

IN THE CHANCERY COURT FOR WASHINGTON COUNTY
JONESBOROUGH, TENNESSEE

John Wood :
 :
 Plaintiff :
 : Civil Action No. 20-CV-0024
 v. :
 :
 City of Johnson City :
 :
 Defendant :

COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

The following causes of action relate to Johnson City Ordinance No 4723-19 (the "Ordinance") and House Bill 524 which may be found in the Tennessee Code Public Ch. No. 498 (the "Bill").

FIRST CAUSE

Violation of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter

Summary: A violation of Ordinance adoption rules caused by an incomplete first reading.

FACTS

1. Johnson City Ordinance No 4723-19 (the "Ordinance") is an ordinance for designating boundaries of the Regional Retail and Tourism Development District.
 - a. The Ordinance allows the designated district to be eligible for certain economic incentives provided under House Bill 524 which may be found in the Tennessee Code Public Ch. No. 498 (the "Bill") provided as Exhibit A.
 - b. Importantly under the Bill a municipality "shall not contain more than one (1) such district"
2. House Bill 524 which may be found in the Tennessee Code Public Ch. No. 498 (the "Bill") provides in part:

FILED

JAN 16 2020

at 3:35 p.m.

Sarah Lawson, Clerk and Master¹

Section 5 (a)(1) A municipal legislative body must adopt an ordinance designating the boundaries of the regional retail tourism district. A municipality shall not contain more than one (1) such district.

3. Dec. 19, 2019 - the first public reading of Ordinance was performed missing a recital page, see Johnson City Ordinance No. 4723-19 first public reading provided as Exhibit B
4. Jan. 2, 2020 - The Ordinance was moved to a second public reading including its recital page, see Johnson City Ordinance No. 4723-19 second public reading provided as Exhibit C
5. The "Missing" recital provided as Exhibit D including the clause (emphasis added):

WHEREAS, all parcels in the District, thereof for which the boundary of the District touches or crosses, shall include the full part and parcel, *including those parcels which are not entirely within the boundaries of the District.*

6. Jan. 16, 2020 - The Ordinance is on the Johnson City Commission Agenda for a third and final public (Agenda provided as Exhibit E) reading after which the Ordinance will take effect as ordained by Section IV. of The Ordinance reading:
Section IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

VIOLATION

1. The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter (Exhibit F) requires in part that an ordinance:
 - a. Be considered three times on different days
 - b. In a time period of a week or more
 - c. Or the ordinance is null and void
2. Above outlined portion of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter reproduced below:
"That every ordinance shall be considered on three (3) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and third considerations, and any ordinance not so considered shall be null and void."
3. The above referenced portion of the City Charter was adopted to provide the public and citizens of Johnson City three readings and a time period to be allowed to take action on an ordinance.
4. Here the public was not given a first reading of the Ordinance thus not "considered" and "null and void."

I request an enjoinder to stop this defective ordinance from proceeding and stay the Ordinance from taking effect ("this ordinance shall take effect upon third and final reading" according to the Ordinance) by deferring its scheduled third reading for 6pm today Jan. 16, 2020 as this Ordinance will be null and void due to its defects and violations of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter and there is a distinct chance of imminent irreparable harm that Johnson City will lose the possibility to designate a district under HB 524 ("the city shall not contain more than one (1) such district" according to the HB 524).

Noted Potential Damage the Ordinance taking effect according to third reading:

1. Generally:
 - a. Invalidated ordinance
 - b. Eroding of public trust
2. Specifically to The Ordinance
 - a. Johnson City will lose the possibility to designate a district ("the city shall not contain more than one (1) such district" according to the Bill)
 - b. Harm to citizens of Johnson City deprived of the benefits conferred by this economic incentive zone designation

Noted Downside of Enjoinder

1. Delay in Ordinance taking effect

SECOND CAUSE

Violation of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter

Summary: A violation of Ordinance adoption rules caused by an altered ordinance scheduled for a third reading 6pm Jan. 16, 2020.

FACTS

1. Johnson City Ordinance No 4723-19 (the "Ordinance", same as outlined above in the First Cause) had a second public reading on Jan. 2, 2020 (second public reading provided as Exhibit C).

2. The Ordinance is on the Johnson City Commission Agenda for a third and final public reading, provided as Exhibit E, after which the Ordinance will take effect as ordained by Section IV. of The Ordinance reading:

Section IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

3. The Ordinance scheduled for the third and final reading is different from the Ordinance of the second reading. Noted differences include at least that the Ordinance on the Johnson City Commission Agenda for a third and final public reading include recitals not found in the Ordinance of the second reading, added recitals include adding land to/changing the district:

WHEREAS the Commissioners seek to include within the District three (3) parcels contiguous to the District, totaling 5.86 acres, and located south of Boones Creek road along Quality Circle.

4. Noted differences between the second and third reading include at least that the Ordinance on the Johnson City Commission Agenda for a third and final public reading changes recitals not found in the Ordinance of the second reading, changed recitals including changing the voting rules (City Ordinance requires a simple majority see point 6):

From the Second Reading:

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

From the Third Reading:

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading and adoption by at least two-thirds (2/3) vote of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

5. Relating to voting, The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter state in part:

That in all cases under the preceding section, the vote shall be determined by yeas and nay; the names of the members voting for or against an ordinance shall be entered upon the journal.

6. The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter state in part that no ordinance shall be amended except by new ordinance,

7. With respect to changing the voting recital we have potential violations with at least changing an ordinance from second to third reading as well as City Ordinance rules regarding voting.

VIOLATION

5. The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter (Exhibit E) requires in part that an ordinance:
 - a. Be considered three times on different days
 - b. In a time period of a week or more
 - c. Or the ordinance is null and void
6. Above outlined portion of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter reproduced below:

“That every ordinance shall be considered on three (3) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and third considerations, and any ordinance not so considered shall be null and void.”
7. The above referenced portion of the City Charter was adopted to provide the public and citizens of Johnson City three readings and a time period to be allowed to take action on an ordinance.
8. Here the altered map of the third reading of the Ordinance would render the Ordinance and “null and void.”

I request an enjoinder to stop this defective ordinance from proceeding and stay the Ordinance from taking effect (“this ordinance shall take effect upon third and final reading” according to the Ordinance) by deferring its scheduled third reading for 6pm today Jan. 16, 2020 as this Ordinance will be null and void due to its defects and violations of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter and there is a distinct chance of imminent irreparable harm that Johnson City will lose the possibility to designate a district under HB 524 (“the city shall not contain more than one (1) such district” according to the HB 524).

Noted Potential Damage the Ordinance taking effect according to third reading:

1. Generally:
 - a. Invalidated ordinance
 - b. Eroding of public trust
2. Specifically to The Ordinance
 - c. Johnson City will lose the possibility to designate a district (“the city shall not contain more than one (1) such district” according to the Bill)

- d. Harm to citizens of Johnson City deprived of the benefits conferred by this economic incentive zone designation

Noted Downside of Enjoinder

1. Delay in Ordinance taking effect

THIRD CAUSE

And while the grounds above will lead to an invalidated ordinance, there are other challenges to this Ordinance.

For example, much of the “missing” recital of the Ordinance mentioned in the First Cause is directed towards the geographic parameters and title information of the Bill. For example, from the “missing” recital (“missing” recital provided as Exhibit D):

WHEREAS, House Bill 0524 and Senate Bill 1434 amended Tennessee Code Annotated, Title 7, by adding Sections 2 through 12 as a new chapter and enacted Chapter No. 498 known as the Regional Retail Tourism Development District Act (the “Act);

.....

WHEREAS, the Commissioners find: (a) that some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit; (b) that the boundary of the district is no more than (20) miles from the state borders of Virginia and North Carolina as measured by a straight line; and that that the district is no larger than a total area of nine hundred fifty (950) acres.

There is ongoing confusion about the applicability of the geographic parameters of the Bill. This is compounded by the fact that the “missing” recital was not provided in the first reading of the ordinance on Dec. 19, 2019 during which at the 24:10 minute mark of the meeting Johnson City Manager Peter Peterson stated:

“The district must be within one half mile of a federally designated interstate interchange, the area district cannot exceed 950 acres, it must lie in a location no more than twenty miles from two state lines as measured in a straight line, the Boones Creek Exit or Exit 17 on I-26 is the only location that meets all of those criteria.”

Videos of Johnson City Commissioner meetings may be found online at https://www.johnsoncitytn.org/government/city_commission/government/agendas_and_minutes.php

And recently on Jan. 14 the Johnson City Press reports (report provided as Exhibit G):

“According to Wise, city staff believe there are about four exits in Johnson City that could meet the state border requirements in the legislation.”

A clear discrepancy here among commissioners and the city manager in combination with the up until now known record of confusing statements from Johnson City in combination with the “missing” recital may render the designation of this district invalid and thus prevent Johnson City from the benefits of the Bill. New information is coming out regularly as citizens and lawyers start to take a closer look at this Ordinance and there is no reason to think this pattern will not continue.

