMS
6. Shred It- Highway Dept.
7. Wakefield & Associates- EMS
8. Magnolia Blooms- Schools
9. Preen Construction- Schools

B. Lawsuit Update

1. Devin D. v. AC – Detention Facility – Dismissed by U. S. District Court
2. Duncan, James David v. AC – Detention Facility – Dismissed by U.S. District Court

C. Resolutions

Resolution to Allow Employees of Anderson County Government To Carry Concealed Firearms Subject to Authorization Granted in Tennessee Law Provided Employees Obtain Lawful Carry Permits.

Anderson County, Tennessee
Board of Commissioners
RESOLUTION 20-01-796

RESOLUTION TO ALLOW EMPLOYEES OF ANDERSON COUNTY GOVERNMENT TO CARRY CONCEALED FIREARMS SUBJECT TO AUTHORIZATION GRANTED IN TENNESSEE LAW PROVIDED EMPLOYEES OBTAIN LAWFUL CARRY PERMITS.

WHEREAS, studies have shown that the majority of mass shootings in America occur in gun free zones where licensed permit holders are prevented from carrying firearms and conversely potential perpetrators prefer not to commit these heinous crimes in areas where licensed permit holders are present;¹ and

WHEREAS, data received from the State of Tennessee indicates that licensed permit holders are by far less likely to commit a crime than the average citizen and carry permits are rarely revoked for crimes committed by licensed holders;²³ and

WHEREAS, Anderson County officials have a duty to provide a safe work environment and protect the health, safety and welfare of our employees and the citizens we serve while working or doing official business in county-owned buildings; and

WHEREAS, under *Tenn. Code Ann. §39-17-1314* counties are authorized by resolution to *regulate* the wearing of firearms. That statute reads in pertinent part as follows:

(b) A city, county, town, municipality or metropolitan government is expressly authorized to *regulate* by ordinance, resolution, policy, rule or other enactment the following:

(1) The carrying of firearms by employees or independent contractors of the city, county, town municipality or metropolitan government when acting in the course and scope of their employment or contract, except as otherwise provided in §39-17-1313; (*See Exhibit 1 - TCA §39-17-1314 and Exhibit 2 – TCA §39-17-1313*)

WHEREAS, the power for governments to *regulate* the wearing of arms has been defined by the Tennessee Supreme Court as follows:

The power to regulate, does not fairly mean the power to prohibit; on the contrary, to regulate, necessarily involves the existence of the thing or act to be regulated. When applied to conduct or the doing of a thing, it must, of necessity, mean some check upon, or direction given to that conduct or course of action, implying the act being performed, but subject to certain limitations or restraints, either as to manner of doing it, or time, or circumstances under which it is or may be done. Adopt the view of the Attorney General, and the Legislature may, if it chooses, arbitrarily prohibit the carrying all manner of arms, and then, there would be no act of the citizen to regulate.

¹ <https://crimereasearch.org/2019/12/on-fox-news-how-gun-free-zones-endanger-law-abiding-citizens-nikki-goesers-story-on-tucker-carlson-tonight/>

² https://www.tn.gov/content/dam/tn/safety/documents/CurrentTNPermitHolders_01022020.pdf Anderson County757 permits as of December 2019.

³ <https://www.tn.gov/safety/stats/handout.html>

Andrews v. State, 50 Tenn. 165, 181, 1871 Tenn. LEXIS 83, *21, 3 Heisk. 165 (See Exhibit 3 – Andrews v. State)

NOW THEREFORE, BE IT RESOLVED by the Anderson County Board of Commissioners meeting in regular session this 21st day of January 2020 that we authorize the lawful carrying of firearms by county employees in county-owned buildings subject to the following restrictions and requirements:

- 1) Employees must complete a firearms safety course and be lawfully permitted to carry weapons pursuant to *Tenn. Code Ann. §39-17-1366* or *§39-17-1351* unless specifically authorized as a bailiff, court security officer, judge, military or law enforcement personnel. (See *Exhibit 4 – TCA §39-17-1366* and *Exhibit 5 – TCA §39-17-1351*)
- 2) Employees are prohibited from carrying firearms in areas where judicial proceedings are taking place subject to *Tenn. Code Ann. §39-17-1306* (See *Exhibit 6 – TCA §39-17-1306*)
- 3) No employees are allowed to carry firearms in violation of any lawful posting approved by the Board of Commissioners pursuant to *Tenn. Code Ann. §39-17-1359*. (See *Exhibit 7 – TCA §39-17-1359*)
- 4) The posting of any area or building owned or in control of the county must specifically be authorized by the Anderson County Board of Commissioners pursuant to *Tenn. Code Ann. §39-17-1359*. (See *Exhibit 7 – TCA §39-17-1359*)
- 5) The carrying and possession of firearms on school grounds must be specifically authorized by *Tenn. Code Ann. § 39-17-1309*. (See *Exhibit 8 – TCA §39-17-1309*)
- 6) The carrying or possession of firearms inside county-owned parks must be specifically authorized by *Tenn. Code Ann. §39-17-1311* or *39-17-1309*. (See *Exhibit 9 – §39-17-1311*)
- 7) Employees are encouraged to complete firearms training offered by the Anderson County Sheriff's Office.
- 8) All weapons must be concealed at all times and when not on the employees' person, stored and contained in a secure storage device.

RESOLVED, DULY APPROVED AND EFFECTIVE this 21st day of January 2020.

Tracy Wandell, Chair, AC Commission

Terry Frank, County Mayor

ATTEST:

Jeff Cole, County Clerk

Tenn. Code Ann. § 39-17-1314

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1314. Preemption of local regulation of firearms, ammunition, and knives — Actions against firearms or ammunition manufacturer, trade association, or dealer — Party adversely affected by local regulation.

(a) Except as otherwise provided by state law or as specifically provided in subsection (b), the general assembly preempts the whole field of the regulation of firearms, ammunition, or components of firearms or ammunition, or combinations thereof including, but not limited to, the use, purchase, transfer, taxation, manufacture, ownership, possession, carrying, sale, acquisition, gift, devise, licensing, registration, storage, and transportation thereof, to the exclusion of all county, city, town, municipality, or metropolitan government law, ordinances, resolutions, enactments or regulation. No county, city, town, municipality, or metropolitan government nor any local agency, department, or official shall occupy any part of the field regulation of firearms, ammunition or components of firearms or ammunition, or combinations thereof.

(b) A city, county, town, municipality or metropolitan government is expressly authorized to regulate by ordinance, resolution, policy, rule or other enactment the following:

(1) The carrying of firearms by employees or independent contractors of the city, county, town municipality or metropolitan government when acting in the course and scope of their employment or contract, except as otherwise provided in § 39-17-1313;

(2) The discharge of firearms within the boundaries of the applicable city, county, town, municipality or metropolitan government, except when and where the discharge of a firearm is expressly authorized or permitted by state law;

(3) The location of a sport shooting range, except as otherwise provided in §§ 39-17-316 and 13-3-412. To the extent that a city, county, town, municipality, or metropolitan government has or enforces any regulation of privately owned or operated sport shooting ranges, the city, county, town, municipality, or metropolitan government shall not impose greater restrictions or requirements on privately owned or operated ranges than are applicable to any range located within the same unit of local government and owned or operated by a government entity. A party may challenge any regulation of a sport shooting range that violates this subdivision (b)(3) in the manner described in subsection (g); and

(4) The enforcement of any state or federal law pertaining to firearms, ammunition, or components of firearms or ammunition, or combinations thereof.

(c) The general assembly declares that the lawful design, marketing, manufacture and sale of firearms and ammunition to the public are not unreasonably dangerous activities and do not constitute a nuisance per se.

(d)

(1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association or dealer by or on behalf of any state entity, county, municipality or metropolitan government for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing or sale of firearms or ammunition to the

public shall be reserved exclusively to the state.

(2) Nothing in this subsection (d) shall be construed to prohibit a county, municipality, or metropolitan government from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by such county, municipality, or metropolitan government.

(3) Nothing in this subsection (d) shall preclude an individual from bringing a cause of action for breach of a written contract, breach of an express warranty, or for injuries resulting from defects in the materials or workmanship in the manufacture of the firearm.

(e) Subsections (c) and (d) shall not apply in any litigation brought by an individual against a firearms or ammunition manufacturer, trade association or dealer.

(f) It is the intent of the general assembly that this part is preemptive with respect to the transfer, ownership, possession or transportation of knives and no city, county, or metropolitan government shall occupy any part of the field of regulation of the transfer, ownership, possession or transportation of knives.

(g)

(1) Notwithstanding title 29, chapter 20, a party who is adversely affected by an ordinance, resolution, policy, rule, or other enactment that is adopted or enforced by a county, city, town, municipality, or metropolitan government or any local agency, department, or official that violates this section may file an action in a court of competent jurisdiction against the county, city, town, municipality, or metropolitan government for:

(A) Declaratory and injunctive relief; and

(B) Damages, as provided in subsection (i).

(2) This subsection (g) shall apply to any ordinance, resolution, policy, rule, or other enactment that is adopted or enforced on or after July 1, 2017.

(h) As used in subsection (g), a party is "adversely affected" if:

(1) The party is an individual who:

(A) Lawfully resides within the United States;

(B) May legally possess a firearm under Tennessee law; and

(C) Is or was subject to the ordinance, resolution, policy, rule, or other enactment that is the subject of an action filed under subsection (g). An individual is or was subject to the ordinance, resolution, policy, rule, or other enactment if the individual is or was physically present within the boundaries of the political subdivision for any reason; or

(2) The party is a membership organization that:

(A) Includes two (2) or more individuals described in subdivision (h)(1); and

(B) Is dedicated in whole or in part to protecting the rights of persons who possess, own, or use firearms for competitive, sporting, defensive, or other lawful purposes.

(i) A prevailing plaintiff in an action under subsection (g) is entitled to recover from the county, city, town, municipality, or metropolitan government the following:

(1) The greater of:

(A) Actual damages, including consequential damages, attributable to the ordinance, resolution, policy, rule, or other enactment; or

(B) Three (3) times the plaintiff's attorney's fees;

(2) Court costs, including fees; and

(3) Reasonable attorney's fees; provided, that attorney's fees shall not be awarded under this subdivision (i)(3) if the plaintiff recovers under subdivision (i)(1)(B).

History

Acts 1989, ch. 591, § 1; 1999, ch. 293, §§ 1, 2; 2009, ch. 428, § 3; 2013, ch. 418, § 1; 2014, ch. 822, § 1; 2017, ch. 467, § 1; 2019, ch. 223, § 1.

▼ Annotations

Notes

Compiler's Notes.

The provisions of subsections (b)-(d) shall apply to any action brought on or after May 26, 1999.

Acts 2013, ch. 418, § 2 provided that the act, which added subsection (e), shall apply to all applicable provisions of law in conflict with the act.

The sentencing commission terminated June 30, 1995. Sentencing Commission Comments have been retained, but do not reflect 1995 or subsequent legislation.

Pursuant to Article III, Section 18 of the Constitution of Tennessee, Acts 2014, ch. 822 took effect on April 28, 2014.

Amendments.

The 2019 amendment added the last two sentences in (b)(3).

Effective Dates.

Acts 2019, ch. 223, § 2. July 1, 2019.

Commentary

Sentencing Commission Comments.

This section retains the legislative enactment which followed the decision of the U.S. Sixth Circuit Court of Appeals decision in *Quillci v. Village of Morton Grove, Ill.* 1982, 695 F.2d 261, cert. denied, 464 U.S. 863, 104 S. Ct. 194, 78 L. Ed. 2d 170.

Opinion Notes

Attorney General Opinions.

Analysis of §§ 39-17-1314 through 39-17-1316, OAG 95-118 (11/28/95).

Individual's right to recover from firearms and ammunition manufacturers, OAG 99-072 (3/22/99).

Possession of firearms on publicly owned property, OAG 04-020 (2/09/04).

Local government prohibition of the discharge of firearms. OAG 13-66, 2013 Tenn. AG LEXIS 70 (8/23/13).

T.C.A. § 39-17-1314 regulates firearms and ammunition. A local zoning ordinance prohibiting all manufacturing in a residential area regulates land use. The state law and the local ordinance regulate different subjects and therefore operate independently of one another. As long as the zoning ordinance is not otherwise discriminatory in its application and enforcement and does not indirectly engage in regulation that is forbidden under Tenn. Code Ann. § 39-17-1314, the ordinance will be enforceable. However, the firearms statute could prohibit enforcement of a local ordinance that is merely an indirect way of regulating firearms or ammunition sellers and manufacturers. OAG 17-26, 2017 Tenn. AG LEXIS 25 (4/11/2017).

T.C.A. § 39-17-1311(a) prohibits possession of those weapons listed in T.C.A. § 39-17-1302(a) and prohibits possession of other types of weapons on recreational property owned or operated by state, county, or municipal governments at any time the person's conduct does not strictly conform to the requirements of T.C.A. § 39-17-1311(b)(1). T.C.A. § 39-17-1311(b)(1)(H) authorizes holders of valid handgun carry permits to possess a handgun in the places specifically identified in the subsection. The statute is silent regarding the possession of rifles or shotguns in those places. Thus, T.C.A. § 39-17-1311(b)(1)(H) permits the holder of a valid handgun carry permit to possess only handguns in the areas, places, and facilities that are specifically described therein. Under T.C.A. § 39-17-1311(b)(1)(J), civilians with or without a valid handgun carry permit may possess handguns, rifles, and shotguns on the grounds of a public park, playground, civic center, or other building facility, area or property owned, used, or operated by any state, county, or municipal government for recreational purposes, but only while the civilian is engaged in one of the specific activities set forth in that subsection and only as long as the civilian's conduct strictly conforms to the statutorily circumscribed activity. In enacting T.C.A. §§ 39-17-1311 and 39-17-1314, the legislature has preempted the entire field of regulation of the possession and use of firearms, including the possession and use of firearms in public parks, playgrounds, civic centers, buildings, facilities, areas, and other facilities and property owned by any state, county, or municipal government, or instrumentality thereof for recreational purposes. Thus, counties and municipalities may not prohibit or otherwise regulate possession or use of firearms in or on those properties in any manner that conflicts with state law. OAG 18-04, 2018 Tenn. AG LEXIS 4

Document: Tenn. Code Ann. § 39-17-1313

Tenn. Code Ann. § 39-17-1313

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1313. Transporting and storing a firearm or firearm ammunition in permit holder's motor vehicle. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) Notwithstanding any provision of law or any ordinance or resolution adopted by the governing body of a city, county or metropolitan government, including any ordinance or resolution enacted before April 8, 1986, that prohibits or regulates the possession, transportation or storage of a firearm or firearm ammunition by an enhanced handgun carry permit holder or concealed handgun carry permit holder, the holder of a valid enhanced handgun carry permit or concealed handgun carry permit recognized in Tennessee may, unless expressly prohibited by federal law, transport and store a firearm or firearm ammunition in the permit holder's motor vehicle, as defined in § 55-1-103, while on or utilizing any public or private parking area if:

(1) The permit holder's motor vehicle is parked in a location where it is permitted to be; and

(2) The firearm or ammunition being transported or stored in the motor vehicle:

(A) is kept from ordinary observation if the permit holder is in the motor vehicle; or

(B) is kept from ordinary observation and locked within the trunk, glove box, or interior of the person's motor vehicle or a container securely affixed to such motor vehicle if the permit holder is not in the motor vehicle.

(b) No business entity, public or private employer, or the owner, manager, or legal possessor of the property shall be held liable in any civil action for damages, injuries or death resulting from or arising out of another's actions involving a firearm or ammunition transported or stored by the holder of a valid handgun carry permit in the permit holder's motor vehicle unless the business entity, public or private employer, or the owner, manager, or legal possessor of the property commits an offense involving the use of the stored firearm or ammunition or intentionally solicits or procures the conduct resulting in the damage, injury or death. Nor shall a business entity, public or private employer, or the owner, manager, or legal possessor of the property be responsible for the theft of a firearm or ammunition stored by the holder of a valid handgun carry permit in the permit holder's motor vehicle.

(c) For purposes of this section:

(1) "Motor vehicle" means any motor vehicle as defined in § 55-1-103, which is in the lawful possession of the permit holder, but does not include any motor vehicle which is owned or leased by a governmental or business entity and that is provided by such entity to an employee for use during the course of employment if the entity has adopted a written policy prohibiting firearms or ammunition not required for employment within the entity's motor vehicles; and

(2)

(A) "Parking area" means any property provided by a business entity, public or private employer, or the owner, manager, or legal possessor of the property for the purpose of permitting its invitees, customers, clients or employees to park privately owned motor vehicles; and

(B) "Parking area" does not include the grounds or property of an owner-occupied, single-family detached residence, or a

tenant-occupied single-family detached residence.

(d) An enhanced handgun carry permit holder or concealed handgun carry permit holder transporting, storing or both transporting and storing a firearm or firearm ammunition in accordance with this section does not violate this section if the firearm or firearm ammunition is observed by another person or security device during the ordinary course of the enhanced handgun carry permit holder or concealed handgun carry permit holder securing the firearm or firearm ammunition from observation in or on a motor vehicle.

History

Acts 2013, ch. 16, § 1; 2014, ch. 498, § 1; 2014, ch. 505, §§ 1 - 6; 2014, ch. 768, § 1; 2019, ch. 479, §§ 8, 9.

▼ Annotations

Notes

Compiler's Notes.

For the Preamble to the act concerning handgun carry permits, please refer to Acts 2013, ch. 16.

Amendments.

The 2019 amendment, effective January 1, 2020, in (a), substituted "valid enhanced handgun carry permit or concealed handgun carry permit" for "valid handgun carry permit"; and substituted "enhanced handgun carry permit holder or concealed handgun carry permit holder" for "handgun carry permit holder" in (a) and twice in (d).

Effective Dates.

Acts 2019, ch. 479, § 22. January 1, 2020.

Opinion Notes

Attorney General Opinions.

Possession of firearms and firearm ammunition on school property; construction of T.C.A. §§ 39-17-1313 and 39-17-1309. OAG 13-15, 2013 Tenn. AG LEXIS 14 (2/22/13).

Employee's possession of firearms and firearm ammunition on employer property. OAG 13-41, 2013 Tenn. AG LEXIS 42 (5/28/13).

Constitutionality of firearms-in-parking-lots statute on vagueness grounds. OAG 14-87, 2014 Tenn. AG LEXIS 90 (9/18/14).

To the extent T.C.A. §§ 39-17-1309 and 39-17-1313 (2013) are in conflict, the provisions of 39-17-1313 (2013) take precedence over the conflicting provisions of § 39-17-1309. After the 2014 amendments to T.C.A. § 39-17-1313, T.C.A. § 39-17-1313 still takes priority over prohibitions on gun storage in T.C.A. §§ 39-17-1309, 39-17-1311, and 39-17-1359. The phrase "or while in use by," in the context of T.C.A. § 39-17-1309 as a whole, applies even when students or school personnel are not present on the property. Thus, gun possession would be prohibited on property used to store equipment or supplies by an educational institution specified in the statute. OAG 16-29, 2016 Tenn. AG LEXIS 29 (7/27/2016).

Research References & Practice Aids

Law Reviews.

Guns in Trunks: An Erosion of Tennessee's Employment-At-Will Rule?, 49 Tenn. B.J. 17 (2013).

Lexis Advance®
Research

Document: Andrews v. State, 50 Tenn. 165

Andrews v. State, 50 Tenn. 165

Copy Citation

Supreme Court of Tennessee, Jackson

June 7, 1871, Decided

No Number In Original

Reporter

50 Tenn. 165 * | 1871 Tenn. LEXIS 83 ** | 3 Heisk. 165

JAMES ANDREWS v. THE STATE, THE STATE v. FRANK O'TOOLE, AND THE STATE v. ELBERT CUSTER.

Prior History: [**1] The case of The State v. Andrews, was tried in the Circuit Court of Gibson county, at February Term, 1871, before GID. B. BLACK, J., and upon a conviction, defendant appealed.

