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Air Pollution Control Board

Dear Reader:

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

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

Sincerely,

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Air Pollution Control Board

Private Acts of 1969 Chapter 37

COMPILER'S NOTE: This private act may have been superseded by the Knox County Charter, Chapter 18, Article II, pursuant to T.C.A. § 5-1-210.

SECTION 1. As used in this Act:

"Person" shall mean any natural person, firm, partnership, company, association, corporation, or political subdivision of the State.

"Board" shall mean the Air Pollution Control Board of Knox County, created by this Act, unless the context clearly indicates otherwise.

"Director" shall mean the Director of Air Pollution Control of Knox County, an office established by this Act.

"County" shall mean Knox County.

"County commission" and "Commission" shall mean the county legislative body of Knox County.

"Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the enjoyment of life and property.

"Air Contaminant" shall mean particular matter, dust, fumes, gas, mist, smoke, or vapor, or odor, or any combinations thereof.

"Knox County Technical Societies" shall mean a nominating committee composed of a chairman who is a representative of the Knoxville Technical Society and one representative from each of the participating engineering or scientific societies. To be eligible to participate, the society must present evidence that it has a minimum of 20 members who are residents of Knox County and that a significant part of its program is in an area related to air pollution.

As amended by: Private Acts of 1979, Chapter 164
Private Acts of 1980, Chapter 283

SECTION 2. That it is the intent and purpose of this Act to empower Knox County to undertake an air pollution control program that will maintain the purity of the air resources of the County consistent with the protection of normal health, general welfare and physical property of the people, maximum employment, and full industrial development of the County. The County is empowered to seek the accomplishment of these objectives through the prevention abatement and control of air pollution by all practicable and economically feasible methods.

SECTION 3. That except as provided in this Act, administration of this program shall be under the jurisdiction of the county executive, who shall appoint a Director of Air Pollution Control, such appointment to become effective upon approval of the County Commission. The director, who must be a registered engineer in Tennessee (as defined in Tennessee Code Annotated 62-208) or who shall have completed formal engineering course work in air pollution effects and control, and who, in the judgment of the Air Pollution Control Board, has appropriate industrial and administrative experience, shall be responsible for direction and enforcement of the Air Pollution Control Program of the county. The director may be dismissed by the county executive.

As amended by: Private Acts of 1981, Chapter 33
Private Acts of 1982, Chapter 206

SECTION 4. That:

(a) An Air Pollution Control Board of Knox County is hereby created, composed of seven members who are residents of Knox County, who shall be appointed by the Knox County Legislative Body. One of the members shall be a Doctor of Medicine licensed to practice medicine in Tennessee, one shall be an engineer, or technically trained person or scientist in an area related to air pollution, one shall be representative of the industrial interests of the County, one shall be a member of the faculty or staff of the University of Tennessee, one shall be an official or employee of the City of Knoxville, and one shall be an official or employee of Knox County, and one shall be a private citizen from the public at large who is not a public official or an employee of Knox County or the City of Knoxville. Such appointments shall be made from a list of not more than three persons meeting the foregoing qualifications, respectively, nominated by each of the following: The Knoxville Academy of Medicine, the Knox County Technical Societies, the Knoxville Chamber of Commerce, the Chancellor of the University of Tennessee (Knoxville), and the Mayor of the City of Knoxville, the County Executive of Knox County, the Knox County Legislative Body. Members shall

hold office for four year terms, except that three of the initial appointees (as designated by the County Legislative Body) shall hold office for two year terms, or until their successors are appointed and qualified. The members first appointed shall take office on July 1, 1969. A vacancy shall be filled in the same manner, after three persons have been nominated to the County Legislative Body by the organization or officer as specified above to nominate persons qualified to fill the vacancy, for the unexpired term. Members shall serve without compensation.

The Board shall meet monthly for the first two years of its operation and at least quarterly each year thereafter in regular session. The Board shall elect a Chairman and Vice-Chairman biennially at its first meeting after the commencement of new terms, and it shall adopt rules of procedure to govern the conduct of its business. A member of the Board may be removed by the County Legislative Body for cause. The Director shall attend all meetings of the Board and shall act as secretary of the Board, making a record of all proceedings. Public notice shall be given of all meetings of the Board and it shall be open to the public.