WHEREFORE, Plaintiff prays:

Again I request an enjoinder to stop this defective ordinance from proceeding and stay the Ordinance from taking effect by deferring its scheduled third reading for 6pm today Jan. 16, 2020 as this Ordinance will be null and void due to its defects and violations of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter and there is a distinct chance of imminent irreparable harm that Johnson City will lose the possibility to designate a district under HB 524 (“the city shall not contain more than one (1) such district” according to the HB 524).

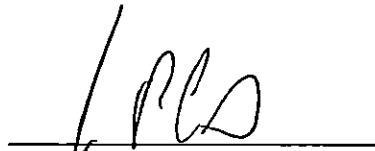
Noted Potential Damage the Ordinance taking effect according to third reading:

1. Generally:
 - a. Invalidated ordinance
 - b. Eroding of public trust
2. Specifically to The Ordinance
 - e. Johnson City will lose the possibility to designate a district (“the city shall not contain more than one (1) such district” according to the Bill)
 - f. Harm to citizens of Johnson City deprived of the benefits conferred by this economic incentive zone designation

Noted Downside of Enjoinder

3. Delay in Ordinance taking effect

Respectfully submitted,



John Wood
TN Bar 037172
Resident of Johnson City TN
404 South Road Street
Johnson City, TN 37601

Verification

State of Tennessee

County of Washington

Before me, the undersigned authority, on this day personally appeared John Wood, known to me to be the person whose name is subscribed below, who, after being duly sworn, stated under oath that he has read the above and foregoing Original Complaint and Request for Injunctive Relief and that the facts stated therein are true and correct.



John Wood

Subscribed and sworn to before me on this the 16th day of January 2020, to certify which witness my hand and seal of office.


Notary Public, State of Tennessee

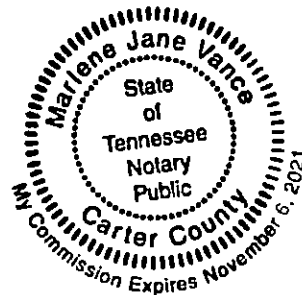


Exhibit A



State of Tennessee

PUBLIC CHAPTER NO. 498

HOUSE BILL NO. 524

By Representatives Matthew Hill, Timothy Hill, Helton, Van Huss

Substituted for: Senate Bill No. 1434

By Senator Crowe

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 12; Title 47; Title 48; Title 61 and Title 67, relative to business.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding Sections 2 through 12 as a new chapter.

SECTION 2. This chapter shall be known and may be cited as the "Regional Retail Tourism Development District Act."

SECTION 3. The purpose of this chapter is to increase tourism and the competitiveness of this state with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational, and other activities.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(1) "Base tax revenues" means the revenues generated from the collection of state sales and use taxes from all businesses within the applicable regional retail tourism development district as of the end of the fiscal year of this state immediately prior to the year in which the municipality or industrial development corporation is entitled to receive an allocation of tax revenue pursuant to this chapter. In no event shall the apportionment pursuant to this chapter be adjusted to reduce the economic benefit to the municipality as is provided in this chapter;

(2) "Best interests of the state" means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(A) The economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax provided for in Section 7; and

(B) The district is a result of the project or extraordinary retail or tourism facility;

(3) "Commissioner" means the commissioner of revenue;

(4) "Cost" means all costs of an economic development project in a district incurred by the municipality or industrial development corporation, including, but not limited to, the cost of developing the district, as well as acquisition, design, construction, renovation, improvement, demolition, and relocation of any improvements; the cost of labor, materials, and equipment; the cost of all lands, property rights, easements, and franchises required; financing charges, interest, and debt service prior to, during, or after construction; the cost of issuing bonds in connection with any financing; cost of plans and specifications, services, and estimates of costs and of revenue; cost of direct or indirect assistance, including funds for location assistance; cost of site preparation, engineering, accounting, and legal services; all expenses necessary or incident to determining the feasibility or practicability of such acquisitions or construction; salaries, overhead, and other costs of the municipality or industrial development corporation allocated to the project, including new development or subsequent phases of the project

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JAN 16 2020

at 3:35 P.M.

Sarah Lawson, Clerk and Master

to be completed within the thirty-year period established in Section 5(d), and administrative, legal, and engineering expenses and such other expenses as may be necessary or incident to such acquisition, design, construction, renovation, demolition, relocation, or the financing thereof, including the costs incurred by a municipality or industrial development corporation relating to the development of an extraordinary retail or tourism facility within two (2) years prior to the municipality's designation of the proposed regional retail tourism development district for such project;

(5) "Economic development project" or "project" means the provision of direct or indirect financial assistance, including funds for location assistance, to an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility in a regional retail tourism development district by a municipality or an industrial development corporation, including, but not limited to, the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings, equipment, or other infrastructure; public works improvements essential to the location of an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility; payments for professional services contracts necessary for a municipality or industrial development corporation to implement a plan or project; the provision of direct loans or grants for land, buildings, or infrastructure; and loan guarantees securing the cost of land, buildings, location assistance, or infrastructure in an amount not to exceed the revenue that may be derived from the sales and use tax transferred to the municipality as provided in this chapter. It also includes development of parks, plazas, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots, parking structures, and other public improvements constructed or renovated by the municipality or an industrial development corporation in connection with the project in the district and any related infrastructure and utility improvements for public or private peripheral development for the district that is constructed, renovated, or installed by the municipality or an industrial development corporation;

(6) "Extraordinary retail or tourism facility" means a single store, series of stores, or other public tourism facility or facilities located within a regional retail tourism development district, and includes retail or other public tourism facilities that are reasonably anticipated to draw at least one million (1,000,000) visitors a year upon completion. The extraordinary retail or tourism facility must reasonably be expected to require a capital investment of at least twenty million dollars (\$20,000,000), including land, buildings, and site preparation costs, and must reasonably be anticipated to remit at least two million dollars (\$2,000,000) in state sales and use tax annually when completed;

(7) "Industrial development corporation" means a corporation created or authorized by a municipality or county pursuant to chapter 53 of this title;

(8) "Municipal governing body" means the city council, city commission, or board of mayor and aldermen of a city;

(9) "Municipality" means an incorporated city located in this state; and

(10) "Regional retail tourism development district" or "district" means one (1) or more parcels of real property located within a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent census, and which some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit, is no more than twenty (20) miles from the state border of two (2) neighboring states as measured by straight line, is no larger than a total area of nine hundred fifty (950) acres, and is designated as a regional retail tourism development district by a municipal ordinance and certified by the commissioner.

SECTION 5.

(a) To receive the apportionment of state sales and use taxes as provided in this chapter, the following requirements must be met:

(1) A municipal legislative body must adopt an ordinance designating the boundaries of the regional retail tourism development district. A municipality shall not contain more than one (1) such district;

(2) The municipality must file a certified copy of the ordinance with the commissioner along with a request for certification of the district. The request must include a master development plan for the proposed district containing such information as may be reasonably required by the commissioner;

(3) The commissioner shall promptly review the request to confirm that the proposed boundaries of the proposed regional retail tourism development district do not exceed the maximum size set forth in this chapter. If the commissioner determines that the boundaries of the proposed regional retail tourism development district exceed the area allowed by this chapter, then the commissioner may adjust or reduce the boundaries of the proposed district in consultation with the municipality. In reviewing the request, the commissioner shall inform the commissioners of economic and community development and tourist development of the pending request; and

(4) If the commissioner, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by Section 7 of this act, is in the best interests of the state, then the commissioner shall approve the request and certify the district. Upon certification of the district, the commissioner shall provide prompt notice of the certification to the commissioner of economic and community development, the commissioner of tourist development, and the requesting municipal governing body.

(b) Upon certification of the district, state sales and use taxes must be apportioned and distributed to the municipality as provided in this chapter.

(c) The apportionment and distribution of state sales and use taxes to the municipality as provided in this chapter must commence at the beginning of the fiscal year after the certification of the district. Prior to the beginning of that fiscal year, and on an annual basis thereafter, the municipality shall submit to the commissioner a summary of the cost of the economic development project with supporting documentation, certified by the chief financial officer of the municipality, which must include the cost of any new phases or additional development of the project to be completed within the thirty-year time limitation established in subsection (d). The commissioner shall review the cost certification to determine whether state sales and use taxes, in the amount determined by the commissioner, must be apportioned and distributed to the municipality pursuant to this chapter and shall notify the department of economic and community development of the determination.

(d) Additional development or new phases of a project within a certified district shall not be initiated after the expiration of twenty (20) years following certification of the district. The certified district must be dissolved following the expiration of thirty (30) years, or upon the date on which the cost of the project has been fully paid, whichever occurs first. The thirty-year period in this subsection (d) runs concurrently with the time limitation established in Section 7 of this act.

SECTION 6. The department of revenue shall make annual adjustments to the sales and use tax revenues collected in the district within ninety (90) days of the end of each fiscal year. The annual adjustments are effective immediately upon notification of the adjustment from the department of revenue to the municipality or industrial development corporation.

SECTION 7.

(a) Notwithstanding the allocations provided for in § 67-6-103(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then seventy-five percent (75%) of state sales and use tax collected in the district in excess of base tax revenues must be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes

derived from the sale of goods, products, and services within the district in excess of base tax revenues.