O'Toole was indicted in the Circuit Court of Carroll, where, at May Term, 1871, he moved to quash before JAMES D. PORTER, J., on the ground that the Act of 1870, c. 13, was unconstitutional, and because the indictment did not charge that the pistol was a belt pistol, or pocket pistol. The indictment being quashed on both grounds, the District Attorney, J. D. DUNLAP, appealed to this Court.

Custer was indicted in the Circuit Court for Henry county, at September Term, 1870; and at January Term, 1871, J. D. PORTER, J., presiding, defendant submitted, was fined, and ordered to be imprisoned. Thereupon, the District Attorney, DUNLAP, moved that he be required to give sureties to keep the peace, which being refused, he appealed for the State.

Disposition: Reversed and remanded.

Core Terms

arms, weapon, carrying, wearing, pistol, bear arms, rights, self-defense, regulation, cases, common defense, circumstances, limitations, militia, soldier, crime prevention, indictment, forbidden, infringed, insisted, purposes, warfare, powers, words, worn, revolver, adapted, convey, law of the land, peace time

Case Summary

Procedural Posture

In three consolidated appeals from trial courts (Tennessee) the state and defendants sought adjudication of the constitutionality of Act of June 11, 1870 Tenn. Laws 13: to preserve the peace and prevent homicide.

Overview

The Act provided that it was unlawful for a person to publicly or privately carry a dirk, sword cane, Spanish stiletto, belt or

pocket pistol or revolver. In consolidated appeals, defendants challenged the constitutionality of such provision as repugnant to U.S. Const. amend. II, while the state contended that Tenn. Const. art. 1, § 26 (1870) conferred power on the legislature to prohibit absolutely the wearing of all and every kind of arms under all circumstances. The court held that the state legislature was not, then, limited in its powers on the right to bear arms by U.S. Const. amend. II because such provision was a limitation only on the power of the federal government. The court determined that it could not give its assent to the state's position because the power to regulate arms under Tenn. Const. art. 1, § 26 (1870) necessarily involved the existence of the act to be regulated. The court found that only as to revolvers, the prohibition under the Act was too broad to be sustained because it amounted to a prohibition to keep and use such a weapon for any and all purposes in violation of the constitutional right under Tenn. Const. art. 1, § 24 (1870), to bear arms.

Outcome

The court held that a state statute, which prohibited persons from publicly or privately carrying and keeping certain weapons, was too broad in its application to revolvers because it amounted to a prohibition of the weapon for any and all purposes in contradiction to the constitutional right to bear arms.

▼ LexisNexis® Headnotes

Criminal Law & Procedure > ... > Weapons Offenses ▼ > Possession of Weapons ▼ > General Overview ▼

Criminal Law & Procedure > Criminal Offenses ▼ > Weapons Offenses ▼ > General Overview ▼

Criminal Law & Procedure > Preliminary Proceedings ▼ > Bail ▼ > General Overview ▼

HN1 Weapons Offenses, Possession of Weapons

Act of June 11, 1870, 1870 Tenn. Laws 13, to preserve the peace and prevent homicide, provides that that it shall not be lawful for any person to publicly or privately carry a dirk, sword-cane, Spanish stiletto, belt or pocket pistol or revolver. Any person guilty of a violation of this section shall be subject to presentment or indictment, and on conviction, shall pay a fine of not less than ten, nor more than fifty dollars, and be imprisoned at the discretion of the court, for a period of not less than thirty days, nor more than six months; and shall give bond in a sum not exceeding one thousand dollars, to keep the peace for the next six months after such conviction. The Act imposes upon all peace officers of the state the duty of seeing the Act enforced. The Act also makes certain exceptions in favor of officers and policemen, while bona fide engaged in their official duties in execution of process, or while searching for, or engaged in arrest of criminals, and in favor of persons bona fide assisting officers of the law, and persons on a journey out of their county or state. 🔍 More like this Headnote

Shepardize - Narrow by this Headnote

Constitutional Law > Bill of Rights ▼ > Fundamental Rights ▼ > Right to Bear Arms ▼

HN2 Fundamental Rights, Right to Bear Arms

U.S. Const. amend. II provides that a well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. 🔍 More like this Headnote

Shepardize - Narrow by this Headnote

Constitutional Law > Supremacy Clause ▼ > Supreme Law of the Land ▼

Constitutional Law > Supremacy Clause ▼ > General Overview ▼

HN3 Supremacy Clause, Supreme Law of the Land

U.S. Const. art. 6, § 2 provides that the constitution, and the laws of the United States which shall be made in pursuance thereof, shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding. 🔍 More like this Headnote

Shepardize - Narrow by this Headnote

Constitutional Law > Bill of Rights > Fundamental Rights > Eminent Domain & Takings

Environmental Law > Land Use & Zoning > Eminent Domain Proceedings

HN4 Fundamental Rights, Eminent Domain & Takings

U.S. Const. amend. V prohibits the taking of private property for public use, without just compensation. More like this Headnote

Shepardize - Narrow by this Headnote

Constitutional Law > Substantive Due Process > Scope

Constitutional Law > ... > Fundamental Rights > Procedural Due Process > Scope of Protection

HN5 Constitutional Law, Substantive Due Process

The United States Constitution is ordained and established by the people of the United States, for themselves, for their own government, and not for the government of the individual states. The powers they confer on the government are to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally and necessarily applicable to the government created by the instrument. More like this Headnote

Shepardize - Narrow by this Headnote

Constitutional Law > Bill of Rights > Fundamental Rights > Eminent Domain & Takings

Governments > State & Territorial Governments > Legislatures

HN6 Fundamental Rights, Eminent Domain & Takings

The provision of the Fifth Amendment, declaring that private property shall not be taken for public use without just compensation, is intended solely as a limitation on the power of the Government of the United States, and is not applicable to legislation of the states. More like this Headnote

Shepardize - Narrow by this Headnote

Governments > State & Territorial Governments > Legislatures

HN7 State & Territorial Governments, Legislatures

With reference to the legislatures, or law-making body of the states, there is no limitation upon their powers, except such as are found either in the Constitution of the United States, or of the state itself. Plenary power in the legislature, for all purposes of civil government, is the rule. A prohibition to exercise a particular power, is an exception. More like this Headnote

Shepardize - Narrow by this Headnote

Civil Procedure > Preliminary Considerations > Justiciability > General Overview

Constitutional Law > Bill of Rights > Fundamental Rights > Right to Bear Arms

Constitutional Law > Bill of Rights > General Overview

HN8 Preliminary Considerations, Justiciability

Tenn. Const. art. 1, § 24 (1834) provides that the sure and certain defense of a free people is a well-regulated militia; and as standing armies in time of peace are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that, in all cases, the military shall be kept in strict subordination to the civil authority. Tenn. Const. art. 1, § 25 (1834) exempts citizens, except such as are in the army of the United States, or militia in actual service, from punishment by martial law. Tenn. Const. art. 1, § 26 (1834) provides that the free white men of the state have a right to keep and bear arms for their common defense. Tenn. Const. art. 1, § 24 (1870) is the same as in Tenn. Const. art. 1, § 24 (1834). Tenn. Const. art. 1, § 26 (1870) provides that the citizens of the state have a right to keep and bear arms for their common defense. But the legislature shall have power by law, to regulate the wearing of arms, with a view to prevent crime. More like this Headnote

Shepardize - Narrow by this Headnote

Constitutional Law > Bill of Rights > Fundamental Rights > Right to Bear Arms

Criminal Law & Procedure > Defenses > Self-Defense

Torts > Intentional Torts > Defenses > Defense of Self & Others

HN9. Fundamental Rights, Right to Bear Arms

One belligerent may do his enemy all the injury he can, and for such purpose may lawfully kill him, yet the use of poisoned weapons is forbidden by the law of nations, on the ground that higher ends are thereby subserved, and the rights of sovereign belligerent nations even should be made subordinate to these ends. So while the right of self-defense is one at all times to be maintained, yet as to the means used to attain this end, they must be subordinated to the higher claims of the general good of the community. More like this Headnote

Shepardize - Narrow by this Headnote

Criminal Law & Procedure > ... > Weapons Offenses > Possession of Weapons > General Overview

Criminal Law & Procedure > Criminal Offenses > Weapons Offenses > General Overview

Criminal Law & Procedure > ... > Accusatory Instruments > Indictments > General Overview

HN10. Weapons Offenses, Possession of Weapons

There should be such specifications in an indictment as will enable the court to see that the weapon forbidden by the statute has been worn, and to inform the defendant of the character of weapon for the carrying of which he is to be held to answer. More like this Headnote

Shepardize - Narrow by this Headnote

▼ Headnotes/Summary

Headnotes

1. CARRYING ARMS. *Constitution*. The Act of 1870, c. 13, to prohibit the carrying of deadly weapons, is constitutional.
2. CONSTITUTIONAL LAW. *Constitution of U.S. Amendments not restrictions on States*. The Constitution of the United States, Art. 2, of Amendments, declaring the right of the citizen to bear arms, is a restriction alone upon the United States, and has no application to the State Governments.
3. SAME. *Right to bear arms. Common defense*. The right to bear arms for the common defense does not mean the right to bear them ordinarily or commonly, for individual defense, but has reference to the right to bear arms for the defense of the community against invasion or oppression.
4. SAME. *Same. Right to keep and use*. The citizen has, at all times, the right to keep the arms of modern warfare, and to use them in such manner as they may be capable of being used, without annoyance and hurt to others, in order that he may be trained and efficient in their use.
5. SAME. *Same. Same. Regulations of. Arms of warfare*. The right to keep arms of warfare can not be prohibited by the Legislature under the permissive clause of the Constitution of 1870, allowing the Legislature to regulate the "wearing" of arms. The use of such arms may be restricted as to manner, time or place, due regard being had to the right to keep and bear, for the constitutional purpose, but can not be prohibited.
6. SAME. *Right to prohibit other arms*. The right to keep or bear other arms, not being protected by the Constitution, may be absolutely prohibited.

Counsel: ALVIN HAWKINS, for Andrews and O'Toole, insisted that, by Article 2 of the amendments to the Constitution of the United States, the right to bear arms was protected. Also by Art. 1, s. 26, of the Constitution of 1834. He relied on *Aymette* [**2] v. The State, 2 Hum., 154; cited the Constitution of 1870, Art. 1, s. 26; insisted that the power to regulate did

not involve the power to prohibit, and that this act was a prohibition. That in Aymette's case the arms carried were not arms of warfare, the wearing of which the Legislature had the power to prohibit; that this is the only point decided in that case--all else is dictum. He insisted that the words relied upon by Judge Green as restrictive, i. e., "for the common defense," could not be of any effect, as the right was guaranteed without any such restriction in the Constitution of the United States; that the necessity was not only to keep them at all times, but to be inured to their use by constantly bearing them about with them; that the power in the Constitution of 1870 to regulate the wearing of arms, implies a right to wear as well as to bear arms, and that this right was subject only to be regulated, not destroyed.

J. N. THOMASON, for Custer, insisted that the indictment was bad, for not showing what sort of pistol was carried. He insisted upon the protection of the Constitution of the United States, and of the State, and that the Legislature had no power over the [**3] arms of civilized warfare, but might prohibit the carrying of other arms.

Attorney General HEISKELL, for the State, insisted that Article 2, of the amendments to the Constitution of the United States had no application to States; that it was an imputation on the statesmanship of any convention to suppose that they meant to put a constitutional limitation on the power of the people to restrict the privilege (curse) of carrying deadly weapons. Aymett's case negatives this construction, and puts on it a meaning worthy of statesmen, protecting rights of freemen, not of ruffians and cut-throats. To attribute to the Convention of 1870, such an intention, in view of the state of things then existing, would be to impute to them utter incapacity. The Constitution of 1870 contains an express power to regulate the wearing of arms, not to regulate the mode, but the thing, the subject; equivalent to adopt rules concerning, to pass laws relative to. To regulate is not necessarily to permit. Regulations are simply rules. Rules concerning a thing may be mandatory, directory, restrictive or prohibitory--affecting the mode or going to the substance. If they can not prohibit carrying arms, they [**4] may, by regulation, determine what arms may be carried, what shall be proscribed; may declare where they may be carried, and when they may be carried, as well as declare the mode. If weapons of warfare are protected by the Constitution, still they are subject, by the exception, to regulation in respect to times, places and modes. In this act they restrict the time to journeys out of the county, but do not restrict the mode.

The legislative power is the power of the whole people, acting by their representatives. If they choose in that mode, to declare their willingness to part with a portion of their own liberty, in order that by the same law the evil minded may be restrained, who shall say nay? In the exercise of this great power by the people, they are not to be held to have tied their own hands, except where the Constitution makes it clear that they so intended.

The protection of minorities is one object of constitutional provisions. The protection of majorities is committed to the Legislature. They may protect themselves from the diabolical minorities by any act to which they are willing to submit themselves. The courts will not strain the Constitution to restrain legislation, [**5] but in a doubtful case will defer to the legislative judgment.

In the case of Aymette v. The State, Judge Green takes a proper view of the Constitution. In Alabama, about the same time, the same view was taken in the case of The State v. Reid, 1 Ala., 612. In each the Constitution is treated as an instrument worthy of statesmen, and construed in the light of History; but in both there are points which will not bear critical examination. These cases strike out the true principle that it is the bearing of arms, not for private broils and purposes of blood, but in defense of a common cause; as citizen soldiers bearing arms for their defense, in common with each other; not commonly; i. e., on ordinary occasions. They looked to history for the occasions when the people met, bearing arms for the common defense; when they extorted from King John the great charter; when they vanquished Charles I; when they dethroned James II. They refer to the laws to restrict carrying arms in certain places, and to certain persons, which gave rise to no complaint, remonstrance or repeal; they refer to laws by which communities and classes were disarmed by discriminating regulations; and such laws were [**6] declared against, but in the very declaration, the right to legislate on the subject, is recognized. It was this great political right that our fathers aimed to protect; not the claims of the assassin and the cut-throat to carry the implements of his trade. They would as soon have protected the burglar's jimmy and skeleton key.

The keeping of arms is protected, but that right is not infringed by this law. The citizen may keep arms in his house, may carry them about his own premises, may buy and carry them home, may take them to have them repaired, This is not carrying them in the sense of the statute. Of a porter carrying a box of pistols in his wheelbarrow or on his shoulder, we would not say he carries arms; of a man carrying the separated parts of a pistol in a basket or bundle, we would not say he carries a pistol. The statute is to have a reasonable construction. "Carry arms" is a military command. To carry arms, or to bear arms, is something different from merely supporting the weight, or removing from place to place.

The clause in the Constitution of 1870 was introduced to avoid controversy over the adverse views in the cases of Simpson and of Aymette, not to imply [**7] anything.

Judges: FREEMAN v., J., delivered the opinion of the Court, NELSON, J. NICHOLSON, C. J., and DEADERICK v., J., concurring. SNEED v., J., TURNEY v., J., dissenting.

Opinion by: FREEMAN v.; NELSON v.

Opinion

[*170] FREEMAN v., J., delivered the opinion of the Court.

The questions presented for our decision in these cases, involve an adjudication of the constitutionality of [*171] HN1[†] the act of the Legislature of Tennessee, passed June 11, 1870, entitled "An act to preserve the peace and prevent homicide."

The first section provides, "that it shall not be lawful for any person to publicly or privately carry a dirk, sword-cane, Spanish stiletto, belt or pocket pistol or revolver. Any person guilty of a violation of this section shall be subject to presentment or indictment, and on conviction, shall pay a fine of not less than ten, nor more than fifty dollars, and be imprisoned at the discretion of the court, for a period of not less than thirty days, nor more than six months; and shall give bond in a sum not exceeding one thousand dollars, to keep the peace for the next six months after such conviction."

The second section imposes upon all the peace officers of the State the duty of seeing this act enforced. [**8] The third section makes certain exceptions in favor of officers and policemen, while *bona fide* engaged in their official duties in execution of process, or while searching for, or engaged in arrest of criminals, and in favor of persons *bona fide* assisting officers of the law, and persons on a journey out of their county or State.

These are the leading provisions of this statute, and present the points of attack made upon it in argument at the bar.

It is first insisted, that it is in violation of, and repugnant to the HN2[†] second article of the Amendments to the Constitution of the United States, which is, that "a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

[*172] On the other hand, it is maintained by the Attorney General, that these amendments have no application to the States, and spend their force by limiting the powers of the Federal Government; and are, in their nature, simple restraints imposed by the States upon the government created by them, and therefore we can not look to this article in order to test the validity of the acts in question. Upon the face of [**9] this article, it might have been plausibly insisted that it would have been operative upon, and control the action of the State, as well as of the Federal Government; and this position would apparently be strengthened by the other provision of HN3[†] the Constitution of the United States, Art. 6, s. 2., that "this Constitution, and the laws of the United States which shall be made in pursuance thereof, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding. It will be seen, however, that it is the "Constitution, and laws made in pursuance thereof," that are the supreme law of the land, so that we are to turn to that instrument, and ascertain what, by its fair construction and exposition, was intended to be allowed or prohibited, and to what powers its limitations and restrictions were applicable.

With this view, we examine the question in reference to the proper application of the article of the amendment under consideration.

The case of *Barron v. The Mayor and City Council of the City of Baltimore*, 7 Pet. 465, Curtis' ed., presented the question of [**10] the taking of private property, by the corporation [*173] of the city, as it was assumed for public use. It was insisted, in favor of the jurisdiction of the Supreme Court of the United States, to review the decision of the State court, that the case was within and arose under the provision of HN4[†] the Constitutional amendments, Art. 5, prohibiting the taking of private property for public use, without just compensation. That this amendment, being in favor of the liberty of the citizen, ought to be so construed as to restrain the legislative power of a State, as well as that of the United States. The question was discussed with his usual ability, by Chief Justice Marshall, and he lays down the proposition: "That HN5[†] the Constitution was ordained and established by the people of the United States, for themselves, for their own government, and not for the government of the individual States. Each State established a constitution for itself and, in that constitution, provided such limitations and restrictions on the powers of its particular government as its judgment dictated. The people of the United States formed such a government for the United States as they supposed best adapted to their [**11] situation, and best calculated to promote their interests. The powers they conferred on this government were to be exercised by itself; and the limitations on power, if expressed in general terms, are naturally, and we think, necessarily applicable to the government created by the instrument. They are limitations of the power granted in the instrument itself; not of distinct governments, framed by different persons and for different purposes." The learned Judge, after arguing the question at some length, says: "If in every inhibition intended to act on State power, [*174] in the original Constitution, words are employed to express that intent; some strong reason must be shown for departing from this safe and judicious course in framing the amendments, before that departure can be assumed."

He then goes on to demonstrate that no such reason existed. He says: "Had the people of the several States, or any of them, required changes in their constitutions; had they required additional safeguards from the apprehended encroachments of their particular governments, the remedy was in their own hands, and would have been applied by themselves. A convention would have been called by the [*12] discontented State, and the required improvements would have been made by itself. Had the framers of these amendments intended them to be limitations on the powers of the State governments, they would have imitated the framers of the original Constitution, and have expressed that intention."

The Court, therefore, held that *HN6* the provision of the 5th amendment, declaring that private property shall not be taken for public use without just compensation, was intended solely as a limitation on the power of the Government of the United States, and was not applicable to legislation of the States. See, also, 5 Wall. 479-80, and numerous other cases decided by the Supreme Court of the United States, cited in note to case of *Barron v. City of Baltimore*, Curtis' ed., 468.

We need cite no authority to sustain the proposition that, upon a question involving the construction of the Constitution of the United States, or the just power of that government under said Constitution, the [*175] decisions of the United States are binding on this Court, as well as all other courts of the States.

The State Legislature is not, then, limited in its powers on this subject by this [*13] article of the Constitution of the United States; it is a limitation, whatever be its construction and meaning, upon the powers of the other government, ordained and established by the people of the States themselves, or their Conventions or Legislatures.

We come now to the Constitution of the State of Tennessee, and endeavor to see what restrictions or limitations the sovereign people of Tennessee have chosen to place upon themselves, in reference to this subject, for the general good.

