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Private Acts of 1987 Chapter 68

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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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Private Acts of 1987 Chapter 68

SECTION 1. In addition to the powers given by Tennessee Code Annotated, Title 54, Chapter 10, relative to the establishment of county roads, the county legislative body of Cheatham shall have the powers and duties specified in this Act.

SECTION 2. For the purpose of this Act, the following terms shall be defined as follows:

- (1) "Public road" means any road laid out, appointed or recognized by law as a way open to all the people, without distinction, for passage and repassage at their pleasure.
- (2) "County road or county highway" means a public road in the county designated by the county legislative body as having sufficient use and importance so that the county highway department should endeavor to maintain the road, where such public road is not maintained directly by a municipal government, or the state or federal government.
- (3) "County road list" means a list of public roads in the county designated as county roads by the county legislative body.
- (4) "Developer" means a person or legal entity who subdivides a tract of land for resale as residential lots.
- (5) "Chief administrative officer" means the chief administrative officer of the county highway department as defined in Section 54-7-103.
- (6) "Interested property owner" means a person or legal entity who owns real property adjacent to a public road or person who has access to the public road by way of easement or right of way.

SECTION 3.

- (a) In addition to the survey provided by Tennessee Code Annotated, Section 54-10-105, the chief administrative officer shall review the status of public roads and county roads prior to January of each year and shall make recommendations to the county legislative body as to what roads should be designated as county roads and any public roads which should be closed.
- (b) After receiving the recommendations of the chief administrative officer, the county legislative body shall designate and update previous designations of county roads at the regular January meeting. The county clerk shall prepare a county road list from the designations adopted by the county legislative body. The classification of each county road shall be entered on the county road list. The current county road list shall be kept in the office of the county clerk, and a copy of such list shall be delivered to the chief administrative officer by the county clerk.
- (c) The county legislative body may add a public road to or remove a public road from the county road list whenever in its discretion it deems that the public welfare demands such action. The removal of a public road from the county road list or the fact that a public road is not designated as a county road shall not impair its public character allowing all the people, without distinction, to pass over such road, but the removal of a public road from the county road list shall remove any obligation of the county to maintain that public road.

SECTION 4. The chief administrative officer shall develop a classification system for the county roads based upon width of right of way and roadbed as provided for in Tennessee Code Annotated, Section 54-10-103, and type of roadbed and surface, subject to the approval of the county legislative body. Upon approval of a classification scheme, all county roads shall be classified in accordance thereto, and a copy of the classification shall be filed in the office of the county clerk and delivered to the chief administrative officer by the county clerk. The classifications shall be updated at least annually in conjunction with the designation of county roads with the chief administrative officer making classifications subject to the approval of the county legislative body.

SECTION 5. The county legislative body shall have the power to appropriate county highway and general funds for the purpose of building, repairing, and maintaining roads and bridges designated as county roads and to operate ferries connecting county roads or connecting a county road with any other public road. The county legislative body may exercise the power of eminent domain for these purposes and shall award appropriate damages in accordance with Tennessee Code Annotated, Title 29, Chapter 17.

SECTION 6.

- (a) The chief administrative officer may employ surveyors, engineers, mappers and other professionals to survey, inspect, and classify all county roads and other public roads and to make maps and charts of the same, subject to budgetary limitations.

(b) The chief administrative officer and the county legislative body by resolution, may recommend changes or improvements to county roads. The chief administrative officer shall ascertain, through the assistance of professionals where necessary or appropriate, and report in detail the probable or approximate cost of making any improvement or change. This report shall be spread on the minutes of the county legislative body.

SECTION 7.

(a) In addition to the provisions of Tennessee Code Annotated, Section 54-10-201, relative to opening, closing, or changing roads by application of an individual applicant, the county legislative body shall have power to open, close or change a county road or a public road not maintained by any governmental entity. The county legislative body shall also have power to accept a subdivision road or a public road not maintained by a governmental entity as a county road. However, no such change shall occur before a public hearing is conducted according to the standards delineated in this Act. This process of opening, closing, changing or accepting roads shall begin by resolution of the county legislative body upon its own motion, or in response to an application made by any interested property owner in the county or the chief administrative officer.