(b) Apportionment and distribution according to subsection (a) must continue for a period of thirty (30) years, or until the date on which the entire cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project, are fully paid, whichever occurs first. Following the expiration of this thirty-year period, or upon the date on which such cost has been fully paid, whichever is sooner, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this chapter.

(c) Tax revenue distributed to the municipality pursuant to this chapter is for the exclusive use of the municipality or the industrial development corporation formally designated by the municipality for payment of the cost of the economic development project, including principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project. The department of revenue shall apportion the payment to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter.

SECTION 8. An eligible municipality in which a district is located is authorized to delegate to any industrial development corporation within the county or counties where the municipality is located the authority to carry out all or part of the project, to issue revenue bonds to finance a project within a district, and to incur cost for the project. The municipality may enter into an agreement with an industrial development corporation in which the municipality agrees to promptly pay to the industrial development corporation the tax revenues received pursuant to this chapter sufficient to service the repayment of the bonds and costs incurred by the industrial development corporation for the project. Upon receipt, that portion of tax revenues must be held in trust by the municipality for the benefit of the industrial development corporation.

SECTION 9. Any bonds, notes, refunding bonds, or other indebtedness relative to the cost of an economic development project must not be issued for a term longer than thirty (30) years, and the municipality or industrial development corporation may pledge all proceeds or taxes it receives pursuant to this chapter to the payment of principal and interest on the bonds, notes, or other indebtedness. The thirty-year period in this section runs concurrently with the time limitation established in Section 7 of this act.

SECTION 10. Prior to the issuance of any bonds to finance the cost of an economic development project that will be repaid in whole or part from apportionments under this chapter, the municipality or industrial development corporation issuing the bonds shall submit a proposed debt amortization schedule for the bonds to the commissioner for approval. The schedule must show the anticipated contribution to be made to the annual debt service for the bonds from the apportionment of sales and use taxes pursuant to this chapter and all other sources. After the date of issuance of the bonds, the municipality shall continue to contribute each year thereafter until the bonds are retired or a sufficient sinking fund has been established for their retirement.

SECTION 11. A municipality may, including through an industrial development corporation, limit, condition, or provide incentives or financial support in the district as it deems appropriate, including the requirement that the benefited property owners participate in the repayment of indebtedness due to district formation in an amount equal to twenty-five percent (25%) of the property tax for the real property owned by the property owner in the district each year, for the length of time as the municipality receives an appropriation of sales and use tax in accordance with this chapter and the property owner provides a lien on the property for such repayment. A municipality shall not provide financial assistance for the location or relocation of existing retailers located within a fifteen-mile radius of the district, if the existing location is within this state, unless the sales floor space is increased by thirty-five percent (35%) or more from that of the existing store. A municipality may allocate some or all of the incremental increase in property tax revenue directly as a result of the development within the district to pay for costs associated with the district formation, economic development projects, or extraordinary retail or tourism projects within the district.

HB 524

SECTION 12. Notwithstanding any law to the contrary, the municipality and the industrial development corporation may exercise all power and rights, express or implied, granted by this chapter.

SECTION 13. Tennessee Code Annotated, Section 7-53-101(15), is amended by adding the following new, appropriately designated subdivision:

() Any economic development project as defined in the chapter created by Section 1;


SECTION 14. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new, appropriately designated subsection:

() Notwithstanding the provisions of Section 7 of this act to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue must be allocated as provided in Acts 1992, chapter 529 and Acts 2002, chapter 858, respectively.

SECTION 15. This act shall take effect July 1, 2019, the public welfare requiring it.

HOUSE BILL NO. 524

PASSED: May 2, 2019



GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 24th day of May, 2019



BILL LEE, GOVERNOR

Exhibit B

B-276-285 of
12/19/19 Commission
Packet

AGENDA SUMMARY
December 19, 2019

DEPARTMENT: Administration

SUBJECT: Consider Ordinance No. 4723-19 designating boundaries of the Regional Retail and Tourism Development District

SUMMARY: House Bill 524 and Senate Bill 1434 authorizes the City of Johnson City to designate the boundaries of the Regional Retail and Tourism Development District. The purpose of this district is to increase tourism and the competitiveness of the state with bordering states to advance shopping, entertainment and economic growth in our region. The designated district will be located near Exit 17 (Interstate 26) and consists of approximately 938 which will be used for commercial development.

RECOMMENDED ACTION: Staff recommends approval

FILED

JAN 16 2020

at 3:35 P.M.

Sarah Lawson, Clerk and Master

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION I. That the area shown on the attached *Exhibit "A"*, which consists of approximately nine hundred thirty eight (938) acres, is hereby designated as a regional retail and tourism development district under the Act with each parcel lying within the boundaries shown to be included in the district.

SECTION II. That a certified copy of this Ordinance shall be filed with the Commissioner of Revenue along with a request for certification of the district and the City Manager is authorized and directed to submit such additional documents and information as may be deemed necessary or appropriate.

SECTION III. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON
THE FIRST READING _____

PASSED IN OPEN, PUBLIC MEETING ON
THE SECOND READING _____

PASSED IN OPEN, PUBLIC MEETING ON
THE THIRD READING _____

APPROVED AND SIGNED IN OPEN MEETING
ON THE ____ DAY OF _____, 2020

FOLLOWING PASSAGE ON THIRD READING.

JENNY L. BROCK, MAYOR

ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

STAFF ATTORNEY



State of Tennessee

PUBLIC CHAPTER NO. 498

HOUSE BILL NO. 524

By Representatives Matthew Hill, Timothy Hill, Helton, Van Huss

Substituted for: Senate Bill No. 1434

By Senator Crowe

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 12; Title 47; Title 48; Title 61 and Title 67, relative to business.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding Sections 2 through 12 as a new chapter.

SECTION 2. This chapter shall be known and may be cited as the "Regional Retail Tourism Development District Act."

SECTION 3. The purpose of this chapter is to increase tourism and the competitiveness of this state with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational, and other activities.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(1) "Base tax revenues" means the revenues generated from the collection of state sales and use taxes from all businesses within the applicable regional retail tourism development district as of the end of the fiscal year of this state immediately prior to the year in which the municipality or industrial development corporation is entitled to receive an allocation of tax revenue pursuant to this chapter. In no event shall the apportionment pursuant to this chapter be adjusted to reduce the economic benefit to the municipality as is provided in this chapter;

(2) "Best interests of the state" means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(A) The economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax provided for in Section 7; and

(B) The district is a result of the project or extraordinary retail or tourism facility;

(3) "Commissioner" means the commissioner of revenue;

(4) "Cost" means all costs of an economic development project in a district incurred by the municipality or industrial development corporation, including, but not limited to, the cost of developing the district, as well as acquisition, design, construction, renovation, improvement, demolition, and relocation of any improvements; the cost of labor, materials, and equipment; the cost of all lands, property rights, easements, and franchises required; financing charges, interest, and debt service prior to, during, or after construction; the cost of issuing bonds in connection with any financing; cost of plans and specifications, services, and estimates of costs and of revenue; cost of direct or indirect assistance, including funds for location assistance; cost of site preparation, engineering, accounting, and legal services; all expenses necessary or incident to determining the feasibility or practicability of such acquisitions or construction; salaries, overhead, and other costs of the municipality or industrial development corporation allocated to the project, including new development or subsequent phases of the project

to be completed within the thirty-year period established in Section 5(d), and administrative, legal, and engineering expenses and such other expenses as may be necessary or incident to such acquisition, design, construction, renovation, demolition, relocation, or the financing thereof, including the costs incurred by a municipality or industrial development corporation relating to the development of an extraordinary retail or tourism facility within two (2) years prior to the municipality's designation of the proposed regional retail tourism development district for such project;

(5) "Economic development project" or "project" means the provision of direct or indirect financial assistance, including funds for location assistance, to an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility in a regional retail tourism development district by a municipality or an industrial development corporation, including, but not limited to, the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings, equipment, or other infrastructure; public works improvements essential to the location of an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility; payments for professional services contracts necessary for a municipality or industrial development corporation to implement a plan or project; the provision of direct loans or grants for land, buildings, or infrastructure; and loan guarantees securing the cost of land, buildings, location assistance, or infrastructure in an amount not to exceed the revenue that may be derived from the sales and use tax transferred to the municipality as provided in this chapter. It also includes development of parks, plazas, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots, parking structures, and other public improvements constructed or renovated by the municipality or an industrial development corporation in connection with the project in the district and any related infrastructure and utility improvements for public or private peripheral development for the district that is constructed, renovated, or installed by the municipality or an industrial development corporation;

(6) "Extraordinary retail or tourism facility" means a single store, series of stores, or other public tourism facility or facilities located within a regional retail tourism development district, and includes retail or other public tourism facilities that are reasonably anticipated to draw at least one million (1,000,000) visitors a year upon completion. The extraordinary retail or tourism facility must reasonably be expected to require a capital investment of at least twenty million dollars (\$20,000,000), including land, buildings, and site preparation costs, and must reasonably be anticipated to remit at least two million dollars (\$2,000,000) in state sales and use tax annually when completed;

(7) "Industrial development corporation" means a corporation created or authorized by a municipality or county pursuant to chapter 53 of this title;

(8) "Municipal governing body" means the city council, city commission, or board of mayor and aldermen of a city;

(9) "Municipality" means an incorporated city located in this state; and

(10) "Regional retail tourism development district" or "district" means one (1) or more parcels of real property located within a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent census, and which some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit, is no more than twenty (20) miles from the state border of two (2) neighboring states as measured by straight line, is no larger than a total area of nine hundred fifty (950) acres, and is designated as a regional retail tourism development district by a municipal ordinance and certified by the commissioner.