First, it may be assumed as almost an axiom in our law, *HN7* with reference to the Legislatures, or law-making body of the States, that there is no limitation upon their powers, except such as are found either in the Constitution of the United States, or of the State itself. Plenary power in the Legislature, for all purposes of civil government, is the rule. A prohibition to exercise a particular power, is an exception: Cooley, Const. Lim., 88, 89; *People v. Draper*, 15 N.Y. 532.

We do not, however, hold the power of the Legislature to be supreme for all purposes, when not in terms prohibited by one or the other of these Constitutions. We find limitations upon the powers of State Legislatures, [*14] as clearly defined by fair construction and implication, and as binding, as if expressed in so many words.

The division or separation of the powers of government in our States, between the three departments, [*176] legislative, judicial and executive, involves restraint upon the action of the Legislature, that is imperative, and may be fairly arrived at with sufficient certainty by the application of the principle that it is the Legislature that is the law-making power. The well-settled common law definition of a law is, a rule of action prescribed by the law-making power. It must, then, of necessity, (subject to possible exceptions,) be an enactment operative in the future, in so far as it is to be a rule of action prescribed for the people of the State. No enactment of a Legislature can, in the nature of things, reach back, and control or give direction to an act already accomplished. It was complete from the moment of its birth, so to speak, and can not be influenced or affected by another act, subsequent in time.

This view, however, is only incidentally mentioned, as presenting a ground of limitation on the powers of State Legislatures.

HN8 The Constitution of Tennessee, [*15] of 1834, Art. 1, s. 24, of the Bill of Rights, is: "That the sure and certain defense of a free people is a well-regulated militia; and as standing armies in time of peace are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that, in all cases, the military shall be kept in strict subordination to the civil authority." Section 25 exempts citizens, except such as are in the army of the United States, or militia in actual service, from punishment by martial law. Then follows section 26, which provides "that the free white men of this State have a right to keep and bear arms for their common defense."

[*177] Section 24, in the Constitution of 1870, is the same as in the Constitution of 1834.

Section 26 is: "That the citizens of this State have a right to keep and bear arms for their common defense. But the Legislature shall have power by law, to regulate the wearing of arms, with a view to prevent crime."

What is the fair and legitimate meaning of this clause of the Constitution, and what limitations does it impose on the power of the Legislature to regulate this right? Is the question [*16] for our consideration.

What rights are guaranteed by the first clause of this Art. 26, "that the citizens have a right to keep and to bear arms for their common defense?" We may well look at any other clause of the same Constitution, or of the Constitution of the United States, that will serve to throw any light on the meaning of this clause. The first clause of section 24 says, "that the sure defense of a free people is a well-regulated militia." We then turn to Art. 2, of amendments to the Constitution of the United States, where we find the same principle laid down in this language: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be abridged." We find that, necessarily, the same rights, and for similar reasons, were being provided for and protected in both the Federal and State Constitutions; in the one, as we have shown, against infringement by the Federal Legislature, and in the other, by the Legislature of the State. What was the object held to be so desirable as to require that its attainment should be guaranteed by being inserted in the fundamental law of [*178] the land? It was the efficiency [*17] of the people as soldiers, when called into actual service for the security of the State, as one end; and in order to this, they were to be allowed to keep arms. What, then, is involved in this right of keeping arms? It necessarily involves the right to purchase and use them in such a way as is usual, or to keep them for the ordinary purposes to which they are adapted; and as they are to be kept, evidently with a view that the citizens making up the yeomanry of the land, the body of the militia, shall become familiar with their use in times of peace, that they may the more efficiently use them in times of war; then the right to keep arms for this purpose involves the right to practice their use, in order to attain to this efficiency. The right and use are guaranteed to the citizen, to be exercised and enjoyed in time of peace, in subordination to the general ends of civil society; but, as a right, to be maintained in all its fullness.

The right to keep arms, necessarily involves the right to purchase them, to keep them in a state of efficiency for use, and to purchase and provide ammunition suitable for such arms, and to keep them in repair. And clearly for this purpose, a man [*18] would have the right to carry them to and from his home, and no one could claim that the Legislature had the right to punish him for it, without violating this clause of the Constitution.

But farther than this, it must be held, that the right to keep arms, involves, necessarily, the right to use such arms for all the ordinary purposes, and in all the ordinary modes usual in the country, and to which arms are adapted, limited by the duties of a good citizen in [*179] times of peace; that in such use, he shall not use them for violation of the rights of others, or the paramount rights of the community of which he makes a part.

Again, in order to arrive at what is meant by this clause of the State Constitution, we must look at the nature of the thing itself, the right to keep which is guaranteed. It is "arms;" that is, such weapons as are properly designated as such, as the term is understood in the popular language of the country, and such as are adapted to the ends indicated above; that is, the efficiency of the citizen as a soldier, when called on to make good "the defence of a free people;" and these arms he may use as a citizen, in all the usual modes to which they are adapted, [**19] and common to the country.

What, then, is he protected in the right to keep and thus use? Not every thing that may be useful for offense or defense; but what may properly be included or understood under the title of arms, taken in connection with the fact that the citizen is to keep them, as a citizen. Such, then, as are found to make up the usual arms of the citizen of the country, and the use of which will properly train and render him efficient in defense of his own liberties, as well as of the State. Under this head, with a knowledge of the habits of our people, and of the arms in the use of which a soldier should be trained, we would hold, that the rifle of all descriptions, the shot gun, the musket, and repeater, are such arms; and that under the Constitution the right to keep such arms, can not be *infringed or forbidden* by the Legislature. Their use, however, to be subordinated to such regulations and limitations as are or may be authorized by the law [**180] of the land, passed to subserve the general good, so as not to infringe the right secured and the necessary incidents to the exercise of such right.

What limitations, then, may the Legislature impose [**20] on the use of such arms, under the second clause of the 26th section, providing: "But the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime?"

In the case of *Aymette v. The State*, 2 Hum. 159, Judge Greene said, that, "the convention, in securing the public political right in question, did not intend to take away from the Legislature all power of regulating the social relations of the citizen upon this subject. It is true, it is somewhat difficult to draw the precise line where legislation must cease, and where the political right begins, but it is *not* difficult to state a case where the right of the Legislature would exist." This was said in reference to the clause of the Constitution of 1834.

The Convention of 1870, knowing that there had been differences of opinion on this question, have conferred on the Legislature in this added clause, the right to regulate the wearing of arms, with a view to prevent crime.

It is insisted by the Attorney General, as we understand his argument, [1.3] that this clause confers power on the Legislature to prohibit absolutely the wearing of all and every kind of arms, under all [**21] circumstances. [**181] To this we can not give our assent. The power to regulate, does not fairly mean the power to prohibit; on the contrary, to regulate, necessarily involves the existence of the thing or act to be regulated. When applied to conduct or the doing of a thing, it must, of necessity, mean some check upon, or direction given to that conduct or course of action, implying the act being performed, but subject to certain limitations or restraints, either as to manner of doing it, or time, or circumstances under which it is or may be done. Adopt the view of the Attorney General, and the Legislature may, if it chooses, arbitrarily prohibit the carrying all manner of arms, and then, there would be no act of the citizen to regulate.

But the power is given to regulate, with a view to prevent crime. The enactment of the Legislature [**22] on this subject, must be guided by, and restrained to this end, and bear some well defined relation to the *prevention* of crime, or else it is unauthorized by this clause of the Constitution.

It is insisted, however, by the Attorney General, that, if we hold the Legislature has no power to prohibit the wearing of arms absolutely, and hold that the right secured by the Constitution is a private right, and not a public political one, then the citizen may carry them at all times and under all circumstances. This does not follow by any means, as we think.

While the private right to keep and use such weapons as we have indicated as arms, is given as a private right, its exercise is limited by the duties and proprieties of social life, and such arms are to be used in the [**182] ordinary mode in which used in the country, and at the usual times and places. Such restrictions are implied upon their use as are thus indicated.

Therefore, a man may well be prohibited from carrying his arms to church, or other public assemblage, as the carrying them to such places is not an appropriate use of them, nor necessary in order to his familiarity with them, and his training and efficiency in [**23] their use. As to arms worn, or which are carried about the person, not being such arms as we have indicated as arms that may be kept and used, the wearing of such arms may be prohibited if the Legislature deems proper, absolutely, at all times, and under all circumstances.

It is insisted by the Attorney General, that the right to keep and bear arms is a political, not a civil right. In this we think he fails to distinguish between the nature of the right to keep, and its necessary incidents, and the right to bear arms for the common defense. Bearing arms for the common defense may well be held to be a political right, or for protection and maintenance of such rights, intended to be guaranteed; but the right to keep them, with all that is implied fairly as an incident to this right, is a private individual right, guaranteed to the citizen, not the soldier.

It is said by the Attorney General, that the Legislature may prohibit the use of arms common in warfare, but not the use of them in warfare; but the idea of the Constitution is, the keeping and use of such arms as are useful either in warfare, or in preparing the citizen for their use in warfare, by training him as a citizen, [**24] to their use in times of peace. In reference to the second [**183] article of the Amendments to the Constitution of the United States, Mr. Story says, vol. 2, s. 1897: "The importance of this article will scarcely be doubted by any persons who have duly reflected upon the subject. The militia is the natural defense of a free country against sudden foreign invasion, domestic insurrection, and domestic usurpations of power by rulers. It is against sound policy for a free people to keep up a large military establishment and standing armies in times of peace, both from the enormous expense with which they are attended, and the facile means which they afford to ambitious rulers to subvert the government, or trample upon the rights of the people. The right of the citizen to keep and bear arms, has justly been considered as the palladium of the liberties of the republic, since it offers a strong moral check against usurpation and arbitrary power of rulers; and will in general, even if these are successful in the first instance, enable the people to resist and triumph over them."

We cite this passage as throwing light upon what was intended to be guaranteed to the people of the States, [**25] against the power of the Federal Legislature, and at the same time, as showing clearly what is the meaning of our own Constitution on this subject, as it is evident the State Constitution was intended to guard the same right, and with the same ends in view. So that, the meaning of the one, will give us an understanding of the purpose of the other.

The passage from Story, shows clearly that this right was intended, as we have maintained in this opinion, and was guaranteed to, and to be exercised and enjoyed [**184] by the citizen as such, and not by him as a soldier, or in defense solely of his political rights.

Mr. Story adds, in this section: "Yet though this truth would seem to be so clear, (the importance of a militia,) it can not be disguised that among the American people, there is a growing indifference to any system of militia discipline, and a strong

disposition, from a sense of its burdens, to be rid of all regulations. How is it practicable," he asks, "to keep the people duly armed without some organization, it is difficult to see. There is certainly no small danger that indifference may lead to disgust, and disgust to contempt, and thus gradually undermine all the [*26] protection intended by this clause of our national bill of rights."

We may for a moment, pause to reflect on the fact, that what was once deemed a stable and essential bulwark of freedom, "a well regulated militia," though the clause still remains in our Constitutions, both State and Federal, has, as an organization, passed away in almost every State of the Union, and only remains to us as a memory of the past, probably never to be revived.

As we understand the able opinion of Judge Green, in the case of *Aymette v. State*, 2 Hum. 158, he holds the same general views on this question, which are to be found in this opinion. He says: "As the object for which the right to keep and bear arms is secured is of a general nature, to be exercised by the people in a body for their common defense, so the arms--the right to keep which is secured--are such as are usually employed in civilized warfare, and constitute the ordinary military equipment. If the citizens have these arms [*185] in their hands, they are prepared in the best possible manner, to repel any encroachments upon their rights by those in authority."

He says, on p. 159: "The Legislature, therefore, have [*27] a right to prohibit the wearing or keeping weapons dangerous to the peace and safety of the citizens, and which are not usual in civilized warfare, or would not contribute to the common defense." And we add, that this right to keep arms, though one secured by the Constitution, with such incidents as we have indicated in this opinion, yet it is no more above regulation for the general good than any other right. The right to hold property is secured by the Constitution, and no man can be deprived of his property "but by the judgment of his peers, or the law of the land." If the citizen is possessed of a horse, under the Constitution it is protected and his right guaranteed, but he could not, by virtue of this guaranteed title, claim that he had the right to take his horse into a church to the disturbance of the people; nor into a public assemblage in the streets of a town or city, if the Legislature chose to prohibit the latter and make it a high misdemeanor.

The principle on which all right to regulate the use in public of these articles of property, is, that no man can so use his own as to violate the rights of others, or of the community of which he is a member.

So we may say, [*28] with reference to such arms, as we have held, he may keep and use in the ordinary mode known to the country, no law can punish [*186] him for so doing, while he uses such arms at home or on his own premises; he may do with his own as he will, while doing no wrong to others. Yet, when he carries his property abroad, goes among the people in public assemblages where others are to be affected by his conduct, then he brings himself within the pale of public regulation, and must submit to such restrictions on the mode of using or carrying his property as the people through their Legislature, shall see fit to impose for the general good.

We may here refer to the cases of *Bliss v. Commonwealth*, 2 Littell, Ky. 90; *State v. Reid*, Alabama R., 612, and case of *Nunn v. State of Georgia*, 1 Kelly 243, as containing much of interesting and able discussion of these questions; in the two last of which the general line of argument found in this opinion is maintained. The Kentucky opinion takes a different view, with which we can not agree. We have not followed precisely either of these cases, but have laid down our own views on the questions presented, aided, however, greatly [*29] by the reasoning of these enlightened courts.

We hold, then, that the Act of the Legislature in question, so far as it prohibits the citizen "either publicly or privately to carry a dirk, sword cane, Spanish stiletto, belt or pocket pistol," is constitutional. As to the pistol designated as a revolver, we hold this may or may not be such a weapon as is adapted to the usual equipment of the soldier, or the use of which may render him more efficient as such, and therefore hold this to be a matter to be settled by evidence as to what character of weapon [*187] is included in the designation "revolver." We know there is a pistol of that name which is not adapted to the equipment of the soldier, yet we also know that the pistol known as the repeater is a soldier's weapon--skill in the use of which will add to the efficiency of the soldier. If such is the character of the weapon here designated, then the prohibition of the statute is too broad to be allowed to stand, consistently with the views herein expressed. It will be seen the statute forbids by its terms, the carrying of the weapon publicly or privately, without regard to time or place, or circumstances, and in effect is an absolute [*30] prohibition against keeping such a weapon, and not a regulation of the use of it. Under this statute, if a man should carry such a weapon about his own home, or on his own premises, or should take it from his home to a gunsmith to be repaired, or return with it, should take it from his room into the street to shoot a rabid dog that threatened his child, he would be subjected to the severe penalties of fine and imprisonment prescribed in the statute. [23]

In a word, as we have said, the statute amounts to a prohibition to keep and use such weapon for any and all purposes. It therefore, in this respect, violates the constitutional right to keep arms, and the incidental right to use them in the ordinary mode of using such arms and is inoperative.

If the Legislature think proper, they may by a proper law regulate the carrying of this weapon publicly, or [*188] abroad, in such a manner as may be deemed most conducive to the public peace, and the protection [*31] and safety of the community from lawless violence. We only hold that, as to this weapon, the prohibition is too broad to be sustained. [34]

The question as to whether a man can defend himself against an indictment for carrying arms forbidden to be carried by law, by showing that he carried them in self-defense, or in anticipation of an attack of a dangerous character upon his person, is one of some little difficulty. The real question in such case, however, is not the right of self-defense, as seems to be supposed, (for that is conceded by our law to its fullest extent,) but the right to use weapons, or select weapons for such defense, which the law forbids him to keep or carry about his person. If this plea could be allowed as to weapons thus forbidden, it would amount to a denial of the right of the Legislature to prohibit the keeping of such weapons; for, if he may lawfully use them in self-defense, he may certainly provide them, and keep them, for such purpose; and thus the plea of [*32] right of self-defense will draw with it, necessarily, the right to keep and use everything for such purpose, however pernicious to the general interest or peace or quiet of the community. Admitting the right of self-defense in its broadest sense, still on sound principle every good citizen is bound to yield his preference as to the means to be used, to the demands of the public good; and where certain weapons are forbidden to be kept or used by the law of the land, in order to the prevention [*189] of crime--a great public end--no man can be permitted to disregard this general end, and demand of the community the right, in order to gratify his whim or willful desire to use a particular weapon in his particular self-defense. The law allows ample means of self-defense, without the use of the weapons which we have held may be rightfully proscribed by this statute. The object being to banish these weapons from the community by an absolute prohibition for the prevention of crime, no man's particular safety, if such case could exist, ought to be allowed to defeat this end. Mutual sacrifice of individual rights is the bond of all social organizations, and prompt and willing obedience [*33] to all laws passed for the general good, is not only the duty, but the highest interest of every man in the land.

The principle we have laid down is sustained by a well established rule of the law of nations in the conduct of war. While the general rule is, that *HN9* one belligerent may do his enemy all the injury he can, and for such purpose may lawfully kill him,

yet the use of poisoned weapons is forbidden by the law of nations, on the ground that higher ends are thereby subserved, and the rights of sovereign belligerent nations even should be made subordinate to these ends: Vattel Law of Nations, top p. 361. So while the right of self-defense is one at all times to be maintained, yet as to the means used to attain this end, they must be subordinated to the higher claims of the general good of the community.

We admit extreme cases may be put, where the rule may work harshly, but this is the result of all general rules; that they may work harshly sometimes in individual [*190] cases. By our system, however, allowing the Attorney General to enter *nolle prosequi*, with the assent of the Court, there is but little danger of the law being enforced in any such cases to the detriment [*34] of any one; and if such case should occur, an application to Executive clemency may fairly be assumed as the remedy provided by the Constitution to meet all such exigencies.

In the case of *The State v. Andrews*, one of the cases now under investigation, it is stated in bill of exceptions, that a "plea of self-defense" was filed, demurred to, and demurrer overruled. We can not notice the action of the court on this question, as the plea is not set out so that we can see its allegations and judge of their merits.

It was proposed, however, to prove, "that there was a set of men in the neighborhood of defendant during the time he had carried his pistol, and before, seeking the life of defendant." This testimony was objected to, and objection sustained by the court. We can not see from this statement that the court erred, as the character of the weapon is nowhere shown; and it may have been such a weapon, as we have held above, to have been properly forbidden to be carried at all. If so, then it was no defense to the indictment.

The proof, however, showed that he had been in the habit of carrying a pistol since the war. In such a case, he could not claim that he was really in peril [*35] of life or limb or great bodily harm, so imminent as to present any element of self-defense in justification of his carrying his pistol.

The law of the land gave him ample protection, if he had chosen to seek its aid by authorizing, on proper application, [*191] the arrest of the parties, and sureties to keep the peace, or confinement in prison, to prevent the threatened injury. No court can assume that the law, in such case, would be powerless to give the needed protection. And we hold, that it is not only the highest duty of all, to submit to the law, and seek its protection, thus doing reverence to its mandates, but that this involves no humiliation, nor element of cowardice. On the contrary, it marks the highest moral courage to do right, notwithstanding passion and pride may urge us to the contrary course. He who subordinates his pride and his passions to the high behests of social duty, has shown himself as possessing the highest attribute of a noble manhood, sacrifice of self and pride, for the public good, in obedience to law.

In this view of the case, the question of what circumstances will justify a party in carrying arms, such as the Constitution permits him to keep, [*36] in legitimate self-defense, is hardly fairly before us. We may say, that the clause of the Constitution authorizing the Legislature to regulate the wearing of arms with a view to prevent crime, could scarcely be construed to authorize the Legislature to prohibit such wearing, where it was clearly shown they were worn *bona fide* to ward off or meet imminent and threatened danger to life or limb, or great bodily harm, circumstances essential to make out a case of self-defense. It might well be maintained they were not worn under such circumstances in order to crime, or that such purpose existed, or that the wearing under the circumstances indicated, of a weapon that might lawfully be kept, had any direct tendency to produce [*192] crime. On the contrary, the purpose would be to prevent the commission of crime on the part of another.

If the party is protected in the keeping and use of such arms as we have indicated, only to be restrained by such regulations as may be enacted by the Legislature, with a view to prevent crime, it would seem that the use of such a weapon for defense of the person when in actual peril, the end being a lawful one, ought not, upon any sound principle, [*37] to subject a party to punishment. However, when the Legislature shall enact a law regulating the wearing of weapons constitutionally allowed to be kept and used, as held in this opinion, the question may be presented fairly, and can be decided.