(b) All applications under this section to open, close, or change a county road or a public road not maintained by any governmental entity or to accept a subdivision or some other public road as a county road shall be made by written petition, signed by the applicant, stating the exact nature and extent of the proposed change and the reason for the change, and listing the names and addresses of interested property owners. The written petition shall be delivered to the chief administrative officer, who shall forward a copy to a three (3) or more member committee of the county legislative body. This commission or committee shall examine the petition, investigate the situation, and report within sixty (60) days to the full county legislative body with a recommendation to hold a hearing on the subject or dismiss the petition as without merit. The county legislative body shall act to hold a public hearing on the question or dismiss the petition.

SECTION 8.

(a) Whenever a public hearing is held to consider action on opening, closing, changing or accepting a road, the special committee appointed or elected pursuant to Section 7, shall conduct the hearing.

(b) The county clerk shall give public notice of the hearing in a newspaper of general circulation in the county at least seven (7) days prior to the hearing date. Written notice of the hearing shall be sent by the county clerk by registered or certified mail to all known landowners affected by the petition at least seven (7) days prior to the hearing date. The notices shall state the time, place and purpose of the hearing.

(c) The commission or committee shall cause a copy of the petition to be forwarded to the regional planning commission for the county, in sufficient time for the planning commission to investigate the merits of the petition before the hearing. The regional planning commission shall examine the merits of the petition and report their recommendations and reasoning to the commission or committee at the hearing. Further, the hearing shall be conducted so as to give affected landowners and other members of the public the opportunity to comment on the petition. The commission or committee shall summarize the hearing proceedings in a report to the county legislative body and recommend action on the petition within sixty (60) days. In the case of accepting new county roads, the commission or committee shall inform the county legislative body on whether the roads conform to any adopted standards for new county roads. The county legislative body shall consider the report and shall resolve that the petition be granted in whole or in part, or denied.

(d) The county legislative body shall have the power of condemnation and shall assess damages to be paid out of the county general fund in accordance with Tennessee Code Annotated, Title 29, Chapter 17.

(e) Any person considering himself aggrieved by the action of the county legislative body under this Act may appeal to the chancery court and from there to the appellate courts. The chancery court shall uphold the resolution of the county legislative body unless the court determines that the action of the county legislative body was arbitrary and capricious on the issue of granting the petition. However, in exercising the power of condemnation, the issue of damages shall be subject to the same standard of review employed generally in condemnation cases. All costs of appeal shall be paid by the losing party or prorated as justice demands. Costs against the county shall be paid out of the general funds.

SECTION 9.

(a) The county legislative body shall have power to adopt regulations and specifications to govern

the county's acceptance of a road as a county road. Any regulations and specifications adopted shall be placed on record in the office of the county clerk, and a copy shall be maintained in the office of the chief administrative officer.

(b) Before any lot that is part of a subdivision as defined in Tennessee Code Annotated, Section 13-3-401, may be sold by the developer, the owner or developer must have the subdivision road from the lot to the connecting county or state maintained road in compliance with the county's regulations and specifications for new county roads or post bond or other adequate security payable to the county in an amount sufficient to reimburse the county for the cost of bringing the road into compliance with the county regulations and specifications. The amount of the bond or security shall be set by the chief administrative officer, subject to approval by the county executive. The bond shall be delivered to the county clerk. The bond or security shall be canceled by the chief administrative officer with the approval of the county executive when the terms of the bond have been met. The bond or other security shall become due and the proceeds shall be paid into the county highway fund to construct the designated subdivision road if the road is not brought into compliance within one (1) year of the date of delivery to the county clerk.

SECTION 10. The provisions of this Act shall supersede any private acts in conflict with this Act, but shall not supersede any provision of the general law, it being intended to supplement, amplify, and enhance the provisions of the general law in Cheatham County, recognizing that the county has paramount authority in the acceptance and regulation of roads for which it will be responsible.

SECTION 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications to the act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 12. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Cheatham County before October 1, 1987. Its approval or nonapproval shall be proclaimed by the presiding officer of the Cheatham County commission and certified by him to the Secretary of State.

SECTION 13. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 12.

Passed: April 16, 1987.

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