SECTION 5.

(a) To receive the apportionment of state sales and use taxes as provided in this chapter, the following requirements must be met:

(1) A municipal legislative body must adopt an ordinance designating the boundaries of the regional retail tourism development district. A municipality shall not contain more than one (1) such district;

(2) The municipality must file a certified copy of the ordinance with the commissioner along with a request for certification of the district. The request must include a master development plan for the proposed district containing such information as may be reasonably required by the commissioner;

(3) The commissioner shall promptly review the request to confirm that the proposed boundaries of the proposed regional retail tourism development district do not exceed the maximum size set forth in this chapter. If the commissioner determines that the boundaries of the proposed regional retail tourism development district exceed the area allowed by this chapter, then the commissioner may adjust or reduce the boundaries of the proposed district in consultation with the municipality. In reviewing the request, the commissioner shall inform the commissioners of economic and community development and tourist development of the pending request; and

(4) If the commissioner, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by Section 7 of this act, is in the best interests of the state, then the commissioner shall approve the request and certify the district. Upon certification of the district, the commissioner shall provide prompt notice of the certification to the commissioner of economic and community development, the commissioner of tourist development, and the requesting municipal governing body.

(b) Upon certification of the district, state sales and use taxes must be apportioned and distributed to the municipality as provided in this chapter.

(c) The apportionment and distribution of state sales and use taxes to the municipality as provided in this chapter must commence at the beginning of the fiscal year after the certification of the district. Prior to the beginning of that fiscal year, and on an annual basis thereafter, the municipality shall submit to the commissioner a summary of the cost of the economic development project with supporting documentation, certified by the chief financial officer of the municipality, which must include the cost of any new phases or additional development of the project to be completed within the thirty-year time limitation established in subsection (d). The commissioner shall review the cost certification to determine whether state sales and use taxes, in the amount determined by the commissioner, must be apportioned and distributed to the municipality pursuant to this chapter and shall notify the department of economic and community development of the determination.

(d) Additional development or new phases of a project within a certified district shall not be initiated after the expiration of twenty (20) years following certification of the district. The certified district must be dissolved following the expiration of thirty (30) years, or upon the date on which the cost of the project has been fully paid, whichever occurs first. The thirty-year period in this subsection (d) runs concurrently with the time limitation established in Section 7 of this act.

SECTION 6. The department of revenue shall make annual adjustments to the sales and use tax revenues collected in the district within ninety (90) days of the end of each fiscal year. The annual adjustments are effective immediately upon notification of the adjustment from the department of revenue to the municipality or industrial development corporation.

SECTION 7.

(a) Notwithstanding the allocations provided for in § 67-8-103(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then seventy-five percent (75%) of state sales and use tax collected in the district in excess of base tax revenues must be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes

derived from the sale of goods, products, and services within the district in excess of base tax revenues.

(b) Apportionment and distribution according to subsection (a) must continue for a period of thirty (30) years, or until the date on which the entire cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project, are fully paid, whichever occurs first. Following the expiration of this thirty-year period, or upon the date on which such cost has been fully paid, whichever is sooner, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this chapter.

(c) Tax revenue distributed to the municipality pursuant to this chapter is for the exclusive use of the municipality or the industrial development corporation formally designated by the municipality for payment of the cost of the economic development project, including principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project. The department of revenue shall apportion the payment to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter.

SECTION 8. An eligible municipality in which a district is located is authorized to delegate to any industrial development corporation within the county or counties where the municipality is located the authority to carry out all or part of the project, to issue revenue bonds to finance a project within a district, and to incur cost for the project. The municipality may enter into an agreement with an industrial development corporation in which the municipality agrees to promptly pay to the industrial development corporation the tax revenues received pursuant to this chapter sufficient to service the repayment of the bonds and costs incurred by the industrial development corporation for the project. Upon receipt, that portion of tax revenues must be held in trust by the municipality for the benefit of the industrial development corporation.

SECTION 9. Any bonds, notes, refunding bonds, or other indebtedness relative to the cost of an economic development project must not be issued for a term longer than thirty (30) years, and the municipality or industrial development corporation may pledge all proceeds or taxes it receives pursuant to this chapter to the payment of principal and interest on the bonds, notes, or other indebtedness. The thirty-year period in this section runs concurrently with the time limitation established in Section 7 of this act.

SECTION 10. Prior to the issuance of any bonds to finance the cost of an economic development project that will be repaid in whole or part from apportionments under this chapter, the municipality or industrial development corporation issuing the bonds shall submit a proposed debt amortization schedule for the bonds to the commissioner for approval. The schedule must show the anticipated contribution to be made to the annual debt service for the bonds from the apportionment of sales and use taxes pursuant to this chapter and all other sources. After the date of issuance of the bonds, the municipality shall continue to contribute each year thereafter until the bonds are retired or a sufficient sinking fund has been established for their retirement.

SECTION 11. A municipality may, including through an industrial development corporation, limit, condition, or provide incentives or financial support in the district as it deems appropriate, including the requirement that the benefited property owners participate in the repayment of indebtedness due to district formation in an amount equal to twenty-five percent (25%) of the property tax for the real property owned by the property owner in the district each year, for the length of time as the municipality receives an appropriation of sales and use tax in accordance with this chapter and the property owner provides a lien on the property for such repayment. A municipality shall not provide financial assistance for the location or relocation of existing retailers located within a fifteen-mile radius of the district, if the existing location is within this state, unless the sales floor space is increased by thirty-five percent (35%) or more from that of the existing store. A municipality may allocate some or all of the incremental increase in property tax revenue directly as a result of the development within the district to pay for costs associated with the district formation, economic development projects, or extraordinary retail or tourism projects within the district.

HB 524

SECTION 12. Notwithstanding any law to the contrary, the municipality and the industrial development corporation may exercise all power and rights, express or implied, granted by this chapter.

SECTION 13. Tennessee Code Annotated, Section 7-53-101(15), is amended by adding the following new, appropriately designated subdivision:

() Any economic development project as defined in the chapter created by Section 1;


SECTION 14. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new, appropriately designated subsection:

() Notwithstanding the provisions of Section 7 of this act to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue must be allocated as provided in Acts 1992, chapter 529 and Acts 2002, chapter 856, respectively.

SECTION 15. This act shall take effect July 1, 2019, the public welfare requiring it.

HOUSE BILL NO. 524

PASSED: May 2, 2019



GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 24th day of May 2019



BILL LEE, GOVERNOR

Exhibit C

ps. #58-68 of
1/2/20 Commission Packet

AGENDA SUMMARY

January 2, 2020

Department: Administration

Subject: Ordinance #4723-19 (Second Reading)

Consider Ordinance 4723-19 designating boundaries of the Regional Retail and Tourism Development District

Summary:

House Bill 524 and Senate Bill 1434 authorizes the City of Johnson City to designate the boundaries of the Regional Retail and Tourism Development District. The purpose of this district is to increase tourism and the competitiveness of the state with bordering states to advance shopping, entertainment and economic growth in our region. The designated district will be located near Exit 17 (Interstate 26) and consists of approximately 938-acres which will be used for commercial development.

Recommended Action: Staff Recommends Approval on Second Reading

FILED

JAN 16 2020

at 3:35 P.M.

Sarah Lawson, Clerk and Master

ORDINANCE NO. 4723-19

AN ORDINANCE TO DESIGNATE THE BOUNDARIES OF A REGIONAL RETAIL AND TOURISM DEVELOPMENT DISTRICT IN THE CITY OF JOHNSON CITY PURSUANT TO THE AUTHORITY GRANTED TO THE CITY BY HOUSE BILL 0524/SENATE BILL 1434 AS ENACTED IN 2019 BY THE 107TH GENERAL ASSEMBLY.

WHEREAS, House Bill 0524 and Senate Bill 1434 amended Tennessee Code Annotated, Title 7, by adding Sections 2 through 12 as a new chapter and enacted Chapter No. 498 known as the Regional Retail Tourism Development District Act (the "Act"); and

WHEREAS, the Act became law during the 107th General Assembly in 2019; and

WHEREAS, the purpose of the Act is to increase tourism and the competitiveness of the State of Tennessee with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational and other activities; and

WHEREAS, the City of Johnson City designates the boundaries of a regional retail tourism development district as shown on the attached *Exhibit "A"* (the "District"); and

WHEREAS, the Commissioners find: (a) that some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit; (b) that the boundary of the district is no more than twenty (20) miles from the state borders of Virginia and North Carolina as measured by straight line; and (c) that the district is no larger than a total area of nine hundred fifty (950) acres.