There was a motion to quash the indictment in each one of these cases, which was overruled. The indictment in each case only charges that the parties carried a pistol, without specifying the character of the weapon, whether belt or pocket pistol, or revolver. This was too indefinite a charge on such a statute, however literally it might be construed. *HN10* There should be such specifications in the indictment as will enable the court to see that the weapon forbidden by the statute has been worn, and to inform the defendant of the character of weapon for the carrying of which he is to be held to answer.

For this error the cases will be reversed; the indictments quashed, and remanded to the Circuit Courts to be further proceeded in.

NICHOLSON, C. J., and DEADERICK, J., concurred in [*193] the general views of the opinion. SNEED v. J., dissented from so much of the opinion as questioned the right of the Legislature to prohibit the wearing of arms [*38] of any description, or sought to limit the operation of the act of 1870.

NELSON v. J., delivered the following opinion:

Concurring, as I do, in much of the reasoning of the majority of the Court, and believing that the object of the Legislature, in passing the act of 1870, was to promote the public peace, I am, nevertheless, constrained by a sense of duty to observe, that, in my opinion, that statute is in violation of one of the most sacred rights known to the Constitution. Ever since the opinions were promulgated, it has been my deliberate conviction that the exposition of the Constitution by Judge Robert Whyte v. In *Simpson v. The State*, 5 Yerg. 360, was much more correct than that of Judge Green in *Aymette v. The State*, 2 Hum. 155. The expression in the case last named, that the citizens do not need, for the purpose of repelling encroachments upon their rights, "the use of those weapons which are usually employed in private broils, and are efficient only in the hands of the robber and assassin," is, in my view, an unwarrantable aspersion upon the conduct of many honorable men who were well justified in using them in self-defense. *Ibid* [*39], 158. The provision contained in the declaration of rights in the Constitution of 1834, that "that the free white men of this State have a right to keep and bear arms for their common defense," is not restricted to public defense, as held in *Aymette v. The State*, 2 Hum. 158. [*194] Had such been the intention, the definite article "the," would have been employed, instead of the personal pronoun "their," which is used in a personal sense, and was intended to convey the idea of a right belonging equally to more than one, general in its nature, and universally applicable to all the citizens. The word "bear" was not used alone in the military sense of carrying arms, but in the popular sense of wearing them in war or in peace. The word "arms," means "instruments or weapons of offense or defense," and is not restricted, by any means, to public warfare.

The declaration of rights, section 26, in the Constitution of 1870, omits the words "free white men," and contains an additional provision, which should be construed in connection with the previous decisions of this court, the conflict in which was well known to the framers of that instrument. After declaring [*40] "that the citizens of this State have a right to keep and to bear arms for their common defense," it is added: "But the Legislature shall have power, by law, to regulate the wearing of arms with a view to prevent crime." The word "bear" was manifestly employed in the Constitution of 1870, to convey the idea of carrying

arms either for public or private defense; otherwise, it was unnecessary to add the provision that the Legislature shall have power "to regulate the wearing of arms with the view to prevent crime." The habit, or custom, intended to be regulated, was not that of bearing arms fit only to be used in war, and which, from the publicity with which such arms are carried, needed but little, if any, regulation. It was well known to the Convention, that [*195] a very large number of citizens had become accustomed, during the late civil war, to carry pistols and other weapons not ordinarily used in warfare, and had retained this habit after the close of the war, and that dangerous wounds, as well as frequent homicides, were the result of its universal prevalence; and the object of conferring express power to regulate the mode of wearing them, was not to destroy the [*41] right, but so to control it that the Legislature, by declaring that such arms should be worn publicly and not secretly upon the person, might prevent those crimes which are often committed by armed men in taking the lives of their unarmed adversaries. To "regulate" does not mean to destroy, but "to adjust by rule," "to put in good order," to produce uniformity of motion of action; and, under this provision, there can be no question that, while the Legislature has no power to prohibit the wearing of arms, it has the right to declare that, if worn upon the person, they shall be worn in a public manner. The act of 1870, instead of regulating, prohibits the wearing of arms, and is, therefore, in my opinion, unconstitutional and void.

In *Bliss v. Commonwealth*, 2 Lit. 90, the statute to prevent persons wearing concealed arms; was held unconstitutional, as infringing the right of the people to bear arms in defense of themselves and the State. See *Cooley Const. Lim.*, 350; *Cockrum v. The State*, 24 Tex. 394. The words "in defense of themselves and the State," are equivalent to the words "for their common defense," and but for the power to regulate, ingrafted [*42] upon the Constitution of 1870, should be interpreted here as they [*196] were in Kentucky: "The words 'rules and regulations,' in the Constitution of the United States, are usually employed in the Constitution in speaking of some particular specified power, which it means to confer on the government, and not, as we have seen, when granting general powers of legislation: as, to make rules for the government and regulation of the land and naval forces; to 'regulate' commerce; to establish an uniform rule of naturalization; to coin money and 'regulate' the value thereof. In all these, as in respect to the Territories, the words are used in a restricted sense." Paschal's Anno. Const., 238; *Scott v. Sanford*, 19 How. 393; 2 Story's Const., 3d ed., 196, 213.

Neither the old nor the new Constitution confers the right to keep, or to bear, or to wear arms, for the purpose of aggression. The right exists only for the purpose of defense; and this is a right which no constitutional provision or legislative enactment can destroy. The right to the enjoyment of life is one of the "inalienable rights" with which the Declaration of Independence declares that all [*43] men are endowed by their Creator. And one of the most classical and elegant of all legal commentators declared, in regard to the great right of self-defense, that the law, in this case, respects the passions of the human mind, and (when external violence is offered to a man himself, or to those to whom he bears a near connection,) makes it lawful in him to do himself that immediate justice to which he is prompted by nature, and which no prudential motives are strong enough to restrain. It considers that the future process of the law is by no means an adequate remedy for injuries accompanied with [*197] force, since it is impossible to say to what wanton lengths of rapine or cruelty outrages of this sort might be carried, unless it were permitted a man, immediately, to oppose one violence with another. Self-defense, therefore, as it is justly called the primary law of nature, so it is not, neither can it be, in fact, taken away by the law of society." 3 Black. Com., 34, m. In accordance with this view, I hold that when a man is really and truly endangered by a lawless assault, and the fierceness of the attack is such as to require immediate resistance in order to save his own life, [*44] he may defend himself with any weapon whatever, whether seized in the heat of the conflict, or carried for the purpose of self-defense. He is not bound to humiliate or, perchance, to perjure himself, in the slow and often ineffectual process of "swearing the peace," or to encourage the onslaught of his adversary by an acknowledgment of timidity or cowardice. It is deeply to be regretted that any peaceful citizen should be placed in a condition making it necessary for him to carry arms for his own protection, and that a purpose, laudable and honorable in itself, is often perverted by "lewd fellows of the baser sort" to purposes of assassination or revenge. But some of the most important elements in nature, such, for example, as fire and water, may be so misused and perverted. Yet we do not prohibit or destroy their use. We endeavor only to regulate it.

In the purer and better days of the Republic, "a well-regulated militia was regarded as necessary to the security of a free state;" and it was declared in the first amendment to our National Constitution, that "the [*198] right of the people to keep and to bear arms should not be infringed."

So, "by the Anglo-Saxon laws, or [*45] rather by one of the primary and indispensable conditions of political society, every freeholder, if not every freeman, was bound to defend his country against hostile invasion;" and by the statute of Winchester, 13 Edw. I., every man between the ages of 15 and 60 was to be assessed and sworn to keep armor according to the value of his lands and goods: for 15 pounds and upward in rent, or 40 marks in goods, a hauberk, an iron breast-plate, a sword, a knife and a horse; for smaller property, less extensive [*199] arms. See Hallam's Cons. Hist., 311. These laws were subsequently repealed or modified in the interests of despotic power. And Mr. Tucker, in his notes to Blackstone, says that "whoever examines the forest and game laws in the British Code, will readily perceive that the right of keeping arms is taken away from the people of England." See 1 Sharsw. Black. 143. A jealous concern for public liberty and personal security animated our patriotic ancestors to encourage the use of arms. It was once the policy, too, of our State Government to foster a martial spirit among the people, and to train them to the use of arms, not only for the purpose of [*200] national defense, [*46] but also in cases of necessity, for the defense of their own persons. The tendency now appears to be the other way, and passive obedience and slavish submission to wrong and outrage would seem to be the growing spirit of the times. While "shooting matches" were once encouraged by the Legislature, as a proper method of accustoming the citizens to the use of arms, the timid course of existing legislation is to make the peace warrant the only potent weapon of defense, and to teach the people to "have peace" upon any terms, no matter how degrading. [*2]

[*47] [*201] Regretting, as I do, that the nobler objects of bearing and wearing arms are too often and too horribly perverted, I can not approve legislation which seems to foster and encourage a craven spirit on the part of those who are disposed to obey the laws, and leaves them to the tender mercies of those who set all law at defiance.

I concur in the foregoing dissenting opinion.

TURNEY, J.

Footnotes

[17]

It will be seen, by reference to the argument, that the judge has not in this and the following paragraphs, caught its spirit with his wonted accuracy. And see p. 199 in note.

2 See Page v. State. Post 198, in note.

3 See Act of 1871, c. 90.

***** NOTE. KNOXVILLE, Nov. 4, 1871.

THOMAS PAGE v. THE STATE.

CARRYING ARMS. *Act of 1870 construed.* It is not every removal of a pistol or other weapon from place to place, that constitutes a "carrying" within the meaning of the act of 1870, c. 13, which prohibits carrying arms. To constitute the offense, the weapons must be carried as "arms."

Criminal Court, May Term, 1871. M. L. HALL, J., presiding.

PROSSER, for the plaintiff in error, insisted, that under the Constitution the citizen was protected in an unlimited right to carry all kinds of arms without reference to size or quality, and had the right to keep and to bear arms at all times; the Legislature having the right to say how he shall wear them, but not to prohibit. The act of 1870 takes from the citizen the right to familiarize himself with the use of arms of the smaller class, and so infringes the Constitution.

Attorney General HEISKELL, for the State, insisted that carrying weapons carrying arms, means going armed. *To carry*, has many senses; to carry a scar; to carry a tune; to carry a loan. The word is not happily selected; but the objection is not, that it does not bear the exact meaning the Legislature intended to convey, but that it has other meanings, tending to confuse. A man may carry a wheelbarrow load of pistols to a shop; may carry them for repair, as merchandize; may carry in bundles, or boxes, or baskets; may carry pistols hunting, or to a gallery or tree to practice. In none of these cases would he be carrying them in the sense of the law. The law so construed, does not infringe the right to keep arms, or practice with them, or bear them for the common defense. Where a law admits of a construction consistent with the Constitution, it must be so construed; *Bristoe v. Evans*, 2 Tenn. 341, 345; *Bank of State v. Cooper*, 2 Yer. 596, 623; *Townsend v. Shipp*, Cooke, 294, 301; *L. & N. Railroad Co. v. Davidson Co.*, 1 Sneed 637, 671; *Fisher v. Dabbs*, 6 Yer. 119, 135.

"Common defense," in the Constitution, has one of two senses. It can not have both. It either means defense as a community, or the individual defense of each man commonly, or on ordinary occasions. Now we know that it was intended to embrace the idea of general defense; it can not, therefore, mean the other, unless it be used in a double sense, in two opposite and distinct senses. The bearing of arms, then, is only protected on the occasions and when used in a manner appropriate to the public defense, as a citizen soldier. To keep for that purpose, necessarily includes the right to keep at all times and under all circumstances; but to bear for that use, means to bear on such occasions, at such times, and in such manner, as may be appropriate to that end. Not to wear weapons. It must mean after the fashion of a soldier, not after the manner of a cut-throat.

NICHOLSON, C. J., delivered the opinion of the Court.

Page was indicted for carrying a belt pistol, a pocket and revolver. Upon his trial, on the plea of not guilty, he was convicted, fined and sentenced to imprisonment. He has appealed to this Court. It appears from the evidence in the bill of exceptions, that Page was seen coming from his home along the big road, about a mile distant from his house, carrying in his hand, swinging by his side, a pistol called a revolver, about eight inches long, but that it was not such weapon as is used as a weapon of war. He was not on a journey, nor was he a public officer. No other instance of his carrying a pistol is proven. He approached prosecutor, presented the pistol and threatened to shoot him. Was this such a carrying of a weapon as is prohibited by the act of 1870, c. 13? Shankland, 95. The evidence fully establishes the fact, that the pistol carried by Page was not an arm for war purposes; and therefore, under the ruling of this Court in the case of *Andrews v. The State*, decided at Jackson, it was a weapon, the carrying of which the Legislature could constitutionally prohibit. But the question here is, what is the meaning intended by the Legislature to be conveyed by the word "carry"? It will be observed, that the prohibitory clause of the Constitution uses the words, "keep and bear arms," &c. The Legislature has avoided using this language, but has used a word, which, as connected with weapons, conveys the idea of "wearing weapons," or "going armed." When we use the expression, "he carries arms," we mean "he goes armed," or "he wears arms." This is manifestly the sense in which the word was used by the Legislature, and we know of no other single word which could more clearly convey the meaning intended to be conveyed, than the word "carry." In this sense, Page was not only literally carrying a forbidden weapon, but he was "carrying" it, that is, "he was going armed," contrary to the true meaning of the statute.

It will be observed, that the interpretation which we give to the word "carry," meets and carries out the manifest purpose of the Legislature, which was, not only to make criminal the habitual carrying or wearing of dirks, sword-canes, Spanish stiletos, belt or pocket pistols, or revolvers, but, also, to make criminal a single act of wearing or carrying one

of these weapons, when it is so worn, or carried, with the intent of thus going armed.

But we are far from understanding the Legislature as intending to make every act of carrying one of these weapons criminal. Under the constitution, every man has a right to own and keep these weapons, nor is this right interfered with by the prohibition against "carrying" them, in the sense in which the Legislature uses the word. To constitute the carrying criminal, the intent with which it is carried must be that of going armed, or being armed, or wearing it for the purpose of being armed. In the case before us, the intent with which Page was carrying his pistol was fully developed. He was carrying it that he might be armed, as was shown by his threatened assault upon the prosecutor. It would probably be difficult to enumerate all the instances in which one of these weapons could be carried innocently, and without criminality. It is sufficient here to say, that, without the intent or purpose of being or going armed, the offense described in this statute can not be committed.

We think the facts proven, in the case before us, bring the plaintiff in error within the offense defined in the statute, and that his conviction was fully warranted by the evidence.

The judgment is affirmed.

Content Type: Cases

Terms: Andrews, James v. State

Narrow By: Court: State Courts>Tennessee

Date and Time: Jan 09, 2020 03:10:18 p.m. EST



About
LexisNexis®

Privacy
Policy

Cookie
Policy

Terms &
Conditions

Sign
Out

Copyright
© 2020
LexisNexis.
All rights
reserved.

RELX Group™



Document: Tenn. Code Ann. § 39-17-1366

Tenn. Code Ann. § 39-17-1366

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1366. Concealed handgun carry permit. [Effective on January 1, 2020.]

(a) Any resident of this state who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department for a concealed handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant.

(b) To be eligible to receive a concealed handgun carry permit, the person must:

(1) Apply in person to the department on a concealed handgun carry permit application developed by the department;

(2) Provide proof of the person's identity and state residency by presenting:

(A) A driver license or photo identification issued by this state; or

(B) Other proof satisfactory to the department showing the person's identity and residency;

(3) Meet the qualifications for the issuance of an enhanced handgun carry permit under § 39-17-1351(b) and (c) and provide the department with two (2) sets of fingerprints in the manner required in § 39-17-1351(d);

(4)

(A) Provide proof the person has demonstrated competence with a handgun; provided, that any safety or training course or class must have been completed no more than one (1) year prior to the application for the concealed handgun carry permit.

The person may demonstrate such competence by one (1) of the following, but a person is not required to submit to any additional demonstration of competence:

(I) Completing any hunter education or hunter safety course approved by the Tennessee wildlife resources agency or a similar agency of another state;

(II) Completing any firearms safety or training course administered by an organization specializing in firearms training and safety;

(III) Completing any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, private or public institution or organization, or firearms training school utilizing instructors certified by an organization specializing in firearms training and safety or the department;

(IV) Completing any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

(V) Presenting evidence of equivalent experience with a firearm through current military service or proof of an honorable discharge from any branch of the armed services;

(VI) Obtaining or previously having held a license to carry a firearm in this state, unless such license has been revoked for cause;

(VII) Completing any firearms training or safety course or class, including an electronic, video, or online course, that:

- (a) Is conducted by a firearms instructor who is certified by the state or an organization specializing in firearms training and safety; and
- (b) Meets the qualifications established by the department pursuant to subsection (l);
- (viii) Completing any governmental law enforcement agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or
- (ix) Completing any other firearms training that the department deems adequate; and
- (B) Proof of competence under this subdivision (b)(4) is evidenced by a photocopy of a certificate of completion of any of the courses or classes described in subdivision (b)(4)(A); an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or required experience;
- (5) Pay an application and processing fee of sixty-five dollars (\$65.00) to the department; and
- (6) Provide a signed printed copy of the form provided by the department, pursuant to subdivision (k)(4), stating that the applicant has read and understands the current state law on carrying handguns.
- (c)
 - (1) Upon receipt of a concealed handgun carry permit application, the department shall:
 - (A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and
 - (B) Send a copy of the application to the sheriff of the county in which the applicant resides.
 - (2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of § 39-17-1351(c) that is within the knowledge of the sheriff.
 - (3) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall conduct searches and record checks in the same manner required in § 39-17-1351(h) and send the results to the department.
 - (d) If an applicant meets all the requirements of this section, the department shall issue the applicant a concealed handgun carry permit that entitles the permit holder to carry any handgun that the permit holder legally owns or possesses in a concealed manner. The concealed handgun permit is valid for eight (8) years from the date of issuance.
 - (e) A person issued a concealed handgun carry permit under this section shall carry the permit at all times when carrying a handgun pursuant to this section and shall display the permit on demand of a law enforcement officer.
 - (f) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and contain only the following information concerning the permit holder:
 - (1) The permit holder's name, address, and date of birth;
 - (2) A description of the permit holder by sex, height, weight, and eye color;
 - (3) A color photograph of the permit holder; and
 - (4) The permit number, issuance date, and expiration date.
 - (g) The issuance of a concealed handgun carry permit under this section does not relieve a person from complying with all requirements of § 39-17-1351 in order to be issued an enhanced handgun carry permit pursuant to that section.
 - (h) A concealed handgun carry permit issued under this section shall authorize the permit holder to carry or possess a handgun as authorized by § 39-17-1313.
 - (i) A concealed handgun carry permit issued under this section is subject to the same restrictions and requirements found in §§ 39-17-1352 – 39-17-1359.
 - (j)
 - (1) Prior to the expiration of a concealed handgun carry permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application. The renewal application must be on a standard form developed by the department; must require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (b); and must require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a concealed handgun carry permit. In the event the permit holder's current concealed handgun carry permit expires prior to the department's approval or issuance of notice of denial regarding a pending renewal application, the permit holder is entitled to continue to use the expired permit until the department issues an approval or denial of the renewal application.

(2) A person may renew that person's concealed handgun carry permit beginning six (6) months prior to the expiration date on the face of the permit.

(k) The department shall maintain the following material on the department's website:

- (1) Current state law on carrying handguns;
 - (2) An explanation of the different handgun carry permits available;
 - (3) A list of various providers that conduct department-approved training courses or classes, pursuant to subdivision (b)(4)(A);
- and

(4) A printable form to be signed by the applicant pursuant to subdivision (b)(6).

(l) The department shall determine that a firearms training or safety course or class meets the requirement of subdivision (b)(4)(A)(vii) if the course or class curriculum does the following:

- (1) Conveys the basic knowledge and skills necessary for safe handling and storage of firearms and ammunition and includes firearm safety rules, handgun uses, features, basic skills and techniques, safe cleaning, transportation, and storage methods;
- (2) Conveys the current state law on carrying handguns;
- (3) Is not less than ninety (90) minutes in length;
- (4) Includes a test or quiz that confirms competency of the course or class curriculum; and
- (5) Provides a printable certificate of course or class completion.