(b) The Board shall have power to adopt, after receiving the recommendations of the Director, rules and regulations prescribing standards and procedures for carrying out an air pollution control program within the County, or in conjunction with other counties and municipalities. Such rules and regulations shall be reasonably related to the purpose declared in Section 2 of this Act and shall be consistent with the substantive provisions of Chapter 367, Public Acts of 1967, as amended, and any rules and regulations thereunder. Prior to adoption, such rules and regulations, or any amendment thereto, shall be issued in draft form and made available to any interested person, and the Board shall hold a public hearing thereon, after at least 30 days notice published in a newspaper of general circulation in the County. When adopted, such rules and regulations, and amendments thereto, shall be printed and made available at reasonable cost to any interested person, and a notice of such availability shall be published in a newspaper of general circulation in the County. The Director shall issue an annual report on July 1 of each year outlining the causes of air pollution in Knox County (including a list of persons contributing substantially to air pollution); steps that have been taken to curb air pollution and plans for the coming year. The Director may also issue more reports if requested.

As amended by: Private Acts of 1980, Chapter 283

SECTION 5. That the Director and his deputies may exercise the same investigative powers delegated to the State Air Pollution Control Board or to that Board's Technical Secretary by Chapter 367, Public Acts of 1967. The Director, in accordance with rules and regulations adopted by the Board, is empowered to issue an order, or to grant a variance for a period not to exceed one year (which may be renewed for no more than two like periods unless reasonable progress has been made) to any person after according a hearing to such a person. Such person, if dissatisfied with the Director's decision, may within 10 days, appeal therefrom to the Board, which shall, within a reasonable time after a public hearing, confirm, modify or reverse the Director's decision, which shall be subject to review by the Circuit Court of Knox County on a petition for common law writ of certiorari filed within 10 days after the Board's decision. Any other citizen of Knox County who disagrees with any ruling of the Director for any reason concerning air pollution may appeal that ruling to the Board which shall hear the appeal at its next regular meeting which shall be open to the public and the Board may modify, confirm or reverse the Director's decision. Such judicial review shall be subject to the same conditions prescribed in Section 10 of Chapter 367, Public Acts of 1967. Procedures for hearings before the Director and the Board shall be prescribed in rules and regulations adopted by the Board. In the conduct of hearings as provided herein, the Director and the Board shall have power to subpoena witnesses and records and shall be entitled to judicial process for enforcement of such subpoenas. No person subject to the Board's rules and regulations shall be required to disclose any secret formulae, processes or methods used in any manufacturing operation carried on by him or under his direction. The composition of air contaminants shall not be considered secret unless so declared by the Board and the Board shall have the power to issue protection orders to prevent public dissemination.

SECTION 6. That violation of any rule or regulation duly promulgated by the Board is declared to be a misdemeanor, and each day of violation shall constitute a separate offense, punishable as provided in Tennessee Code Annotated 39-105.

SECTION 7. That the Director may cause to be instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of any rule or regulation promulgated by the Board or of any order duly issued by the Director (as confirmed or modified by the Board, if this be the case).

SECTION 8. That the basis for proceedings or other actions that result from violations of this Act or of rules, regulations or orders issued pursuant thereto, shall inure solely to and shall be for the benefit of the public generally, and this Act is not intended to create in any way or to enlarge or affect in any way any private rights. A determination that there has been a violation of this Act or of any rule, regulation or order issued pursuant thereto, shall not create by reason thereof any presumption or finding of fact or law

for use in any lawsuit brought by a private citizen.

SECTION 9. That if any section, subsection, sentence or clause of this Act shall be adjudged unconstitutional, such adjudication shall not affect the validity of the Act as a whole or of any section, subsection, sentence or clause hereof not adjudged unconstitutional.

SECTION 10. That this Act shall have no effect unless approved by a two-thirds vote of the County Legislative Body of Knox County. Said Legislative Body shall vote on its approval within 90 days after its passage, and the County Executive of Knox County shall promptly certify the fact of its approval or disapproval to the Secretary of State.

As amended by: Private Acts of 1980, Chapter 283

SECTION 11. That this Act shall be effective from and after its passage, the public welfare requiring it.

Passed: March 20, 1969.

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