WHEREAS, all parcels in the District, thereof for which the boundary of the District touches or crosses, shall include the full part and parcel, including those parcels which are not entirely within the boundaries of the District.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION I. That the area shown on the attached *Exhibit "A"*, which consists of approximately nine hundred thirty eight (938) acres, is hereby designated as a regional retail and tourism development district under the Act with each parcel lying within the boundaries shown to be included in the district.

SECTION II. That a certified copy of this Ordinance shall be filed with the Commissioner of Revenue along with a request for certification of the district and the City Manager is authorized and directed to submit such additional documents and information as may be deemed necessary or appropriate.

SECTION III. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON
THE FIRST READING 19 DEC. 2019

PASSED IN OPEN, PUBLIC MEETING ON
THE SECOND READING _____

PASSED IN OPEN, PUBLIC MEETING ON
THE THIRD READING _____

APPROVED AND SIGNED IN OPEN MEETING
ON THE ____ DAY OF _____, 2020

FOLLOWING PASSAGE ON THIRD READING.

JENNY L. BROCK, MAYOR

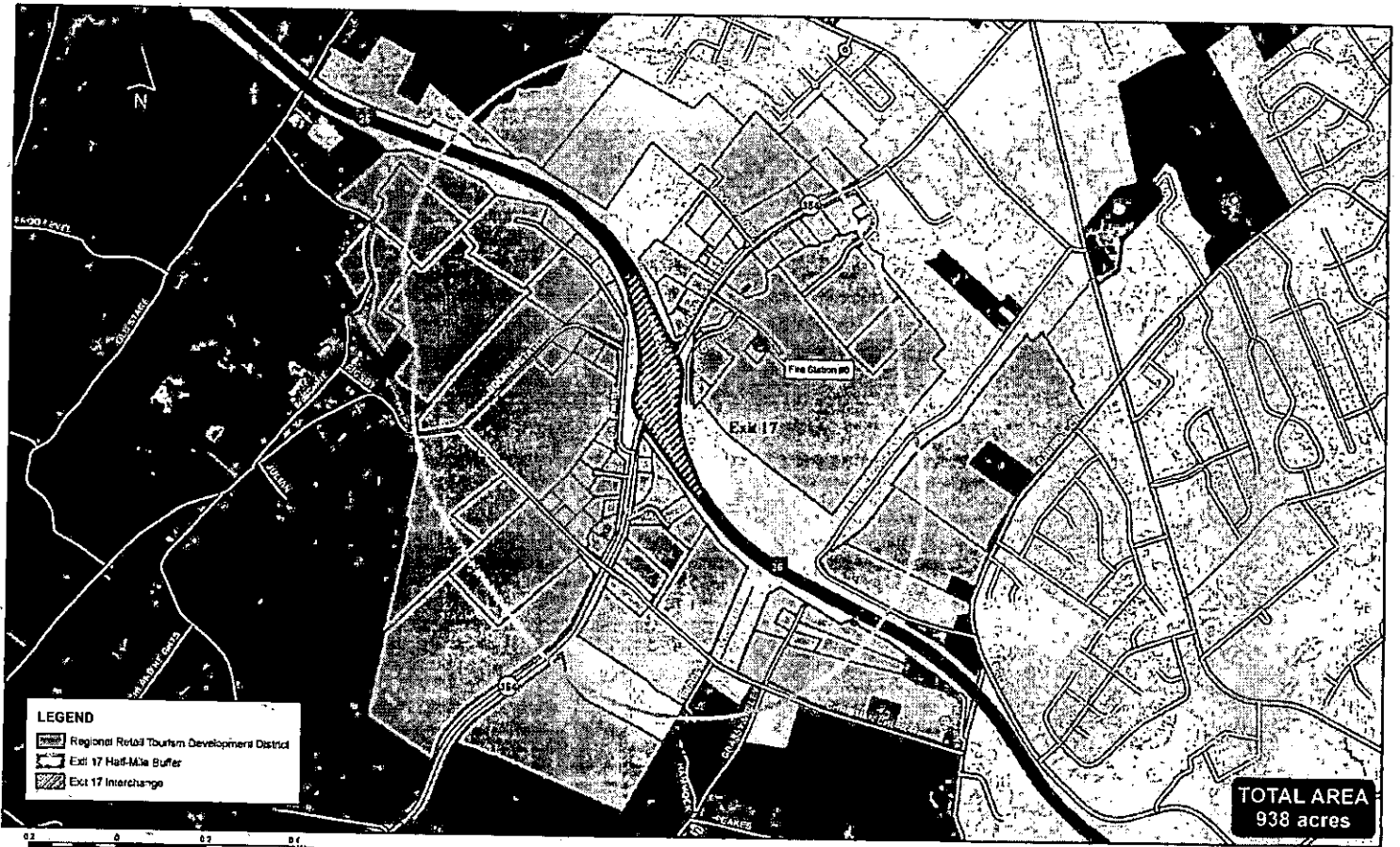
ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

STAFF ATTORNEY

ORD.4723-19: Exhibit "A"



ORDINANCE NO. 4723-19

AN ORDINANCE TO DESIGNATE THE BOUNDARIES OF A REGIONAL RETAIL AND TOURISM DEVELOPMENT DISTRICT IN THE CITY OF JOHNSON CITY PURSUANT TO THE AUTHORITY GRANTED TO THE CITY BY HOUSE BILL 0524/SENATE BILL 1434 AS ENACTED IN 2019 BY THE 107TH GENERAL ASSEMBLY.

~~WHEREAS, House Bill 0524 and Senate Bill 1434 amended Tennessee Code, Annotated, Title 7, by adding Sections 2 through 12 as a new chapter and enacted Chapter No. 498 known as the Regional Retail Tourism Development District Act (the "Act"); and~~

WHEREAS, the Act became law during the 107th General Assembly in 2019; and

WHEREAS, the purpose of the Act is to increase tourism and the competitiveness of the State of Tennessee with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational and other activities; and

WHEREAS, the City of Johnson City designates the boundaries of a regional retail tourism development district as shown on the attached *Exhibit "A"* (the "District"); and

~~WHEREAS, the Commissioners find: (a) that some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit; (b) that the boundary of the district is no more than twenty (20) miles from the state borders of Virginia and North Carolina as measured by straight line; and (c) that the district is no larger than a total area of nine hundred fifty (950) acres.~~

~~WHEREAS, all parcels in the District, thereof for which the boundary of the District touches or crosses, shall include the full part and parcel, including those parcels which are not entirely within the boundaries of the District.~~

FILED

JAN 16 2020

at 3:35 P.M.

Sarah Lawson, Clerk and Master

Board of Commissioners
AGENDA SUMMARY



SUBJECT: Ordinance 4723-19 (Third Reading): Regional Retail and Tourism Development District
MEETING: City Commission - Jan 16 2020
DEPARTMENT: Administration
STAFF CONTACT: Pete Peterson, City Manager

SUMMARY:

House Bill 524 and Senate Bill 1434 authorizes the City of Johnson City to designate the boundaries of the Regional Retail and Tourism Development District. The purpose of this district is to increase tourism and the competitiveness of the state with bordering states to advance shopping, entertainment and economic growth in our region. The designated district will be located near Exit 17 (Interstate 26) and consists of approximately 947 acres, which will be used for commercial development.

STAFF RECOMMENDATION:

Staff Recommends Approval

FILED

JAN 16 2020

at 3:35 P.M.

Sarah Lawson, Clerk and Master

ORDINANCE NO. 4723-19

AN ORDINANCE TO DESIGNATE THE BOUNDARIES OF A REGIONAL RETAIL AND TOURISM DEVELOPMENT DISTRICT IN THE CITY OF JOHNSON CITY PURSUANT TO THE AUTHORITY GRANTED TO THE CITY BY HOUSE BILL 052/SENATE BILL 1434 AS ENACTED IN 2019 BY THE 107TH GENERAL ASSEMBLY.

WHEREAS, House Bill 0524 and Senate Bill 1434 amended Tennessee Code Annotated, Title 7, by adding Sections 2 through 12 as a new chapter and enacted Chapter No. 498 known as the Regional Retail Tourism Development District Act (the "Act"); and

WHEREAS, the Act became law during the 107th General Assembly in 2019; and

WHEREAS, the purpose of the Act is to increase tourism and the competitiveness of the State of Tennessee with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational and other activities; and

WHEREAS, the City of Johnson City designates the boundaries of a regional retail tourism development District within the City as shown on the attached *Exhibit "A"* (the "District"); and

WHEREAS, the Commissioners find: (a) that approximately sixty percent (60%) of the District is located within the City of Johnson City; (b) that some boundary of the District is no more than one-half (1/2) mile from an existing federally designated interstate exit; (c) that the boundary of the District is no more than twenty (20) miles from the state borders of Virginia and North Carolina as measured by straight line; and (d) that the District is no larger than a total area of nine hundred fifty (950) acres; and

WHEREAS, all parcels in the District, thereof for which the boundary of the District touches or crosses, shall include the full part and parcel, including those parcels which are not entirely within the boundaries of the District; and

WHEREAS, the Commissioners seek to include within the District three (3) parcels contiguous to the District, totaling 5.86 acres, and located south of Boones Creek Road along Quality Circle.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JOHNSON CITY as follows:

SECTION I. That the area shown on the attached *Exhibit "A"*, which consists of approximately nine hundred forty-seven (947) acres, is hereby designated as a regional retail and tourism development district under the Act with each parcel lying within the boundaries shown to be included in the District.