(m) Any law enforcement officer of this state or of any county or municipality may, within the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer, or another individual. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, the permit holder, or another individual; provided, that the permit holder has not violated this section or committed any other violation that results in the arrest of the permit holder.

(n) As used in this section, "department" means the department of safety.

History

Acts 2019, ch. 479, § 5.

▼ Annotations

Notes

Effective Dates.

Acts 2019, ch. 479, § 22. January 1, 2020.

TENNESSEE CODE ANNOTATED

Copyright © 2020 by The State of Tennessee All rights reserved

Tenn. Code Ann. § 39-17-1351

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1351. Handgun carry permits. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department of safety for a handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant; provided:

(1) The applicant is at least twenty-one (21) years of age; or

(2) The applicant is at least eighteen (18) years of age; and

(A)

(i) Is an honorably discharged or retired veteran of the United States armed forces; and

(ii) Includes with the application a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214);

(B)

(i) Is an honorably discharged member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and

(ii) Includes with the application a certified copy of the applicant's honorable discharge certificate, department of defense form 256 (DD 256), or report of separation and record of service, NGB form 22, that indicates an honorable discharge characterization; or

(C)

(i) Is a member of the United States armed forces on active duty status or is a current member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and

(ii) Includes with the application a military identification card or such other document as the commissioner designates as sufficient proof that the applicant is an active duty member of the military or a current member of the national guard or United States military reserve, who has successfully completed a basic training program.

(c) The application for a permit shall be on a standard form developed by the department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the

application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining a handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

- (1) Full legal name and any aliases;
- (2) Addresses for the last five (5) years;
- (3) Date of birth;
- (4) Social security number;
- (5) Physical description (height, weight, race, sex, hair color and eye color);
- (6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;
- (7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;
- (8) That the applicant is not currently subject to any order of protection and, if so, the applicant shall provide a copy of the order;
- (9) That the applicant is not a fugitive from justice;
- (10) That the applicant is not an unlawful user of or addicted to alcohol, any controlled substance or controlled substance analogue, and the applicant has not been either:
 - (A) A patient in a rehabilitation program pursuant to a court order or hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction pursuant to a court order within ten (10) years from the date of application; or
 - (B) A voluntary patient in a rehabilitation program or voluntarily hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction within three (3) years from the date of application;
- (11) That the applicant has not been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and that none of the convictions has occurred within five (5) years from the date of application or renewal;
- (12) That the applicant has not been adjudicated as a mental defective, has not been judicially committed to or hospitalized in a mental institution pursuant to title 33, has not had a court appoint a conservator for the applicant by reason of a mental defect, has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity, and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of mental illness;
- (13) That the applicant is not an alien and is not illegally or unlawfully in the United States;
- (14) That the applicant has not been discharged from the armed forces under dishonorable conditions;
- (15) That the applicant has not renounced the applicant's United States citizenship;
- (16) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921;
- (17) That the applicant is not receiving social security disability benefits by reason of alcohol dependence, drug dependence or mental disability; and
- (18) That the applicant has not been convicted of the offense of stalking.

(d)

(1) In addition to the information required under subsection (c), the applicant shall be required to provide two (2) full sets of classifiable fingerprints at the time the application is filed with the department. The applicant's fingerprints may be taken by the department at the time the application is submitted or the applicant may have the fingerprints taken at any sheriff's office and submit the fingerprints to the department along with the application and other supporting documents. The sheriff may charge a fee not to exceed five dollars (\$5.00) for taking the applicant's fingerprints. At the time an applicant's fingerprints are taken either by the department or a sheriff's office, the applicant shall be required to present a photo identification. If the person requesting fingerprinting is not the same person as the person whose picture appears on the photo identification, the

department or sheriff shall refuse to take the fingerprints. The department shall also be required to photograph the applicant in a manner that is suitable for use on the permit.

(2) An applicant shall also be required to present a photo identification to the department at the time of filing the application. If the name on the photo identification, name on the application and name on the fingerprint card, if taken by a sheriff, are not the same, the department shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the applicant, the department shall refuse to accept the application.

(e) The department shall also require an applicant to submit proof of the successful completion of a department approved handgun safety course within one (1) year of the date of application. Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide the applicant's social security number. Any instructor of a department approved handgun safety course shall not withhold proof of the successful completion of the course solely on the fact the applicant did not disclose the applicant's social security number. The course shall include both classroom hours and firing range hours; provided, that an applicant shall not be required to comply with the firing range requirements if the applicant submits proof to the department that the applicant has successfully passed small arms qualification training or combat pistol training in any branch of the United States armed forces. Beginning September 1, 2010, and thereafter, a component of the classroom portion of all department-approved handgun safety courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, judgment and ability to safely handle a firearm, and § 39-17-1321. An applicant shall not be required to comply with the firing range and classroom hours requirements of this subsection (e) if the applicant submits proof to the department that within five (5) years from the date the application for a handgun carry permit is filed the applicant has:

- (1) Been certified by the peace officer standards and training commission;
 - (2) Successfully completed training at the law enforcement training academy;
 - (3) Successfully completed the firearms training course required for armed security guard/officer registration, pursuant to § 62-35-118(b);
 - (4) Successfully completed all handgun training of not less than four (4) hours as required by any branch of the military; provided, however, that an applicant who seeks waiver of the training course pursuant to this subdivision (e)(4) may have completed the military handgun training at any time prior to submission of proof; or
 - (5) Successfully completed Tennessee department of correction firearms qualification.
- (f) The department shall make applications for permits available for distribution at any location where the department conducts driver license examinations.

(g)

(1) Upon receipt of a permit application, the department shall:

- (A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of Investigation; and
- (B) Send a copy of the application to the sheriff of the county in which the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of subsection (c) that is within the knowledge of the sheriff.

(h) Upon receipt of the fingerprints from the department, the Tennessee bureau of Investigation shall:

(1) Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the applicant's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the department;

(2) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the department; and

(3) Send one (1) set of the fingerprints received from the department to the federal bureau of Investigation, request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the department.

(i) The department shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the Tennessee and federal bureaus of Investigation pursuant to subsection (h), from information received from the clerks of court regarding individuals adjudicated as a mental defective or judicially committed to a mental institution

pursuant to title 33, or from other information that comes to the attention of the department, that the applicant does not meet the eligibility requirements of this section. The department shall not be required to confirm the applicant's eligibility for a permit beyond the information received from the Tennessee and federal bureaus of investigation, the clerks of court and the sheriffs, if any.

(j) The department shall not deny a permit application if:

(1) The existence of any arrest or other records concerning the applicant for any indictment, charge or warrant have been judicially or administratively expunged;

(2) An applicant's conviction has been set aside by a court of competent jurisdiction;

(3) The applicant, who was rendered infamous or deprived of the rights of citizenship by judgment of any state or federal court, has had the applicant's full rights of citizenship duly restored pursuant to procedures set forth within title 40, chapter 29, or other federal or state law; provided, however, that this subdivision (j)(3) shall not apply to any person who has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, a felony drug offense, or a felony offense involving use of a deadly weapon; or

(4) The applicant, who was adjudicated as a mental defective or judicially committed to a mental institution, as defined in § 39-17-1301, has had the applicant's firearm disability removed by an order of the court pursuant to title 16, and either a copy of that order has been provided to the department by the TBI or a certified copy of that court order has been provided to the department by the applicant.

(k) If the department denies an application, the department shall notify the applicant in writing within ten (10) days of the denial. The written notice shall state the specific factual basis for the denial. It shall include a copy of any reports, records or inquiries reviewed or relied upon by the department.

(l) The department shall issue a permit to an applicant not prohibited from obtaining a permit under this section no later than ninety (90) days after the date the department receives the application. A permit issued prior to the department's receipt of the Tennessee and federal bureaus of investigation's criminal history record checks based upon the applicant's fingerprints shall be subject to immediate revocation if either record check reveals that the applicant is not eligible for a permit pursuant to this section.

(m) A permit holder shall not be required to complete a handgun safety course to maintain or renew a handgun carry permit. No permit holder shall be required to complete any additional handgun safety course after obtaining a handgun carry permit. No person shall be required to complete any additional handgun safety course if the person applies for a renewal of a handgun carry permit within eight (8) years from the date of expiration.

(n)

(1) Except as provided in subdivision (n)(2) and subsection (x), a permit issued pursuant to this section shall be good for eight (8) years and shall entitle the permit holder to carry any handgun or handguns that the permit holder legally owns or possesses. The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.

(2) A Tennessee permit issued pursuant to this section to a person who is in or who enters into the United States armed forces shall continue in effect for so long as the person's service continues and the person is stationed outside this state, notwithstanding the fact that the person may be temporarily in this state on furlough, leave, or delay en route, and for a period not to exceed sixty (60) days following the date on which the person is honorably discharged or separated from service or returns to this state on reassignment to a duty station in this state, unless the permit is sooner suspended, cancelled or revoked for cause as provided by law. The permit is valid only when in the immediate possession of the permit holder and the permit holder has in the holder's immediate possession the holder's discharge or separation papers, if the permit holder has been discharged or separated from the service.

(3) After the initial issuance of a handgun carry permit, the department shall conduct a name-based criminal history record check every four (4) years or upon receipt of an application.

(o) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:

(1) The permit holder's name, address and date of birth;

(2) A description of the permit holder by sex, height, weight and eye color;

- (3) A color photograph of the permit holder; and
- (4) The permit number, issuance date, and expiration date.

(o)

(1) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:

- (A) The permit holder's name, address and date of birth;
- (B) A description of the permit holder by sex, height, weight and eye color;
- (C) A color photograph of the permit holder; and
- (D) The permit number, issuance date, and expiration date.

(2) The following language must be printed on the back of the card: This permit is valid beyond the expiration date if the permit holder can provide documentation of the holder's active military status and duty station outside Tennessee.

(p)

(1) Except as provided in subsection (x), the department shall charge an application and processing fee of one hundred dollars (\$100). The fee shall cover all aspects of processing the application and issuing a permit. In addition to any other portion of the permit application fee that goes to the Tennessee bureau of investigation, fifteen dollars (\$15.00) of the fee shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history data base. On an annual basis, the comptroller of the treasury shall audit the bureau to ensure that the extra fifteen dollars (\$15.00) received from each handgun permit application fee is being used exclusively for the purpose set forth in this subsection (p). By February 1 of each year the bureau shall provide documentation to the judiciary committee of the senate and the judiciary committee of the house of representatives that the extra fifteen dollars (\$15.00) is being used exclusively for the intended purposes. The documentation shall state in detail how the money earmarked for fingerprint data base updating and maintenance was spent, the number and job descriptions of any employees hired and the type and purpose of any equipment purchased. Any person, who has been honorably discharged from any branch of the United States armed forces or who is on active duty in any branch of the armed forces or who is currently serving in the national guard or armed forces reserve, and who makes initial application for a handgun carry permit shall be required to pay only that portion of the initial application fee that is necessary to conduct the required criminal history record checks.

(2) The provisions of subdivision (p)(1) increasing each permit application fee by fifteen dollars (\$15.00) for the purpose of fingerprint data base updating and maintenance shall not take effect if the general appropriation act provides a specific appropriation in the amount of two hundred fifty thousand dollars (\$250,000), to defray the expenses contemplated in subdivision (p)(1). If the appropriation is not included in the general appropriations act, the fifteen dollar (\$15.00) permit fee increase imposed by subdivision (p)(1) shall take effect on July 1, 1997, the public welfare requiring it.

(3) Beginning July 1, 2008, fifteen dollars (\$15.00) of the fee established in subdivision (p)(1) shall be submitted to the sheriff of the county where the applicant resides for the purpose of verifying the truthfulness of the applicant's answers as provided in subdivision (g)(1).

(q)

(1) Prior to the expiration of a permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application with a renewal fee of fifty dollars (\$50.00). The renewal application shall be on a standard form developed by the department of safety and shall require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (c), and shall require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a permit. In the event the permit expires prior to the department's approval or issuance of notice of denial regarding the renewal application, the permit holder shall be entitled to continue to use the expired permit; provided, however, that the permit holder shall also be required to prove by displaying a receipt for the renewal application fee that the renewal application was delivered to the department prior to the expiration date of the permit. The department is authorized to contract with a local government agency for the provision of any service related to the renewal of handgun carry permits, subject to applicable contracting statutes and regulations. An agency contracting with the department is authorized to charge an additional fee of four dollars (\$4.00) for each renewal application, which shall be retained by the agency for administrative costs.

(2)

(A) A person may renew that person's handgun carry permit beginning six (6) months prior to the expiration date on the face of the card, and, if the permit is not expired, the person shall only be required to comply with the renewal provisions of subdivision (q)(1).

(B) Any person who applies for renewal of that person's handgun carry permit after the expiration date on the face of the card shall only be required to comply with the renewal provisions of subdivision (q)(1) unless the permit has been expired for more than eight (8) years.

(C) Any person who applies for renewal of a handgun carry permit when the permit has been expired for more than eight (8) years, shall, for all purposes, be considered a new applicant.

(3) If a person whose handgun carry permit remained valid pursuant to subdivision (n)(2) because the person was in the United States armed forces applies for a renewal of the permit within eight (8) years of the expiration of the sixty (60) day period following discharge, separation, or return to this state on reassignment to a duty station in this state as provided in subdivision (n)(2), the person shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed eight (8) years or more from expiration of the sixty (60) day period following the date of honorable discharge, separation, or return to this state on reassignment to a duty station in this state, the person shall, for all purposes, be considered a new applicant.

(r)

(1) A facially valid handgun permit, firearms permit, weapons permit or license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, this subsection (r) shall not be construed to authorize the holder of any out-of-state permit or license to carry, in this state, any firearm or weapon other than a handgun.

(2) For a person to lawfully carry a handgun in this state based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times the person carries a handgun in this state.

(3)

(A) The commissioner of safety shall enter into written reciprocity agreements with other states that require the execution of the agreements. The commissioner of safety shall prepare and publicly publish a current list of states honoring permits issued by the state of Tennessee and shall make the list available to anyone upon request. The commissioner of safety shall also prepare and publicly publish a current list of states who, after inquiry by the commissioner, refuse to enter into a reciprocity agreement with this state or honor handgun carry permits issued by this state. To the extent that any state may impose conditions in the reciprocity agreements, the commissioner of safety shall publish those conditions as part of the list. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, the conditions shall also become a part of the agreement and apply to the other state's permit holders when they carry a handgun in this state.

(B) If a person with a handgun permit from another state decides to become a resident of Tennessee, the person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(C)

(i) If a person who is a resident of and handgun permit holder in another state is employed in this state on a regular basis and desires to carry a handgun in this state, the person shall have six (6) months from the last day of the sixth month of regular employment in this state to obtain a Tennessee handgun carry permit. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(ii) This subdivision (r)(3)(C) shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state pursuant to this subsection (r).

(III) As used in this subdivision (r)(3)(C), "employed in this state on a regular basis" means a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from employment caused by the employee's use of sick leave, annual leave, administrative leave or compensatory time.

(s)

(1) The department shall make available, on request and payment of a reasonable fee to cover the costs of copying, a statistical report that includes the number of permits issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender and zip code of the applicant or permit holder and the reason for any permit revocation or suspension. The report shall also include the cost of the program, the revenues derived from fees, the number of violations of the handgun carry permit law, and the average time for issuance of a handgun carry permit. By January 1 of each year, a copy of the statistical reports for the preceding calendar year shall be provided to each member of the general assembly.

(2)

(A) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person who has a permit to carry a handgun under this section is arrested and booked for any offense.

(B) The department by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall adopt procedures for state and local law enforcement officials to report the information required by subdivision (s)(2)(A) to the department.

(t) Any law enforcement officer of this state or of any county or municipality may, within the realm of the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer or other individual or individuals. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, to the permit holder, or other individual or individuals; provided, that the permit holder has not violated any provision of this section and provided the permit holder has not committed any other violation that results in the arrest of the permit holder.

(u) Substantial compliance with the requirements of this section shall provide the department and any political subdivision thereof with immunity from civil liability alleging liability for issuance of the permit.

(v) Any permit issued pursuant to this section shall be deemed a "license" within the meaning of title 36, chapter 5, part 7, dealing with the enforcement of child support obligations through license denial and revocation.

(w)

(1) Notwithstanding any other law or rule to the contrary, neither the department nor an instructor or employee of a department approved handgun safety course is authorized to require any applicant for a handgun carry permit to furnish or reveal identifying information concerning any handgun the applicant owns, possesses or uses during the safety course in order to apply for or be issued the permit.

(2) For purposes of subdivision (w)(1), "identifying information concerning any handgun" includes, but is not limited to, the serial number, model number, make of gun or manufacturer, type of gun, such as revolver or semi-automatic, caliber or whether the applicant owns the handgun used for the safety course.

(x)

(1) Any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, who has reached twenty-one (21) years of age, may apply to the department of safety for a lifetime handgun carry permit. If the applicant is not prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316 or § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant. The lifetime handgun carry permit shall entitle the permit holder to carry any handgun or handguns the permit holder legally owns or possesses and shall entitle the permit holder to any privilege granted to handgun carry permit holders. The requirements imposed on handgun carry permit holders by this section shall also apply to lifetime handgun carry permit holders.

(2) The department shall charge an application and processing fee for a lifetime handgun carry permit equal to the application and processing fee charged under subsection (p) plus a lifetime handgun carry permit fee of two hundred dollars (\$200); provided, however, that a permit holder who is applying for the renewal of a handgun carry permit under subsection (q) may instead obtain a lifetime handgun carry permit by submitting to the department a fee of two hundred dollars (\$200). The application process shall otherwise be the same as the application process for a handgun carry permit as set out in this section. Any funds from the fees paid pursuant to this subdivision (x)(2) that are not used for processing applications and issuing permits shall be retained by the department to fund any necessary system modifications required to create a lifetime handgun carry

permit and monitor the eligibility of lifetime handgun carry permit holders as required by subdivision (x)(3).

(3) A lifetime handgun carry permit shall not expire and shall continue to be valid for the life of the permit holder unless the permit holder no longer meets the requirements of this section. A lifetime handgun carry permit shall not be subject to renewal; provided, however, that every five (5) years after issuance of the lifetime handgun carry permit, the department shall conduct a criminal history record check in the same manner as required for handgun carry permit renewals. Upon discovery that a lifetime handgun carry permit holder no longer satisfies the requirements of this section, the department shall suspend or revoke the permit pursuant to § 39-17-1352.

(4)

(A) If the lifetime handgun carry permit holder's permit is suspended or revoked, the permit holder shall deliver, in person or by mail, the permit to the department within thirty (30) days of the suspension or revocation.

(B) If the department does not receive the lifetime handgun carry permit holder's suspended or revoked permit within thirty (30) days of the suspension or revocation, the department shall send notice to the permit holder that:

(i) The permit holder has thirty (30) days from the date of the notice to deliver the permit, in person or by mail, to the department; and

(ii) If the permit holder fails to deliver the suspended or revoked permit to the department within thirty (30) days of the date of the notice, the department will suspend the permit holder's driver license.

(C) If the department does not receive the lifetime handgun carry permit holder's suspended or revoked permit within thirty (30) days of the date of the notice provided by the department, the department shall suspend the permit holder's driver license in the same manner as provided in § 55-50-502.

(5) The total fee required by subdivision (x)(2) shall be waived if the applicant:

(A) Is a former federal, state, or local law enforcement officer, as defined in § 39-11-106;

(B) Served for at least ten (10) years prior to leaving the law enforcement agency and was POST-certified, or had equivalent training, on the date the officer left the law enforcement agency;

(C) Was in good standing at the time of leaving the law enforcement agency, as certified by the chief law enforcement officer or designee of the organization that employed the applicant; and

(D) Is a resident of this state on the date of the application.