SECTION II. That a certified copy of this Ordinance shall be filed with the Commissioner of Revenue along with a request for certification of the District and the City Manager is authorized and directed to submit such additional documents and information as may be deemed necessary or appropriate.

SECTION III. **BE IT FURTHER ORDAINED** that all ordinances and parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION IV. **BE IT FURTHER ORDAINED** that this ordinance shall take effect upon third and final reading and adoption by at least a two-thirds (2/3) vote of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING ON
THE FIRST READING 19 Dec 2019

PASSED IN OPEN, PUBLIC MEETING ON
THE SECOND READING 02 Jan 2020

PASSED IN OPEN, PUBLIC MEETING ON
THE THIRD READING _____

APPROVED AND SIGNED IN OPEN MEETING
ON THE ____ DAY OF _____, 2020

FOLLOWING PASSAGE ON THIRD READING.

JENNY L. BROCK, MAYOR

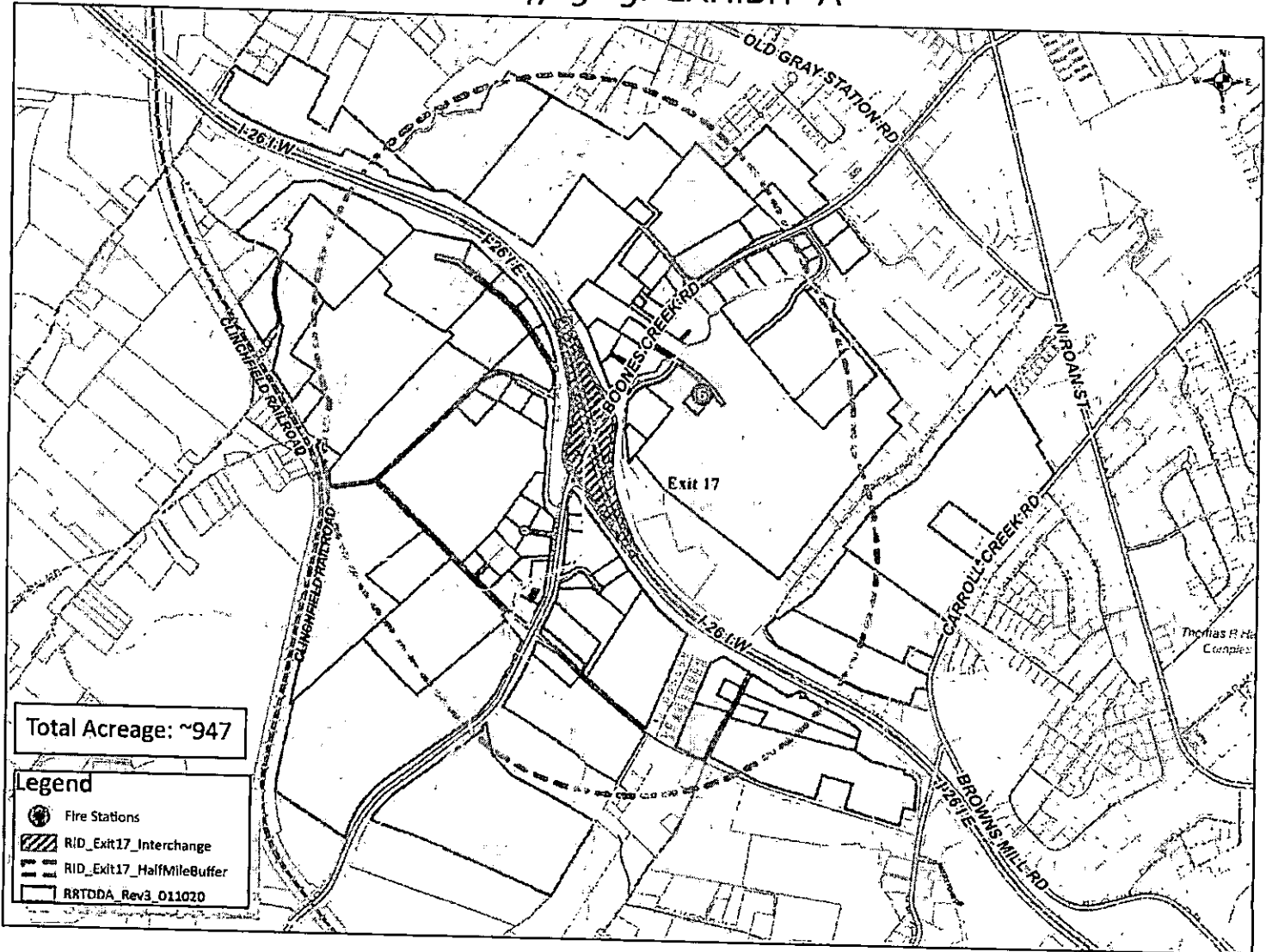
ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

STAFF ATTORNEY

ORD.4723-19: EXHIBIT "A"





State of Tennessee

PUBLIC CHAPTER NO. 498

HOUSE BILL NO. 524

By Representatives Matthew Hill, Timothy Hill, Helton, Van Huss

Substituted for: Senate Bill No. 1434

By Senator Crowe

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 12; Title 47; Title 48; Title 61 and Title 67, relative to business.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, is amended by adding Sections 2 through 12 as a new chapter.

SECTION 2. This chapter shall be known and may be cited as the "Regional Retail Tourism Development District Act."

SECTION 3. The purpose of this chapter is to increase tourism and the competitiveness of this state with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational, and other activities.

SECTION 4. As used in this chapter, unless the context otherwise requires:

(1) "Base tax revenues" means the revenues generated from the collection of state sales and use taxes from all businesses within the applicable regional retail tourism development district as of the end of the fiscal year of this state immediately prior to the year in which the municipality or industrial development corporation is entitled to receive an allocation of tax revenue pursuant to this chapter. In no event shall the apportionment pursuant to this chapter be adjusted to reduce the economic benefit to the municipality as is provided in this chapter;

(2) "Best interests of the state" means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(A) The economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax provided for in Section 7; and

(B) The district is a result of the project or extraordinary retail or tourism facility;

(3) "Commissioner" means the commissioner of revenue;

(4) "Cost" means all costs of an economic development project in a district incurred by the municipality or industrial development corporation, including, but not limited to, the cost of developing the district, as well as acquisition, design, construction, renovation, improvement, demolition, and relocation of any improvements; the cost of labor, materials, and equipment; the cost of all lands, property rights, easements, and franchises required; financing charges, interest, and debt service prior to, during, or after construction; the cost of issuing bonds in connection with any financing; cost of plans and specifications, services, and estimates of costs and of revenue; cost of direct or indirect assistance, including funds for location assistance; cost of site preparation, engineering, accounting, and legal services; all expenses necessary or incident to determining the feasibility or practicability of such acquisitions or construction; salaries, overhead, and other costs of the municipality or industrial development corporation allocated to the project, including new development or subsequent phases of the project

to be completed within the thirty-year period established in Section 5(d), and administrative, legal, and engineering expenses and such other expenses as may be necessary or incident to such acquisition, design, construction, renovation, demolition, relocation, or the financing thereof, including the costs incurred by a municipality or industrial development corporation relating to the development of an extraordinary retail or tourism facility within two (2) years prior to the municipality's designation of the proposed regional retail tourism development district for such project;

(5) "Economic development project" or "project" means the provision of direct or indirect financial assistance, including funds for location assistance, to an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility in a regional retail tourism development district by a municipality or an industrial development corporation, including, but not limited to, the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings, equipment, or other infrastructure; public works improvements essential to the location of an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility; payments for professional services contracts necessary for a municipality or industrial development corporation to implement a plan or project; the provision of direct loans or grants for land, buildings, or infrastructure; and loan guarantees securing the cost of land, buildings, location assistance, or infrastructure in an amount not to exceed the revenue that may be derived from the sales and use tax transferred to the municipality as provided in this chapter. It also includes development of parks, plazas, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots, parking structures, and other public improvements constructed or renovated by the municipality or an industrial development corporation in connection with the project in the district and any related infrastructure and utility improvements for public or private peripheral development for the district that is constructed, renovated, or installed by the municipality or an industrial development corporation;

(6) "Extraordinary retail or tourism facility" means a single store, series of stores, or other public tourism facility or facilities located within a regional retail tourism development district, and includes retail or other public tourism facilities that are reasonably anticipated to draw at least one million (1,000,000) visitors a year upon completion. The extraordinary retail or tourism facility must reasonably be expected to require a capital investment of at least twenty million dollars (\$20,000,000), including land, buildings, and site preparation costs, and must reasonably be anticipated to remit at least two million dollars (\$2,000,000) in state sales and use tax annually when completed;

(7) "Industrial development corporation" means a corporation created or authorized by a municipality or county pursuant to chapter 53 of this title;

(8) "Municipal governing body" means the city council, city commission, or board of mayor and aldermen of a city;

(9) "Municipality" means an incorporated city located in this state; and

(10) "Regional retail tourism development district" or "district" means one (1) or more parcels of real property located within a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent census, and which some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit, is no more than twenty (20) miles from the state border of two (2) neighboring states as measured by straight line, is no larger than a total area of nine hundred fifty (950) acres, and is designated as a regional retail tourism development district by a municipal ordinance and certified by the commissioner.