(y) An applicant shall not be required to comply with the firing range requirements of this section if the applicant:

(1) Is an active duty service member or honorably discharged or retired veteran of the United States armed forces;

(2) Has a military occupational specialty, special qualification identifier, skill identifier, specialty code, or rating that identifies a service qualification in military police, special operations, or special forces; and

(3) Presents to the department a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214), or other official documentation that provides proof of the service criteria required under this subsection (y).

History

Acts 1996, ch. 905, § 3; 1997, ch. 476, § 1; 2000, ch. 947, § 8C; 2001, ch. 218, § 1; 2002, ch. 601, § 1; 2003, ch. 300, §§ 1, 2; 2003, ch. 349, §§ 1, 2; 2004, ch. 483, §§ 1, 2; 2004, ch. 776, § 1; 2005, ch. 343, § 1; 2005, ch. 423, § 1; 2008, ch. 1174, § 1; 2009, ch. 101, § 1; 2009, ch. 433, § 1; 2009, ch. 578, §§ 10, 11; 2010, ch. 1009, § 4; 2012, ch. 848, §§ 26, 27; 2013, ch. 236, § 35; 2013, ch. 270, § 1; 2014, ch. 866, §§ 1, 2; 2015, ch. 281, §§ 1-3; 2015, ch. 459, § 5; 2016, ch. 736, §§ 1-8; 2016, ch. 875, § 1; 2016, ch. 903, § 1; 2016, ch. 925, § 1; 2016, ch. 1037, § 1; 2017, ch. 159, § 1; 2017, ch. 247, § 1; 2018, ch. 690, § 1; 2018, ch. 865, § 1; 2018, ch. 903, §§ 3, 5; 2019, ch. 109, § 1; 2019, ch. 345, § 54; 2019, ch. 367, § 1; 2019, ch. 396, § 1.

▼ Annotations

Notes

Compiler's Notes.

Acts 2004, ch. 483, § 3 provided that the act shall apply to all handgun carry permits in effect or issued on or after April 8, 2004.

Acts 2010, ch. 1009 was repassed over the governor's veto on June 4, 2010.

Acts 2014, ch. 866, § 3 provided that for the purpose of initiating the process of implementing the staggered handgun permit renewal dates to meet the requirements of (n)(3), this act shall take effect upon becoming a law [May 1, 2014], the public welfare requiring it. For the purpose of implementing the staggered dates in accordance with (n)(3), this act shall take effect thirty (30) days after the date upon which the commissioner of safety provides written notification to the secretary of state and the executive secretary of the Tennessee code commission that the department of safety's "A-list" driver license program is capable of implementing staggered dates in accordance with (n)(3) or on January 1, 2016, whichever is earlier, the public welfare requiring it. The commissioner shall cause such notification to be published on the website of the department contemporaneously with delivery to the secretary of state and executive secretary of the Tennessee code commission. The last sentence of (p) shall take effect January 1, 2016, the public welfare requiring it.

Pursuant to Acts 2014, ch. 866, § 3, the commissioner of safety gave notification on March 18, 2015, that the department of safety's A-list driver license program is capable of implementing staggered dates in accordance with (n)(3); thus, subdivision (n)(3) became effective April 17, 2015.

Acts 2016, ch. 736, § 9 provided that for the purpose of promulgating rules, forms, and procedures and making necessary provisions for the implementation of the act, the act took effect April 7, 2016, the public welfare requiring it. For all other purposes, the act shall take effect thirty (30) days after the date upon which the commissioner of safety provides written notification to the secretary of state and the executive secretary of the Tennessee code commission that the department of safety's "A-list" driver license program is capable of implementing this act or it shall take effect on January 1, 2017, whichever is earlier, the public welfare requiring it. The commissioner shall cause such notification to be published on the web site of the department contemporaneously with delivery to the secretary of state and executive secretary of the Tennessee code commission. This provision became effective January 1, 2017.

Acts 2019, ch. 367, § 2 provided that the act, which amended this section by adding subdivision (o)(2), shall take effect thirty (30) days after the date upon which the commissioner of safety provides written notification to the secretary of state and the executive secretary of the Tennessee code commission that the department of safety's "A-list" driver license program is capable of implementing this act, or it shall take effect on January 1, 2020, whichever is earlier. The commissioner shall cause such notification to be published on the website of the department contemporaneously with delivery to the secretary of state and executive secretary of the Tennessee code commission.

Amendments.

The 2018 amendment by ch. 690 inserted "or designee" in (x)(5)(C); and rewrote (x)(5)(D) which read: "Was a resident of this state on the date of the officer's retirement and is a resident on the date of the application."

The 2018 amendment by ch. 865, effective January 1, 2019, added (e)(5).

The 2018 amendment by ch. 903, added present (b)(2)(B)(i), (b)(2)(B)(ii), and (b)(2)(C)(i); redesignated the existing language in (b)(2)(A) as (b)(2)(A)(i) and (b)(2)(A)(ii); in present (b)(2)(A)(i), deleted "or is a member of the United States armed forces on active duty status" following "forces"; in the present introductory language of (b)(2)(A)(ii), deleted "or" at the end; redesignated former (b)(2)(B)(ii) as (b)(2)(C)(ii); in present (b)(2)(C)(ii), added "or a current member of the national guard or United States military reserve, who has successfully completed a basic training program."; and, at the end of (j)(3), substituted "a felony crime of violence, an attempt to commit a felony crime of violence, a felony drug offense, or a felony offense involving use of a deadly weapon; or" for "burglary, any felony offense involving violence or use of a firearm or any felony drug offense involving a Schedule I, II, III, IV or V controlled substance or a controlled substance analogue. If the applicant has been convicted of a felony drug offense involving a Schedule VI controlled substance, this subdivision (j)(3) shall not apply if the offense occurred within ten (10) years of the date of application or renewal; or".

The 2019 amendment by ch. 109 added the last two sentences in (q)(1).

The 2019 amendment by ch. 345 substituted "judiciary" for "criminal justice" preceding "committee of the house" in the fifth sentence of (p)(1).

The 2019 amendment by ch. 367, added (o)(2).

The 2019 amendment by ch. 396 in (x)(5) substituted "shall be waived" for "shall be one hundred dollars (\$100)", in (x)(5)(A) substituted "former" for "retired" preceding "federal, state, or local law enforcement officer"; in (x)(5)(B) substituted "leaving the law enforcement agency" for "retirement" following "years prior to", substituted "officer left the law enforcement agency" for "retired"; and rewrote (x)(5)(C) which read: "Retired in good standing, as certified by the chief law enforcement officer or designee of the organization from which the applicant; and;".

Effective Dates.

Acts 2018, ch. 690, § 2. April 9, 2018.

Acts 2018, ch. 865, § 2. January 1, 2019.

Acts 2018, ch. 903, § 7. July 1, 2018.

Acts 2019, ch. 109, § 2. July 1, 2019.

Acts 2019, ch. 345, § 148. May 10, 2019.

Acts 2019, ch. 367, § 2. January 1, 2020, see Compiler's Notes.

Acts 2019, ch. 396, § 2. July 1, 2019.

Commentary

Code Commission Notes.

Former subsection (v), concerning handgun carry permit applications filed prior to July 13, 1997, was deleted as obsolete by the code commission in 2006.

Case Notes

1. Application.

2. Rights.

3. Eligibility.

NOTES TO DECISIONS

1. Application.

Where a deputy's seizure of a handgun from an auto was proper under the exigent circumstances of the seizure, the gun became contraband and subject to permanent seizure when the deputy found that the gun was loaded. *United States v. Bishop*, 338 F.3d 623, 2003 FED App. 264P, 2003 U.S. App. LEXIS 15419 (6th Cir. Tenn. 2003), cert. denied, 540 U.S. 1206, 124 S. Ct. 1479, 158 L. Ed. 2d 129, 2004 U.S. LEXIS 1473 (2004).

2. Rights.

Defendant was indicted for a drug felony, but pled guilty to a reduced charge of attempt to commit a felony. There was no proof that defendant pled guilty to any crime other than attempt to possess a Schedule II substance for purposes of resale, and the record contained only speculation that defendant might have, or could have pled to a different offense; thus, defendant was not entitled to have his right to keep and bear arms restored. *State v. Ferguson*, 106 S.W.3d 665, 2003 Tenn. App. LEXIS 6 (Tenn. Ct. App. 2003), review or rehearing denied, — S.W.3d —, 2003 Tenn. LEXIS 443 (Tenn. May 19, 2003).

3. Eligibility.

Circuit court properly declined to restore defendant's right to bear arms because it was an offense for a convicted drug felon to possess a firearm, a convicted drug felon was prohibited from being granted a permit, and defendant's conviction involved the attempted sale of cocaine, a Schedule II controlled substance. *Fisher v. State*, — S.W.3d —, 2017 Tenn. App. LEXIS 449 (Tenn. Ct. App. July 3, 2017), appeal denied, — S.W.3d —, 2017 Tenn. LEXIS 821 (Tenn. Nov. 17, 2017).

Opinion Notes

Attorney General Opinions.

Felons obtaining handgun carry permit after restoration of rights, OAG 97-169 (12/22/97).

Requirements for constables carrying firearms, OAG 99-025 (2/16/99).

Bradley County constable — handgun carry permit; county abolishing position, OAG 99-159 (8/19/99).

Ability of an armed security guard to carry a weapon on breaks and during off-duty hours, OAG 99-189 (9/22/99).

Effect of juvenile delinquency adjudications upon ability to obtain handgun carrying permit, OAG 00-008 (1/18/00).

Actions of court officers, OAG 00-009 (1/19/00).

Requirement of handgun safety class for individuals whose handgun carrying permit has expired, OAG 00-038 (3/7/00).

A bounty hunter cannot carry weapons in Tennessee without a permit from Tennessee or another state, OAG 01-20 (2/7/01).

The department of safety can refuse to issue a permit to carry a concealed handgun to a person who refuses to disclose the person's social security number on the application, but otherwise meets the qualifications set forth in T.C.A. §

39-17-1351, OAG 02-003 (1/2/02).

Federal law prohibits the department of safety from printing a handgun permit holder's social security number on the face of a permit if the person to whom the permit has been issued objects to the disclosure of such information on the face of the permit, OAG 02-003 (1/2/02).

T.C.A. § 39-17-1351(d) does not authorize the off duty carrying of firearms by correctional officers who are vested with limited law enforcement authority under T.C.A. § 4-3-609 or by all officers who are vested in the Tennessee consolidated retirement system; the statute authorizes only correctional officers who have five or more years of service as correctional officers with the department of correction to carry firearms while off duty, OAG 02-035 (3/15/02).

If a felon not sentenced to the penitentiary was convicted on and after July 1, 1986, but before July 1, 1996, he or she must obtain a "certificate of restoration" under T.C.A. § 40-29-105(b)(3); however, the "full restoration of rights" provided for under that section does not restore the right to possess a handgun to persons convicted of a felony involving the use or attempted use of force, violence or a deadly weapon. To the extent that OAG 97-169 could be read to suggest that otherwise eligible penitentiary-sentenced inmates have their full rights of citizenship restored for handgun purposes by issuance of a certificate of restoration, it is hereby withdrawn, OAG 02-119 (10/24/02).

A pre-1998 form titled "Restoration of Voting Rights" is sufficient for issuance of handgun carry permit to non-penitentiary-sentenced felons convicted between 1986 and 1996 if executed by the proper authority at the time it was the officially prescribed form, OAG 02-119 (10/24/02).

An otherwise eligible felon convicted during the 1986-1996 period and sentenced to the penitentiary must obtain restoration of his or her "citizenship rights" by court order according to the procedures outlined in T.C.A. §§ 40-29-101 and 40-29-102 before obtaining a handgun permit, OAG 02-119 (10/24/02).

The term "committed to or hospitalized in a mental institution," as used in subdivision (c)(12) of this section applies only to situations where a person has been admitted to a hospital or other institution after it has been determined that he or she suffers from a mental illness or other defect, OAG 03-118 (9/23/03).

The seven year period in subdivision (c)(12) of this section applies only to those persons who have been diagnosed as suffering from a mental illness or other defects and have been found by a court of competent jurisdiction to pose an immediate threat to themselves or others as a result of such illness, OAG 03-118 (9/23/03).

A handgun carry permit holder may be arrested for carrying a handgun openly if he or she is using the handgun to commit a crime, or is otherwise engaged in criminal activity while carrying the handgun, OAG 05-154 (10/11/05).

A handgun carry permit holder is not required to carry the handgun in a concealed manner, OAG 05-154 (10/11/05).

Discharges under dishonorable conditions for the purpose of denying a handgun carry permit, OAG 06-109 (7/5/06).

Holders of handgun carry permits are prohibited by T.C.A. § 39-17-1306 from carrying their handguns into any room where judicial proceedings are being conducted, OAG 07-148 (10/22/07).

The holders of handgun carry permits are prohibited by T.C.A. § 39-17-1311 from carrying handguns into public parks, playgrounds, civic centers, or other buildings, facilities, areas or other properties, OAG 07-148 (10/22/07).

A property owner has the right to regulate the manner in which the holder of a handgun carry permit may possess or carry his or her handgun on the owner's property, OAG 07-148 (10/22/07).

The holder of a handgun carry permit can be prosecuted for criminal trespass if the owner of property has not posted a sign that satisfies the requirements of T.C.A. § 39-17-1359 but has ordered the permit holder to leave the property because he or she is armed, or for any other lawful reason, OAG 07-148 (10/22/07).

Carrying of firearms into rooms where judicial proceedings are in progress; establishment of security committee for determining security needs of courtrooms; security training of court officers, OAG 12-32, 2012 Tenn. AG LEXIS 32 (3/9/12).

A permit fee that defrays expenses incident to regulating the exercise of a constitutional right does not per se infringe that right. Fines for unlawful weapon possession do not burden the constitutional right to keep and bear arms but instead penalize violations of a legitimate regulatory measure, OAG 12-90, 2012 Tenn. AG LEXIS 97 (9/24/12).

Constables carrying firearms, OAG 13-110, 2013 Tenn. AG LEXIS 115 (12/27/13).

Out-of-state handgun permits held by Tennessee residents, OAG 14-60, 2014 Tenn. AG LEXIS 62 (6/11/14).

Use of alcohol or controlled substances and handgun carry permits, OAG 14-86, 2014 Tenn. AG LEXIS 89 (9/18/14).

Licenses to hunt and possession of firearms and effect of conviction of certain felonies and other offenses, OAG 15-33, 2015 Tenn. AG LEXIS 33 (4/10/15).

Once a person has obtained a complete restoration of firearms and other citizenship rights, that individual may lawfully possess or purchase any firearm that may be lawfully possessed or purchased by any other private citizen. Tennessee law is sufficiently clear to provide convicted felons with fair warning regarding applicable prohibitions on the possession of antique or black powder firearms, OAG 15-75, 2015 Tenn. AG LEXIS 76 (11/9/2015).

The statutory prohibition against carrying a handgun "inside any building in which judicial proceedings are in progress" would not apply during a time when no judicial proceedings are being carried out in the building. Whether it is an offense for a person who has a handgun permit to carry a handgun in a building in which judicial proceedings are in progress depends on the specific facts and circumstances in each case because an offense occurs only if the person carrying a handgun in a building in which judicial proceedings are in progress acts "intentionally, knowingly or recklessly." If a building is a gun-free zone because "judicial proceedings are in progress," employees or government officials who work in or are assigned to the building and who are eligible to carry a handgun may be subject to criminal prosecution if they possess the firearm in the building at the time that judicial proceedings are in progress unless they come squarely within one of the statutory exceptions, OAG 19-07, 2019 Tenn. AG LEXIS 10 (6/18/2019).

The phrase "judicial proceedings are in progress" refers broadly to any court proceeding that is currently underway or being

carried out. Depending on the specific facts and circumstances in any given case, "judicial proceedings" are not limited to formal courtroom proceedings but may include proceedings that are carried out in a judge's chambers or elsewhere in a building, whether in person with litigants or attorneys or by conference call or other electronic means. T.C.A. § 39-17-1306 does not contain a notice-posting requirement to indicate to the public that firearms are or may be prohibited during specific times. OAG 19-07, 2019 Tenn. AG LEXIS 10 (6/18/2019).

Research References & Practice Aids

Cross-References.

Controlled substances, title 39, ch. 17, part 4.

Escape defined, § 39-11-602.

Reporting requirement satisfied by notice to general assembly members of publication of report, § 3-1-114.

Stalking defined, § 39-17-315.

Law Reviews.

Another Can of Crawford Worms: Certificates of Nonexistence of Public Record and the Confrontation Clause (Keith Hollingshead-Cook), 63 Vand. L. Rev. 1793 (2010).

Weapons in the Workplace: The Effect of Tennessee's Concealed Weapons Statute on Employer Liability, 28 U. Mem. L. Rev. 281 (1997).

TENNESSEE CODE ANNOTATED

Copyright © 2020 by The State of Tennessee All rights reserved

Content Type: Statutes and Legislation

Terms: 39-17-1351

Narrow By: Jurisdiction: Tennessee

Date and Time: Jan 09, 2020 03:14:21 p.m. EST



About
LexisNexis®

Privacy
Policy

Cookie
Policy

Terms &
Conditions

Sign
Out

Copyright
© 2020
LexisNexis.
All rights
reserved.

RELX Group™



2020

Tenn. Code Ann. § 39-17-1306

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1306. Carrying weapons during judicial proceedings.

(a) No person shall intentionally, knowingly, or recklessly carry on or about the person while inside any building in which judicial proceedings are in progress any weapon prohibited by § 39-17-1302(a), for the purpose of going armed; provided, that if the weapon carried is a firearm, the person is in violation of this section regardless of whether the weapon is carried for the purpose of going armed.

(b) Any person violating subsection (a) commits a Class E felony.

(c) Subsection (a) shall not apply to any person who:

(1) Is in the actual discharge of official duties as a law enforcement officer, or is employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard in the line of duty and pursuant to military regulations, or is in the actual discharge of official duties as a guard employed by a penal institution, or as a bailiff, marshal or other court officer who has responsibility for protecting persons or property or providing security;

(2) Has been directed by a court to bring the firearm for purposes of providing evidence;

(3) Is in the actual discharge of official duties as a judge, and:

(A) Is authorized to carry a handgun pursuant to § 39-17-1351;

(B) Keeps the handgun concealed at all times when in the discharge of such duties; and

(C) Is vested with judicial powers under § 16-1-101; or

(4)

(A) Is in the actual discharge of official duties as a county commissioner and:

(I) Is authorized to carry a handgun pursuant to § 39-17-1351; and

(II) Is in a building in which county commission meetings are held, but is not in the room in which judicial proceedings are in progress.

(B) As used in this subdivision (c)(4), "county commissioner" means a member of a local legislative body known as a board of county commissioners and does not include a member of the legislative body of a metropolitan government.

History

Acts 1989, ch. 591, § 1; 1990, ch. 1029, § 5; 2000, ch. 988, § 2; 2011, ch. 469, § 1; 2014, ch. 663, § 1; 2017, ch. 467, § 5; 2018, ch. 880, § 1.

Annotations

Notes

Amendments.

The 2018 amendment added (c)(4).

Effective Dates.

Acts 2018, ch. 880, § 2, July 1, 2018.

Case Notes

§ 1. Firearm.

§ 2. Instructions.

§ 3. Sufficient Evidence.

NOTES TO DECISIONS

§ 1. Firearm.

The reference to "firearm" in the second portion of T.C.A. § 39-17-1306(a) refers to all firearms, and not only to those firearms specifically enumerated in T.C.A. § 39-17-1302(a). State v. Williams, 854 S.W.2d 904, 1993 Tenn. Crim. App. LEXIS 107 (Tenn. Crim. App. 1993).

§ 2. Instructions.

The trial court did not err in not instructing the jury to consider the lesser included offense of carrying arms with the intent to go armed, a misdemeanor under T.C.A. § 39-17-1307, where defendant was charged with carrying a weapon during a judicial proceeding under T.C.A. § 39-17-1306. State v. Williams, 854 S.W.2d 904, 1993 Tenn. Crim. App. LEXIS 107 (Tenn. Crim. App. 1993).

§ 3. Sufficient Evidence.