SECTION 5.

(a) To receive the apportionment of state sales and use taxes as provided in this chapter, the following requirements must be met:

(1) A municipal legislative body must adopt an ordinance designating the boundaries of the regional retail tourism development district. A municipality shall not contain more than one (1) such district;

(2) The municipality must file a certified copy of the ordinance with the commissioner along with a request for certification of the district. The request must include a master development plan for the proposed district containing such information as may be reasonably required by the commissioner;

(3) The commissioner shall promptly review the request to confirm that the proposed boundaries of the proposed regional retail tourism development district do not exceed the maximum size set forth in this chapter. If the commissioner determines that the boundaries of the proposed regional retail tourism development district exceed the area allowed by this chapter, then the commissioner may adjust or reduce the boundaries of the proposed district in consultation with the municipality. In reviewing the request, the commissioner shall inform the commissioners of economic and community development and tourist development of the pending request; and

(4) If the commissioner, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by Section 7 of this act, is in the best interests of the state, then the commissioner shall approve the request and certify the district. Upon certification of the district, the commissioner shall provide prompt notice of the certification to the commissioner of economic and community development, the commissioner of tourist development, and the requesting municipal governing body.

(b) Upon certification of the district, state sales and use taxes must be apportioned and distributed to the municipality as provided in this chapter.

(c) The apportionment and distribution of state sales and use taxes to the municipality as provided in this chapter must commence at the beginning of the fiscal year after the certification of the district. Prior to the beginning of that fiscal year, and on an annual basis thereafter, the municipality shall submit to the commissioner a summary of the cost of the economic development project with supporting documentation, certified by the chief financial officer of the municipality, which must include the cost of any new phases or additional development of the project to be completed within the thirty-year time limitation established in subsection (d). The commissioner shall review the cost certification to determine whether state sales and use taxes, in the amount determined by the commissioner, must be apportioned and distributed to the municipality pursuant to this chapter and shall notify the department of economic and community development of the determination.

(d) Additional development or new phases of a project within a certified district shall not be initiated after the expiration of twenty (20) years following certification of the district. The certified district must be dissolved following the expiration of thirty (30) years, or upon the date on which the cost of the project has been fully paid, whichever occurs first. The thirty-year period in this subsection (d) runs concurrently with the time limitation established in Section 7 of this act.

SECTION 6. The department of revenue shall make annual adjustments to the sales and use tax revenues collected in the district within ninety (90) days of the end of each fiscal year. The annual adjustments are effective immediately upon notification of the adjustment from the department of revenue to the municipality or industrial development corporation.

SECTION 7.

(a) Notwithstanding the allocations provided for in § 67-6-103(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then seventy-five percent (75%) of state sales and use tax collected in the district in excess of base tax revenues must be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes

derived from the sale of goods, products, and services within the district in excess of base tax revenues.

(b) Apportionment and distribution according to subsection (a) must continue for a period of thirty (30) years, or until the date on which the entire cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project, are fully paid, whichever occurs first. Following the expiration of this thirty-year period, or upon the date on which such cost has been fully paid, whichever is sooner, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this chapter.

(c) Tax revenue distributed to the municipality pursuant to this chapter is for the exclusive use of the municipality or the industrial development corporation formally designated by the municipality for payment of the cost of the economic development project, including principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project. The department of revenue shall apportion the payment to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter.

SECTION 8. An eligible municipality in which a district is located is authorized to delegate to any industrial development corporation within the county or counties where the municipality is located the authority to carry out all or part of the project, to issue revenue bonds to finance a project within a district, and to incur cost for the project. The municipality may enter into an agreement with an industrial development corporation in which the municipality agrees to promptly pay to the industrial development corporation the tax revenues received pursuant to this chapter sufficient to service the repayment of the bonds and costs incurred by the industrial development corporation for the project. Upon receipt, that portion of tax revenues must be held in trust by the municipality for the benefit of the industrial development corporation.

SECTION 9. Any bonds, notes, refunding bonds, or other indebtedness relative to the cost of an economic development project must not be issued for a term longer than thirty (30) years, and the municipality or industrial development corporation may pledge all proceeds or taxes it receives pursuant to this chapter to the payment of principal and interest on the bonds, notes, or other indebtedness. The thirty-year period in this section runs concurrently with the time limitation established in Section 7 of this act.

SECTION 10. Prior to the issuance of any bonds to finance the cost of an economic development project that will be repaid in whole or part from apportionments under this chapter, the municipality or industrial development corporation issuing the bonds shall submit a proposed debt amortization schedule for the bonds to the commissioner for approval. The schedule must show the anticipated contribution to be made to the annual debt service for the bonds from the apportionment of sales and use taxes pursuant to this chapter and all other sources. After the date of issuance of the bonds, the municipality shall continue to contribute each year thereafter until the bonds are retired or a sufficient sinking fund has been established for their retirement.

SECTION 11. A municipality may, including through an industrial development corporation, limit, condition, or provide incentives or financial support in the district as it deems appropriate, including the requirement that the benefited property owners participate in the repayment of indebtedness due to district formation in an amount equal to twenty-five percent (25%) of the property tax for the real property owned by the property owner in the district each year, for the length of time as the municipality receives an appropriation of sales and use tax in accordance with this chapter and the property owner provides a lien on the property for such repayment. A municipality shall not provide financial assistance for the location or relocation of existing retailers located within a fifteen-mile radius of the district, if the existing location is within this state, unless the sales floor space is increased by thirty-five percent (35%) or more from that of the existing store. A municipality may allocate some or all of the incremental increase in property tax revenue directly as a result of the development within the district to pay for costs associated with the district formation, economic development projects, or extraordinary retail or tourism projects within the district.

HB 524

SECTION 12. Notwithstanding any law to the contrary, the municipality and the industrial development corporation may exercise all power and rights, express or implied, granted by this chapter.

SECTION 13. Tennessee Code Annotated, Section 7-53-101(15), is amended by adding the following new, appropriately designated subdivision:

() Any economic development project as defined in the chapter created by Section 1;

SECTION 14. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new, appropriately designated subsection:

() Notwithstanding the provisions of Section 7 of this act to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue must be allocated as provided in Acts 1992, chapter 529 and Acts 2002, chapter 856, respectively.

SECTION 15. This act shall take effect July 1, 2019, the public welfare requiring it.

HOUSE BILL NO. 524

PASSED: May 2, 2019



GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 24th day of May 2019



BILL LEE, GOVERNOR

Exhibit F

THE
JOHNSON CITY
MUNICIPAL
CODE

Prepared by the
**MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE**

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

August 2004

FILED

JAN 16 2020

at 3:35 P.M.

Sarah Lawson, Clerk and Master

Change 11
April 4, 2019

CITY OF JOHNSON CITY, TENNESSEE

MAYOR

Jenny Brock

VICE MAYOR

Joe Wise

COMMISSIONERS

Larry Calhoun

Todd Fowler

John Hunter

CITY MANAGER

Pete Peterson

CITY RECORDER/FINANCE DIRECTOR

Janet Jennings

PREFACE

The Johnson City Municipal Code contains the codification and revision of the ordinances of the City of Johnson City, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the city's ordinance book or the city recorder for a comprehensive and up to date review of the city's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the city's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Linda Dean, the MTAS Administrative Specialist and Rachel Coykendall, Program Resource Specialist, is gratefully acknowledged.

MTAS appreciates the cooperation and assistance provided by the following City of Johnson City staff members in the production of this municipal code of ordinances:

Mike West
James H. Epps, IV
Patricia McKee
Lester Lattany
Janet Jennings
Janice Bennett
Cathy Feathers
Lora Groce
James D. Moody
Jim Donnelly
Steve Neilson
Wendy Bailey
Jeremy Bryant
Julie Ayers
Monie Honeycutt
Dwight Harrell

Steve Lobertini
Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
CITY CHARTER

That all ordinances shall begin "Be it ordained by the City of Johnson City as follows:".

Reading; effective date; emergency ordinances; amendments.

~~That every ordinance shall be considered on three (3) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and third considerations, and any ordinance not so considered shall be null and void.~~

The City of Johnson City may establish by ordinance a procedure for the consideration of ordinances, the minimum requirement of which shall be that the caption of an ordinance be read on each of the three (3) occasions at which the ordinance is considered as provided in the preceding paragraph. Unless otherwise provided by ordinance, applicable law, or by majority vote of the commission at the time of its consideration, it shall not be required that any ordinance be read in its entirety at any meeting at which it is under consideration. No ordinance shall be read in its entirety more than once unless required by applicable law, and in that instance only immediately prior to consideration at public hearing.

Copies of ordinances under consideration shall be available after introduction, during regular business hours at the office of the city recorder and during sessions of the board of commissioners in which the ordinance is considered.

An ordinance shall take effect immediately upon final passage thereof, unless otherwise specified by the board of commissioners or prohibited by law.

No ordinance shall be amended except by a new ordinance.