Williams was sufficient to sustain defendant's conviction for carrying weapons during a judicial proceeding. State v. Williams, 854 S.W.2d 904, 1993 Tenn. Crim. App. LEXIS 107 (Tenn. Crim. App. 1993).

Opinion Notes

Attorney General Opinions.

Authority of off duty officer to carry weapon on specific sites, OAG 99-024 (2/16/99).

There is no requirement for posting notices that carrying handguns onto premises where judicial proceedings are being conducted is prohibited, OAG 07-148 (10/22/07).

Appointment of court officer authorized to carry weapon in courtrooms; required training, qualifications, etc. OAG 10-77, 2010 Tenn. AG LEXIS 83 (6/1/10).

The statutory prohibition against carrying a handgun "inside any building in which judicial proceedings are in progress" would not apply during a time when no judicial proceedings are being carried out in the building. Whether it is an offense for a person who has a handgun permit to carry a handgun in a building in which judicial proceedings are in progress if that person has no notice that judicial proceedings are taking place in the building depends on the specific facts and circumstances in each case because an offense occurs only if the person carrying a handgun in a gun-free zone because "judicial proceedings are in progress," intentionally, knowingly or recklessly. "If a building is a gun-free zone because and who are eligible to carry a handgun may be subject to criminal prosecution if they possess the firearm in the building at the time that judicial proceedings are in progress unless they come squarely within one of the statutory exceptions. OAG 19-07, 2019 Tenn. AG LEXIS 10 (6/18/2019).

The phrase "judicial proceedings are in progress" refers broadly to any court proceeding that is currently underway or being carried out. Depending on the specific facts and circumstances in any given case, "judicial proceedings" are not limited to formal courtroom proceedings but may include proceedings that are carried out in a judge's chambers or

elsewhere in a building, whether in person with litigants or attorneys or by conference call or other electronic means. T.C.A. § 39-17-1306 does not contain a notice-posting requirement to indicate to the public that firearms are or may be prohibited during specific times. OAG 19-07, 2019 Tenn. AG LEXIS 10 (6/18/2019).

Research References & Practice Aids

Cross-References.

Penalty for Class E felony, § 40-35-111.

TENNESSEE CODE ANNOTATED

Copyright © 2020 by The State of Tennessee All rights reserved

Content Type: Statutes and Legislation

Terms: guns judicial proceedings

Narrow By: Jurisdiction: Tennessee

Date and Time: Jan 09, 2020 03:15:25 p.m. EST



About
LexisNexis®

Privacy
Policy

Cookie
Policy

Terms &
Conditions

Sign
Out

Copyright
© 2020
LexisNexis.
All rights
reserved.

RELX Group™



Tenn. Code Ann. § 39-17-1359

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1359. Prohibition at certain meetings — Posted notice — Handgun carry permit holder.
[Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a)

(1) Except as provided in § 39-17-1313, an individual, corporation, business entity, or local, state, or federal government entity or agent thereof is authorized to:

(A) Prohibit the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the individual, corporation, business entity, or government entity; or

(B) Restrict the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the individual, corporation, business entity, or government entity by allowing a handgun to be carried in a concealed manner only by persons authorized to carry a handgun pursuant to § 39-17-1351.

(2) The prohibition in subdivision (a)(1) shall apply to any person who is authorized to carry a firearm by authority of § 39-17-1351.

(b)

(1) Notice of the prohibition or restriction permitted by subsection (a) shall be accomplished by displaying the notice described in subdivision (b)(3) in prominent locations, including all entrances primarily used by persons entering the property, building, or portion of the property or building where weapon possession is prohibited or restricted. The notice shall be plainly visible to the average person entering the building, property, or portion of the building or property, posted.

(2) The notice required by this section shall be in English, but a duplicate notice may also be posted in any language used by patrons, customers, or persons who frequent the place where weapon possession is prohibited or restricted.

(3)

(A) A sign shall be used as the method of posting.

(B)

(I) A sign prohibiting possession in accordance with subdivision (a)(1)(A) shall include the phrase "NO FIREARMS ALLOWED", and the phrase shall measure at least one inch (1") high and eight inches (8") wide. The sign shall also include the phrase "As authorized by T.C.A. § 39-17-1359".

(II) The sign shall include a pictorial representation of the phrase "NO FIREARMS ALLOWED" that shall include a circle with a diagonal line through the circle and an image of a firearm inside the circle under the diagonal line. The entire pictorial representation shall be at least four inches (4") high and four inches (4") wide. The diagonal line shall be at a forty-five degree (45°) angle from the upper left to the lower right side of the circle.

(C)

(I) A sign restricting possession in accordance with subdivision (a)(1)(B) shall include the phrase "CONCEALED FIREARMS BY

PERMIT ONLY", and the phrase shall measure at least one inch (1") high and eight inches (8") wide. The sign shall also include the phrase "As authorized by T.C.A. §§ 39-17-1351 and 39-17-1359".

(II) The sign shall include a pictorial representation of the phrase "CONCEALED FIREARMS BY PERMIT ONLY" that shall include a circle with a diagonal line through the circle and an image of a firearm inside the circle. The entire pictorial representation shall be at least four inches (4") high and four inches (4") wide. The diagonal line shall be at a forty five degree (45°) angle from the upper left to the lower right side of the circle.

(4) An individual, corporation, business entity, or government entity that, as of January 1, 2018, used signs to provide notice of the prohibition permitted by subsection (a) shall have until January 1, 2019, to replace existing signs with signs that meet the requirements of subdivision (b)(3).

(c)

(1) It is an offense to possess a weapon in a building or on property that is properly posted in accordance with this section.

(2) Possession of a weapon on posted property in violation of this section is a Class B misdemeanor punishable by fine only of five hundred dollars (\$500).

(d) Nothing in this section shall be construed to alter, reduce or eliminate any civil or criminal liability that a property owner or manager may have for injuries arising on their property.

(e) This section shall not apply to title 70 regarding wildlife laws, rules and regulations.

(f) Except as provided in subsection (g), this section shall not apply to the grounds of any public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof. The carrying of firearms in those areas shall be governed by § 39-17-1311.

(g)

(1) Except as provided in subdivision (g)(2), nothing in this section shall authorize an entity of local government or a permittee thereof to enact or enforce a prohibition or restriction on the possession of a handgun by a handgun carry permit holder on property owned or administered by the entity unless the following are provided at each public entrance to the property:

(A) Metal detection devices;

(B) At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and

(C) That each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law enforcement or private security officer described in subdivision (g)(1)(B) or an authorized representative with the authority to deny entry to the property.

(2) Subdivision (g)(1) does not apply to:

(A) Facilities that are licensed under title 33, 37, or 68;

(B) Property on which firearms are prohibited by § 39-17-1309 or § 39-17-1311(b)(1)(H)(ii);

(C) Property on which firearms are prohibited by § 39-17-1306 at all times regardless of whether judicial proceedings are in progress;

(D) Buildings that contain a law enforcement agency, as defined in § 39-13-519;

(E) Libraries; or

(F) Facilities that are licensed by the department of human services, under title 71, chapter 3, part 5, and administer a Head Start program.

History

Acts 1996, ch. 905, § 11; 2000, ch. 929, § 1; 2009, ch. 428, § 4; 2010, ch. 1009, § 3; 2013, ch. 16, § 2; 2016, ch. 638, § 1; 2017, ch. 467, §§ 3, 4; 2018, ch. 823, §§ 1-4.

▼ Annotations

Notes

Compiler's Notes.

Acts 2010, ch. 1009 was repassed over the governor's veto on June 4, 2010.

For the Preamble to the act concerning handgun carry permits, please refer to Acts 2013, ch. 16.

Amendments.

The 2018 amendment redesignated former (a)(1) as the present introductory language of (a)(1) and (a)(1)(A); added "or" at the end of present (a)(1)(A); added (a)(1)(B); inserted "or restriction" and "or restricted" in (b)(1); added "or restricted" at the end of (b)(2); redesignated the former second sentence in (b)(3)(A) as present (b)(3)(A)(i) and substituted "A sign prohibiting possession in accordance with subdivision (a)(1)(A)" for "The sign"; redesignated former (b)(3)(B) as present (b)(3)(B)(ii); added (b)(3)(C); and, in (b)(4), substituted "January 1, 2018" for "January 1, 2015" and "January 1, 2019" for "January 1, 2018".

Effective Dates.

Acts 2018, ch. 823, § 5. April 24, 2018.

Opinion Notes

Attorney General Opinions.

T.C.A. § 39-17-1359 allows local, state, federal, or private entities to limit the ability of persons other than law enforcement personnel, including those who have a permit to carry a handgun, to carry weapons on certain property, if the appropriate notices are provided, OAG 00-161 (10/17/00).

Posting notices that handguns are not permitted in private buildings, OAG 07-043 (4/9/07).

Carrying of firearms into rooms where judicial proceedings are in progress; establishment of security committee for determining security needs of courtrooms; security training of court officers, OAG 12-32, 2012 Tenn. AG LEXIS 32 (3/9/12).

To the extent T.C.A. §§ 39-17-1309 and 39-17-1313 (2013) are in conflict, the provisions of 39-17-1313 (2013) take precedence over the conflicting provisions of § 39-17-1309. After the 2014 amendments to T.C.A. § 39-17-1313, T.C.A. § 39-17-1313 still takes priority over prohibitions on gun storage in T.C.A. §§ 39-17-1309, 39-17-1311, and 39-17-1359. The phrase "or while in use by," in the context of T.C.A. § 39-17-1309 as a whole, applies even when students or school personnel are not present on the property. Thus, gun possession would be prohibited on property used to store equipment or supplies by an educational institution specified in the statute. OAG 16-29, 2016 Tenn. AG LEXIS 29 (7/27/2016).

Pursuant to T.C.A. § 39-17-1350 "any law enforcement officer may carry firearms at all times and in all places within Tennessee, on-duty or off-duty. . . ." A full-time police officer who has been certified by the police officer standards and training commission and a commissioned reserve deputy sheriff who has received written authorization from the sheriff are among those defined as "law enforcement officers" under the statute. Their authority to carry a firearm on public or private property within Tennessee is limited only by the enumerated exceptions in the statute itself. A posting prohibiting firearms on the property is not one of those exceptions. Unless one of the exceptions in the statute applies, law enforcement officers may carry firearms onto public or private property in Tennessee, even if there is a posted prohibition. T.C.A. § 39-17-1359 describes the circumstances and manner in which one who owns, operates, manages, or controls property may prohibit weapons on the property. That statute does not apply to law enforcement officers carrying firearms and may not be used to prohibit them from carrying firearms onto public or private property in Tennessee. In addition, T.C.A. § 39-17-1359 describes the precise manner in which prohibitions against weapons must be posted. Even if the statute did apply to law enforcement officers, verbal notice that firearms are prohibited on the property would not satisfy the statutory posting requirements. OAG 18-22, 2018 Tenn. AG LEXIS 21 (5/24/2018).

Research References & Practice Aids

Cross-References.

Penalty for Class B misdemeanor, § 40-35-111.

Law Reviews.

Guns In Trunks: An Erosion of Tennessee's Employment-At-Will Rule?, 49 Tenn. B.J. 17 (2013).

Lexis Advance®
Research

Document: Tenn. Code Ann. § 39-17-1309

Tenn. Code Ann. § 39-17-1309

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1309. Carrying weapons on school property. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) As used in this section, "weapon of like kind" includes razors and razor blades, except those used solely for personal shaving, and any sharp pointed or edged instrument, except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance.

(b)

(1) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any firearm, explosive, explosive weapon, bowie knife, hawk bill knife, ice pick, dagger, slingshot, leaded cane, switchblade knife, blackjack, knuckles or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.

(2) A violation of this subsection (b) is a Class E felony.

(c)

(1)

(A) It is an offense for any person to possess or carry, whether openly or concealed, any firearm, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.

(B) It is not an offense under this subsection (c) for a nonstudent adult to possess a firearm, if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person acting with the expressed or implied consent of the adult, while the vehicle is on school property.

(2) A violation of this subsection (c) is a Class B misdemeanor.

(d)

(1) Each chief administrator of a public or private school shall display in prominent locations about the school a sign, at least six inches (6") high and fourteen inches (14") wide, stating:

FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF SIX (6) YEARS IMPRISONMENT AND A FINE NOT TO EXCEED THREE THOUSAND DOLLARS (\$3,000) FOR CARRYING WEAPONS ON SCHOOL PROPERTY.

(2) As used in this subsection (d), "prominent locations about a school" includes, but is not limited to, sports arenas, gymnasiums, stadiums and cafeterias.

(e) Subsections (b) and (c) do not apply to the following persons:

(1) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(2) Civil officers of the United States in the discharge of their official duties;

(3) Officers and soldiers of the militia and the national guard when called into actual service;

(4) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, when in the discharge of their official duties;

(5) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(6) Any private police employed by the administration or board of trustees of any public or private institution of higher education in the discharge of their duties;

(7) Any registered security guard/officer who meets the requirements of title 62, chapter 35, and who is discharging the officer's official duties;

(8)

(A) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway, or other similar public place;

(B) Subdivision (e)(8)(A) shall not apply if the enhanced handgun carry permit holder:

(I) Possessed a handgun on property described in subdivision (e)(8)(A) that is owned or operated by a board of education, school, college, or university board of trustees, regents, or directors unless the permit holder's possession is otherwise excepted by this subsection (e); or

(II) Possessed a handgun in the immediate vicinity of property that was, at the time of possession, in use by any board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or any similar multi-use field; and

(III) Knew or should have known that:

(a) An athletic event or school-related activity described in subdivision (e)(8)(B)(II) was taking place on the property at the time of the possession; or

(b) The property on which the possession occurred was owned or operated by a school entity described in subdivision (e)(8)(B)(II); or

(iv) Failed to take reasonable steps to leave the area of the athletic field or school-related activity or the property after being informed or becoming aware of:

(a) Its use for athletic or school-related purposes; or

(b) That it was, at the time of the possession, owned or operated by a school entity described in (e)(8)(B)(II);

(9) Persons permitted to carry a handgun on the property of private K-12 schools by § 49-50-803, and persons permitted to carry a handgun on the property of private for-profit or nonprofit institutions of higher education pursuant to § 49-7-161; provided, that this subdivision (e)(9) shall apply only:

(A) To the school or institution where the person is located, when that school or institution has adopted a handgun carry policy pursuant to § 49-50-803 or § 49-7-161;

(B) While the person is on the property or grounds covered by the private school or institution's policy; and

(C) When the person is otherwise in compliance with the policy adopted by the private school or institution;

(10) Persons carrying a handgun pursuant to § 49-6-809, § 49-6-815, or § 49-6-816; provided, that this subdivision (e)(10) shall apply only within and on the grounds of the school for which the person is authorized;

(11)

(A) Employees authorized to carry a handgun pursuant to § 39-17-1351 on property owned, operated, or controlled by the public institution of higher education at which the employee is employed;

(B)

(I) Any authorized employee who elects to carry a handgun pursuant to this subdivision (e)(11) shall provide written notification to the law enforcement agency or agencies with jurisdiction over the property owned, operated, or controlled by the public Institution of higher education that employs the employee;

(II) The employee's name and any other information that might identify the employee as a person who has elected to carry a handgun pursuant to this subdivision (e)(11) shall be confidential, not open for public inspection, and shall not be disclosed by any law enforcement agency with which an employee registers; except that the employee's name and other information may be disclosed to an administrative officer of the institution who is responsible for school facility security; provided, however, that the administrative officer is not the employee's immediate supervisor or a supervisor responsible for evaluation of the employee. An administrative officer to whom such information is disclosed shall not disclose the information to another person. Identifying information about the employee collected pursuant to this subdivision (e)(11) shall not be disclosed to any person or entity other than another law enforcement agency and only for law enforcement purposes; and

(III) Law enforcement agencies are authorized to develop and implement:

(a) Policies and procedures designed to implement the notification and confidentiality requirements of this subdivision (e)(11)(B); and

(b) A voluntary course or courses of special or supplemental firearm training to be offered to the employees electing to carry a handgun pursuant to this subdivision (e)(11). Firearm safety shall be a component of any firearm course;

(C) Unless carrying a handgun is a requirement of the employee's job description, the carrying of a handgun pursuant to this subdivision (e)(11) is a personal choice of the employee and not a requirement of the employer. Consequently, an employee who carries a handgun on property owned, operated, or controlled by the public institution of higher education at which the employee is employed is not:

(i) Acting in the course of or scope of their employment when carrying or using the handgun;

(ii) Entitled to workers' compensation benefits under § 9-8-307(a)(1)(K) for injuries arising from the carrying or use of a handgun;

(iii) Immune from personal liability with respect to use or carrying of a handgun under § 9-8-307(h);

(iv) Permitted to carry a handgun openly, or in any other manner in which the handgun is visible to ordinary observation; or

(v) Permitted to carry a handgun at the following times and at the following locations:

(a) Stadiums, gymnasiums, and auditoriums when school-sponsored events are in progress;

(b) In meetings regarding disciplinary matters;

(c) In meetings regarding tenure issues;

(d) A hospital, or an office where medical or mental health services are the primary services provided; and

(e) Any location where a provision of state or federal law, except the posting provisions of § 39-17-1359, prohibits the carrying of a handgun on that property;

(D) Notwithstanding any other law to the contrary, a public institution of higher education shall be absolutely immune from claims for monetary damages arising solely from or related to an employee's use of, or failure to use, a handgun; provided the employee is employed by the institution against whom the claim is filed and the employee elects to carry the handgun pursuant to this subdivision (e)(11). Nothing in this section shall expand the existing conditions under which sovereign immunity is waived pursuant to § 9-8-307; and

(E) As used in subdivisions (e)(11)-(13):

(I) "Employee" includes all faculty, staff, and other persons who are employed on a full-time basis by a public institution of higher education; and

(II) "Employee" does not include a person who is enrolled as a student at a public institution of higher education, regardless of whether the person is also an employee;

(12)

(A) Any employee of the University of Tennessee Institute of agriculture or a college or department of agriculture at a campus in the University of Tennessee system when in the discharge of the employee's official duties and with prior authorization from the chancellor of the University of Tennessee Institute of agriculture; or

(B) Any employee of the University of Tennessee Institute of agriculture or a college or department of agriculture at a campus in the University of Tennessee system, and any member of the employee's household, living in a residence owned, used, or

operated by the University of Tennessee, if the employee has prior authorization from the chancellor of the University of Tennessee Institute of Agriculture and the employee and household members are permitted to possess firearms in their residence under Tennessee and federal law; and

(13)

(A) Any employee of the university's college or department of agriculture when in the discharge of the employee's official duties and with prior authorization from the president of a university in the board of regents system;

(B) Any employee of the university's college or department of agriculture, and any member of the employee's household, living in a residence owned, used, or operated by the university, if the employee has prior authorization from the president of a university in the board of regents system and the employee and household members are permitted to possess firearms in their residence under Tennessee and federal law; or

(C) Any employee, with prior authorization of the president of a university in the board of regents system, who is engaged in wildlife biology or ecology research and education for the purpose of capture or collection of specimens.

History

Acts 1989, ch. 591, § 1; 1990, ch. 1029, § 8; 1991, ch. 510, §§ 1-3; 1996, ch. 1009, § 24; 2015, ch. 250, §§ 3, 4; 2016, ch. 698, § 3; 2016, ch. 1049, § 2; 2016, ch. 1061, § 1; 2018, ch. 1008, § 2; 2019, ch. 479, § 6.

Annotations

Notes

Compiler's Notes.

Acts 2015, ch. 250, § 6 provided that any department of state government may, but is not required to, change, remove, or replace signs as a result of Sections 1 (which amended § 39-17-1311) or 4 of the act [which added (e)(8) to this section] prior to the time the signs are regularly scheduled to be changed, replaced, or removed or are required to be changed, replaced, or removed by any other law or due to destruction or theft; provided, that the general assembly may specifically provide funds for the purpose of removing or replacing signs in a general appropriations act.

For Preamble to act concerning armed officers on school premises, please refer to Acts 2018, ch. 1008.

Acts 2018, ch. 1008, § 1 provided that the act shall be known and may be cited as the "School Safety Act of 2018."

Acts 2018, ch. 1008, § 4 provided that the state board of education is authorized to promulgate rules to effectuate the purposes of this act. All rules must be promulgated in accordance with title 4, chapter 5.

Amendments.

The 2018 amendment substituted "§ 49-6-809, § 49-6-815, or § 49-6-816" for "§ 49-6-815 or § 49-6-816" in (e)(10).

The 2019 amendment, effective January 1, 2020, inserted "enhanced handgun carry" preceding "permit holder" in (e)(8)(B).

Effective Dates.

Acts 2018, ch. 1008, § 5. May 21, 2018.

Acts 2019, ch. 479, § 22. January 1, 2020.

Case Notes

NOTES TO DECISIONS

1. Evidence sufficient.

Evidence defendant conspired with another to rob the victim, acted with the intent to rob the victim through the use of a deadly weapon, and was in possession of a firearm with the intent to go armed on a college campus supported his convictions for aggravated robbery, conspiracy to commit aggravated robbery, and unlawful possession of a firearm on a college campus. *State v. Spicer*, — S.W.3d —, 2016 Tenn. Crim. App. LEXIS 814 (Tenn. Crim. App. Nov. 1, 2016).

Opinion Notes

Attorney General Opinions.

Constitutionality § 26, OAG 96-080 (4/25/96).

Authority of off duty officer to carry weapon on specific sites, OAG 99-024 (2/16/99).

Off-Duty law enforcement officer carrying weapon to county school board meeting. OAG 10-111, 2010 Tenn. AG LEXIS 117 (11/3/10).

Possession of firearms and firearm ammunition on school property; construction of T.C.A. §§ 39-17-1313 and 39-17-1309. OAG 13-15, 2013 Tenn. AG LEXIS 14 (2/22/13).

Searches and arrests on school property. OAG 14-21, 2014 Tenn. AG LEXIS 22 (2/24/14).

Possession of firearms on athletic fields used by schools. OAG 14-88, 2014 Tenn. AG LEXIS 88 (9/18/14).

Applicability of T.C.A. § 39-17-1309 to Religious Institutions and Home Schooling. OAG 15-67, 2015 Tenn. AG LEXIS 68 (9/18/15).

To the extent T.C.A. §§ 39-17-1309 and 39-17-1313 (2013) are in conflict, the provisions of 39-17-1313 (2013) take precedence over the conflicting provisions of § 39-17-1309. After the 2014 amendments to T.C.A. § 39-17-1313, T.C.A. § 39-17-1313 still takes priority over prohibitions on gun storage in T.C.A. §§ 39-17-1309, 39-17-1311, and 39-17-1359. The phrase "or while in use by," in the context of T.C.A. § 39-17-1309 as a whole, applies even when students or school personnel are not present on the property. Thus, gun possession would be prohibited on property used to store equipment or supplies by an educational institution specified in the statute. OAG 16-29, 2016 Tenn. AG LEXIS 29 (7/27/2016).

The practice of dentistry is a "medical service" within the meaning of T.C.A. § 39-17-1309(e)(1)(C)(v)(d). OAG 17-02, 2017 Tenn. AG LEXIS 2 (1/9/2017).

Research References & Practice Aids

Cross-References.

Penalty for Class B misdemeanor, § 40-35-111.

Penalty for Class E felony, § 40-35-111.

School Security Act, title 49, ch. 6, part 42.

Law Reviews.

Weapons in the Workplace: The Effect of Tennessee's Concealed Weapons Statute on Employer Liability, 28 U. Mem. L. Rev. 281 (1997).

TENNESSEE CODE ANNOTATED

Copyright © 2020 by The State of Tennessee All rights reserved

Content Type: Statutes and Legislation

Terms: 39-17-1309

Narrow By: Jurisdiction: Tennessee

Date and Time: Jan 09, 2020 03:29:07 p.m. EST

Lexis Advance®
Research

Document: Tenn. Code Ann. § 39-17-1311

Tenn. Code Ann. § 39-17-1311

Copy Citation

Current through the 2019 Regular Session

TN - Tennessee Code Annotated Title 39 Criminal Offenses Chapter 17 Offenses Against Public Health, Safety and Welfare Part 13 Weapons

39-17-1311. Carrying weapons on public parks, playgrounds, civic centers and other public recreational buildings and grounds. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any weapon prohibited by § 39-17-1302(a), not used solely for instructional, display or sanctioned ceremonial purposes, in or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes.

(b)

(1) Subsection (a) shall not apply to the following persons:

(A) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(B) Civil officers of the United States in the discharge of their official duties;

(C) Officers and soldiers of the militia and the national guard when called into actual service;

(D) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, in the discharge of their official duties;

(E) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(F) Any private police employed by the municipality, county, state or instrumentality thereof in the discharge of their duties;

(G) A registered security guard/officer, who meets the requirements of title 62, chapter 35, while in the performance of the officer's duties;

(H)

(I) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway, or other similar public place that is owned or operated by the state, a county, a municipality, or instrumentality of the state, a county, or municipality;

(II) Subdivision (b)(1)(H)(I) shall not apply if the permit holder:

(a) Possessed a handgun in the immediate vicinity of property that was, at the time of possession, in use by any board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or similar multi-use field; and

(b) Knew or should have known the athletic activity or school-related activity described in subdivision (b)(1)(H)(ii)(a) was taking place on the property; or

(c) Failed to take reasonable steps to leave the area of the athletic event or school-related activity after being informed of or becoming aware of its use;

(iii) For purposes of subdivision (b)(1)(H)(ii)(a) and (c), property described in subdivision (b)(1)(H)(i) is "in use" only when one (1) or more students are physically present on the property for an activity a reasonable person knows or should know is an athletic event, or other school event or school-related activity. Property listed in subdivision (b)(1)(H)(i) is not in use solely because equipment, materials, supplies, or other property owned or used by a school is stored, maintained, or permitted to remain on the property;

(I) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351, while within or on property designated by the federal government as a national park, forest, preserve, historic park, military park, trail or recreation area, to the extent permitted by federal law; and

(J) Also, only to the extent a person strictly conforms the person's behavior to the requirements of one (1) of the following classifications:

(i) A person hunting during the lawful hunting season on lands owned by any municipality, county, state or instrumentality thereof and designated as open to hunting by law or by the appropriate official;

(ii) A person possessing unloaded hunting weapons while traversing the grounds of any public recreational building or property for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands unless the public recreational building or property is posted prohibiting entry;

(iii) A person possessing guns or knives when conducting or attending "gun and knife shows" when the program has been approved by the administrator of the recreational building or property;

(iv) A person entering the property for the sole purpose of delivering or picking up passengers and who does not remove any weapon from the vehicle or utilize it in any manner; or

(v) A person who possesses or carries a firearm for the purpose of sport or target shooting and sport or target shooting is permitted in the park or recreational area.

(2) At any time the person's behavior no longer strictly conforms to one (1) of the classifications in subdivision (b)(1), the person shall be subject to subsection (a).

(c) A violation of subsection (a) is a Class A misdemeanor.

(d) For the purposes of this section, a "greenway" means an open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, conservation, and to link services and facilities. A greenway is a paved, gravel-covered, woodchip covered, or wood-covered path that connects one greenway entrance with another greenway entrance. In the event a greenway traverses a park that is owned or operated by a county, municipality or instrumentality thereof, the greenway shall be considered a portion of that park unless designated otherwise by the local legislative body. Except as provided in this part, the definition of a greenway in this section shall not be applicable to any other provision of law.

History

Acts 1989, ch. 591, § 1; 1990, ch. 1029, § 9; 1993, ch. 480, §§ 1-3; 1996, ch. 1009, § 23; 2009, ch. 428, §§ 1, 2; 2010, ch. 1006, § 1; 2015, ch. 250, §§ 1, 2, 5; 2017, ch. 341, § 1.

▼ Annotations

Notes

Compiler's Notes.

Acts 2015, ch. 250, § 6 provided that any department of state government may, but is not required to, change, remove, or replace signs as a result of Sections 1 [which amended (b)(1)(H) of this section] or 4 of the act [which amended § 39-17-1309] prior to the time the signs are regularly scheduled to be changed, replaced, or removed or are required to be changed, replaced, or removed by any other law or due to destruction or theft; provided, that the general assembly may specifically provide funds for the purpose of removing or replacing signs in a general appropriations act.

Case Notes

1. Right to Bear Arms.

2. Search and Seizure.

NOTES TO DECISIONS

1. Right to Bear Arms.

Where a detainee openly carried a Draco AK-47 pistol at a state park and was detained and disarmed, a park ranger was entitled to qualified immunity as to the detainee's Second Amendment claim because no court had held that the Second Amendment encompassed a right to bear arms within state parks. *Embodry v. Ward*, 695 F.3d 577, 2012 FED App. 293P, 2012 U.S. App. LEXIS 18399 (6th Cir. Aug. 30, 2012).

2. Search and Seizure.

Where a detainee openly carried a Draco AK-47 pistol at a state park and was detained and disarmed, the detainee's Fourth Amendment claim failed because: (1) The AK-47, carried openly and fully loaded through a state park, gave the park ranger ample reason for suspicion that the detainee possessed an illegal firearm since the barrel was a half-inch shy of the legal limit, and, when coupled with a thirty-round ammunition clip, it reasonably could look more like a rifle than a handgun; and (2) The officers stopped the detainee only as long as it took to investigate the legitimacy of the weapon and bring a supervisor to the park. *Embodry v. Ward*, 695 F.3d 577, 2012 FED App. 293P, 2012 U.S. App. LEXIS 18399 (6th Cir. Aug. 30, 2012).

Opinion Notes

Attorney General Opinions.

Constitutionality § 26, OAG 96-080 (4/25/96).

Authority of off duty officer to carry weapon on specific sites, OAG 99-024 (2/16/99).

Possession of firearms on athletic fields used by schools. OAG 14-88, 2014 Tenn. AG LEXIS 88 (9/18/14).

Possession of Firearms in Public Parks Owned by Counties and Municipalities. OAG 15-63, 2015 Tenn. AG LEXIS 63 (7/29/15).

To the extent T.C.A. §§ 39-17-1309 and 39-17-1313 (2013) are in conflict, the provisions of 39-17-1313 (2013) take precedence over the conflicting provisions of § 39-17-1309. After the 2014 amendments to T.C.A. § 39-17-1313, T.C.A. § 39-17-1313 still takes priority over prohibitions on gun storage in T.C.A. §§ 39-17-1309, 39-17-1311, and 39-17-1359. The phrase "or while in use by," in the context of T.C.A. § 39-17-1309 as a whole, applies even when students or school personnel are not present on the property. Thus, gun possession would be prohibited on property used to store equipment or supplies by an educational institution specified in the statute. OAG 16-29, 2016 Tenn. AG LEXIS 29 (7/27/2016).

T.C.A. § 39-17-1311(a) prohibits possession of those weapons listed in T.C.A. § 39-17-1302(a) and prohibits possession of other types of weapons on recreational property owned or operated by state, county, or municipal governments at any time the person's conduct does not strictly conform to the requirements of T.C.A. § 39-17-1311(b)(1). T.C.A. § 39-17-1311(b)(1)(H) authorizes holders of valid handgun carry permits to possess a handgun in the places specifically identified in the subsection. The statute is silent regarding the possession of rifles or shotguns in those places. Thus, T.C.A. § 39-17-1311(b)(1)(H) permits the holder of a valid handgun carry permit to possess only handguns in the areas, places, and facilities that are specifically described therein. Under T.C.A. § 39-17-1311(b)(1)(J), civilians with or without a valid handgun carry permit may possess handguns, rifles, and shotguns on the grounds of a public park, playground, civic center, or other building facility, area or property owned, used, or operated by any state, county, or municipal government for recreational purposes, but only while the civilian is engaged in one of the specific activities set forth in that subsection and only as long as the civilian's conduct strictly conforms to the statutorily circumscribed activity. In enacting T.C.A. §§ 39-17-1311 and 39-17-1314, the legislature has preempted the entire field of regulation of the possession and use of firearms, including the possession and use of firearms in public parks, playgrounds, civic centers, buildings, facilities, areas, and other facilities and property owned by any state, county, or municipal government, or instrumentality thereof for recreational purposes. Thus, counties and municipalities may not prohibit or otherwise regulate possession or use of firearms in or on those properties in any manner that conflicts with state law. OAG 18-04, 2018 Tenn. AG LEXIS 4 (1/31/2018).

Anderson County Board of Commissioners
OPERATIONS COMMITTEE
MINUTES
January 13, 2020

Members Present: Tim Isbel, Steve Mead, Phil Yager, Jerry Creasey, Robert Jameson, Robert McKamey and Josh Anderson

Members Absent: Tracy Wandell

Call to Order: Chairman Isbel called the meeting to order.

Prayer was led by Commissioner Vowell.

Commissioner Yager led the pledge of allegiance.

Upon motion made by Commissioner McKamey, seconded by Commissioner Mead to add 205 S. Main Street bidding to the agenda under New Business. Motion Passed

Commissioner Yager made a motion to approve agenda as amended. Commissioner McKamey seconded the motion. Motion Passed

Election Commission

Due to the upcoming election there is an agreement that the voting machines stay where they are now.

Mayor Frank

Upon motion made by Commissioner Mead, seconded by Commissioner Jameson and passed with one no vote, to move ahead with the resolution in support of the 2nd Amendment and bring back to the next Operations Committee meeting.

Upon motion made by Commissioner Yager, seconded by Commissioner Creasey and passed for the Mayor to establish a TIF study and formulating committee. The Mayor to be the guiding hand of this committee.

There was discussion about the Mayor speaking to the insurance company and an attorney regarding possible remedies for the purchase of 205 S. Main Street. No Action Taken.

MOU Oak Ridge General Sessions Court

Upon motion made by Commissioner McKamey, seconded by Commissioner Mead and passed 5 to 2 to forward to full commission for approval.

Property purchase 96 Mariner Point Drive

Commissioner McKamey requested to defer to next month.

Senior Center

Discussion. No Action Taken.

Briceville Volunteer Fire Department

Discussion. No Action Taken.

New Business

Upon motion made by Commissioner McKamey, seconded by Commissioner Mead to forward to full commission with a recommendation to approve that we ask the purchasing agent to go ahead and accept sealed bids on 205 S. Main Street and add the intended purpose to the bid. Motion passed contingent on the Law Director and Purchasing Agent working together.

Old Business

Discussion of carrying of fire arms. No action taken.

Adjournment

With no further business meeting was adjourned.

Memorandum of Understanding (Oak Ridge General Sessions Court)

Come now the parties, Anderson County, Tennessee and the City of Oak Ridge, Tennessee by and through their respective legislative bodies and freely and voluntarily enter into this MOU in an effort to memorialize their partnership to provide a second General Sessions Court within the boundaries of the City of Oak Ridge for the use and benefit of all citizens of Anderson County.

WHEREAS, at the request of the parties, the Tennessee General Assembly passed *Private Act Chapter 226* in 1992 establishing a General Sessions Court inside the boundaries of Oak Ridge; and

WHEREAS, *Section 14* of the referenced Private Act states as follows:

There shall be two full-time Judges for the General Sessions Court of Anderson County, Tennessee, one being the Judge of Division I and the other being the Judge of Division II, with the same qualifications and term of office as provided by the Constitution of the State of Tennessee for Judges of inferior courts; and such Judges shall take the same oath as prescribed for Circuit Judges and Chancellors. The Judges of the General Sessions Court of Anderson County, Tennessee shall be licensed attorneys of this State and residents of Anderson County, Tennessee. The Judges shall devote full time to the office and shall not otherwise practice law, and shall be paid a salary as provided in Section 15. The Judges of Division I and Division II shall have and exercise all the same jurisdiction and may hold court and hear cases in either Division: Both Judges shall devote such time as necessary between either Division to equalize the case load and to provide for the expeditious hearing of all cases in both Divisions. **Cases arising in Division II of the General Sessions Court of Anderson County, Tennessee shall be heard in Oak Ridge, Tennessee subject to the City of Oak Ridge, Tennessee providing adequate courtroom and office facilities for the Judge and support staff. (Emphasis Added)**

WHEREAS, after several years of hosting the court inside the Oak Ridge Municipal Building, it became evident that the building was no longer adequate to house the court and associated office facilities as required by the Private Act; therefore, on October 4th, 2006 Judge Ron Murch sent a letter to Oak Ridge City Manager, Jim O'Connor, requesting additional court space. That request was denied by Mr. O'Connor; and

WHEREAS, in July of 2007 and subsequent to Mr. O'Connor's decision, Anderson County leased space from Vintage Development Corporation alongside the Oak Ridge Turnpike for use as the General Session Division II court due to space and security concerns that existed at the Oak Ridge Municipal Building; and

WHEREAS, on June 28th, 2007 a joint meeting was held between the Anderson County Commission and the Oak Ridge City Council and it was determined that the City of Oak Ridge

would contribute \$2,500 per month toward the new lease. That arrangement was subsequently approved by the Oak Ridge City Council on July 16th, 2007; and

WHEREAS, in July of 2017, the parties were notified by Vintage Development that the sale of the existing General Sessions Div. II courtroom adjacent to the Oak Ridge Turnpike was imminent and arrangements needed to made to relocate the court to another suitable location; and

WHEREAS, the Anderson County Board of Commissioners decided to renovate the county-owned Daniel Arthur Rehabilitation Center (DARC) for use as a permanent location for the General Session Div. II court; and

WHEREAS, Anderson County commenced construction on the new courtroom and clerk's office space in the fall of 2017 at a total cost in excess of \$700,000.00; and

WHEREAS, the City of Oak Ridge continued its partnership with Anderson County and assisted with the construction by providing technical expertise and a one-time \$40,000 payment for a new HVAC system for the building. The City has also made two annual payments in the amount of \$35,000 in an attempt to offset constructions costs.

NOW THEREFORE, the parties hereto agree that they will continue to partner and fulfill their duties under the Private Act and provide a second General Session Court inside the boundaries of Oak Ridge. Anderson County will continue to house the General Sessions Division II court inside the DARC provided that the City of Oak Ridge continues with an annual monetary donation of \$40,000 per year for twenty (20) years or, in the alternative, \$80,000 per year for ten (10) years to offset costs associated with providing the court and clerk's office inside the municipal limits of Oak Ridge. The City of Oak Ridge also agrees to pay twenty-five percent (25%) of all utilities attributed to the building and contribute twenty-five percent (25%) to correct major repairs including roof, structural or HVAC deficiencies. Anderson County will continue to provide a General Session Judge, judicial secretary, Clerk's office and staff, security, fixtures, office equipment and daily maintenance for the court facility.

IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority have accepted the terms and executed this Agreement.

This _____ day of _____, 2020.

{Signatures on Page 3}

ACCEPTANCE FOR THE CITY OF OAK RIDGE, TN:

Warren Gooch, City Mayor

Dr. Mark Watson, City Manager

APPROVED AS TO FORM:

Ken Krushenski, City Attorney

ACCEPTANCE BY ANDERSON COUNTY, TN:

Terry Frank, County Mayor

Tracy Wandell, Chair Anderson Co. Commission

APPROVED AS TO FORM:

N. Jay Yeager, County Law Director

Anderson County Board of Commissioners
Legislative Committee
MINUTES

January 9, 2020
Room 312 @ 5:30 P.M.

Members Present: Steve Mead, Joshua Anderson, and Jerry White

Members Absent: Phil Yager, Rick Meredith, Jerry Creasey, Chuck Fritts and Tim Isbel

Others Present: None

Call to Order: Chairman Mead called the meeting to order.

Update of Fire Arms Resolution

Discussion – No Action Taken

New Business

Motion was made by Commissioner Anderson in support of the correction of TCA 39-17-1309 to agree with TCA 39-17-1311 in regard to the conduct of permit holders that come across an athletic field where a school activity is being held. Motion was seconded by Commissioner White and passed to forward to full commission for approval.

Motion was made by Commissioner Anderson to pass to full commission Resolution 20-01-796 to allow Employees of Anderson County Government to carry concealed firearms subject to authorization granted in Tennessee Law. Motion was seconded by Commissioner White. Motion passed.

Old Business

None

Adjournment

With no further action the meeting was adjourned.