~~That in all cases under the preceding section, the vote shall be determined by yeas and nays; the names of the members voting for or against an ordinance shall be entered upon the journal.~~

That every ordinance shall be immediately taken charge of by the recorder and by him numbered, copied in an ordinance book, filed and preserved in his office.

That all ordinances of a penal nature passed shall be published at least once in a newspaper of the city, and no such ordinance shall be in force until it

is so published; provided, however, that as to any ordinance embodying a building, plumbing, or electric code or any ordinance regulating as to sanitation in the interest of public health, a single type of occupation, business or industry, if it appears to the board of city commissioners that, in view of the length of the ordinance, the newspaper publication is unnecessarily expensive, such fact shall be stated in the ordinance and such ordinance may be published by posting a certified copy thereof on a bulletin board which shall be maintained by the city for that purpose at the city hall, for a period to be prescribed in such ordinance, which shall not be less than ten (10) days, and after such publication, such ordinance shall be in full force and effect.

It shall be the duty of the city manager to keep on hand for distribution, without charge, to persons affected by such building, plumbing or sanitary ordinances a supply of printed, type-written or mimeographed copies of such ordinances; provided, however, that as to any ordinance compiling and/or codifying the laws and ordinances of the city, the board of city commissioners, if they believe it advisable, may have such ordinance printed in book form rather than published in a newspaper, and such ordinance shall be in full force and effect immediately after such printing.

It shall be [the] duty of the city manager to keep on hand a supply of such ordinances for distribution to persons affected thereby; provided, that the city manager may charge for each volume an amount to be fixed by the board of city commissioners, which amount shall not exceed the cost of the city preparing and publishing same. [Priv. Acts 1939, Art. VI, §§ 30-34]

Johnson City businessmen, lawyers urge city to delay vote on Boones Creek incentive district

Arguing that the district could apply to other interstate exits in Johnson City, four businessmen and lawyers are urging Johnson City commissioners to delay their final vote on the boundaries of an incentive district in Boones Creek.

"It doesn't appear that there's been any public input on this," said Brent Long, a local developer and member of the Johnson City Development Authority who signed his name to a letter sent to Mayor Jenny Brock on Monday. "From the outset, we've been told the Boones Creek exit is the only exit that qualifies when in fact most if not all of the exits in Johnson City qualify to be considered for this tax incentive development."

The Johnson City Commission is scheduled Thursday to cast their third and final vote on the boundaries of a roughly 950-acre incentive zone, which was authorized by a state law approved in May. The district, which would be located around Interstate 26's Exit 17, would allow developers to apply for incentive money to offset cost such as property acquisition, design, engineering or construction on properties in the zone.

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The incentives would be funded entirely through a portion of the state sales tax revenue generated in the district, but would be distributed by the city through agreements with individual developers. If approved by the City Commission, the district boundaries would then move to the state for final approval.

In the letter, Long, developer Greg Cox and Johnson City attorneys Donald Spurrell and John Wood said questions about the allowable location complicate "the public representation made by the city and validity of the commission's votes on this proposed ordinance."

They also expressed concern about Vice Mayor Joe Wise's ownership of an office near the Boones Creek exit, "which raises the specter of a conflict of interest with him participating in votes in this matter." They asked the city commission to defer their final vote until the described issues can be addressed.

"I think some time needs to be given for developers and would-be developers that are interested in putting together a plan for this," Long said of the need for a delay.

State Rep. Matthew Hill, R-Jonesborough, who co-sponsored the legislation, denied Monday that the law, which contains language specifying the allowable location, could apply to other places. He said state officials reviewed that element of the legislation about a dozen times when they were in Nashville last year.

"There's no way it applies to anywhere else but right there," he said. "The geographic parameters lock it in to where that's the only place that it can be applicable."

In part, the legislation says some boundary of the district must be "no more than one-half mile from an existing federally designated interstate exit, is no more than twenty miles from the state border of two neighboring states as measured by a straight line."

Brock said the Monday letter has been turned over to the city's legal counsel, Sunny Sandos. She said Tuesday she hasn't heard back from Sandos and didn't have a response to the concerns expressed in the letter, but she did wonder why the authors didn't approach officials earlier. Gov. Bill Lee signed the bill into law in May.

"Nobody's been hiding this," she said. "It's been quite public. We're just trying to deal with the legislation right now that has been presented to us. We really weren't a part of designing it or anything like that."

Wise said Tuesday that he owns an office condo in the footprint of the incentive district, where he operates the property management company Wise Property Solutions, 119 Boone Ridge Drive. He said the office does not generate sales tax revenue.

Wise said he asked the city's legal department if his ownership of the office would be a problem during the vote. He was told that, because the property is already built up and doesn't have the capacity to generate sales tax revenue, it would not be an issue. Wise said he owns 12% of the already-developed property and isn't in a position to benefit financially from the incentive district.

"I'm not going to tear down my office so I can rebuild something that generates sales tax," he said. "That wouldn't make any sense."

~~According to Wise, city staff believe there are about four exits in Johnson City that could meet the state border requirements in the legislation. Only one, Exit 17, is in a position to produce a meaningful increase in incremental sales tax revenue, he said.~~

Wise said at this time, commissioners are simply defining the parameters of the district, but he noted that he's sympathetic to the argument that the district would harm existing retailers in other parts of town.

FILED

JAN 16 2020

3:35 P

Sarah Lawson, Clerk and Master

"This vote isn't where that argument is as compelling," he said. "Fast forward to the next vote where somebody comes in and says, 'I've got a letter of intent and I've got these tenants and they're promising to come and do X,Y and Z,' well then that's when we're going to have to make the more difficult assessments about the value of actually employing this tool."

Long said Tuesday that officials should "hit the reset button" on the Incentive district and have a thoughtful, public discussion about how the city can most effectively use the economic development tool.

"If we discuss this and decide that the Boones Creek site makes the most sense, then I'm all for it," Long said. "I'll support it 100%. But that has not happened."

Long also questioned whether the incentive district contributes to the efforts to produce a more cooperative regional identity.

"If we're going to put in 'Pinnacle Part Two' in Boones Creek and slight our neighbors 30-40% of their traffic that's coming to the Pinnacle, how is that regionalism?" he asked.

Pointing to the recent efforts to foster a local economic identity centered around outdoor recreation opportunities, Long added that officials should consider using the tool to contribute to that vision.

"Imagine, if you will, a mixed use development close to some of our outdoor amenities on the south side of town," he said.

Plaintiff John Wood
Defendant City of Johnson City TN

Original Complaint and Request for Injunctive Relief

The following causes of action relate to Johnson City Ordinance No 4723-19 (the "Ordinance") and House Bill 524 which may be found in the Tennessee Code Public Ch. No. 498 (the "Bill").

First Cause:

Violation of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter

Summary: A violation of Ordinance adoption rules caused by an incomplete first reading.

Facts:

1. Johnson City Ordinance No 4723-19 (the "Ordinance") is an ordinance for designating boundaries of the Regional Retail and Tourism Development District.
 - a. The Ordinance allows the designated district to be eligible for certain economic incentives provided under House Bill 524 which may be found in the Tennessee Code Public Ch. No. 498 (the "Bill") provided as Exhibit A.
 - b. Importantly under the Bill a municipality "shall not contain more than one (1) such district"
2. House Bill 524 which may be found in the Tennessee Code Public Ch. No. 498 (the "Bill") provides in part:

Section 5 (a)(1) A municipal legislative body must adopt an ordinance designating the boundaries of the regional retail tourism district. A municipality shall not contain more than one (1) such district.
3. Dec. 19, 2019 - the first public reading of Ordinance was performed missing a recital page, see Johnson City Ordinance No. 4723-19 first public reading provided as Exhibit B
4. Jan. 2, 2020 - The Ordinance was moved to a second public reading including its recital page, see Johnson City Ordinance No. 4723-19 second public reading provided as Exhibit C
5. The "Missing" recital provided as Exhibit D including the clause (emphasis added):

WHEREAS, all parcels in the District, thereof for which the boundary of the District touches or crosses, shall include the full part and parcel, *including those parcels which are not entirely within the boundaries of the District.*
6. Jan. 16, 2020 - The Ordinance is on the Johnson City Commission Agenda for a third and final public (Agenda provided as Exhibit E) reading after which the Ordinance will take effect as ordained by Section IV. of The Ordinance reading:

Section IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

Violation:

FILED

JAN 16 2020
at 3:35 p.m.
Sarah Lawson, Clerk and Master

1. The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter (Exhibit F) requires in part that an ordinance:
 - a. Be considered three times on different days
 - b. In a time period of a week or more
 - c. Or the ordinance is null and void
2. Above outlined portion of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter reproduced below:

"That every ordinance shall be considered on three (3) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and third considerations, and any ordinance not so considered shall be null and void."
3. The above referenced portion of the City Charter was adopted to provide the public and citizens of Johnson City three readings and a time period to be allowed to take action on an ordinance.
4. Here the public was not given a first reading of the Ordinance thus not "considered" and "null and void."

I request an enjoiner to stop this defective ordinance from proceeding and stay the Ordinance from taking effect ("this ordinance shall take effect upon third and final reading" according to the Ordinance) by deferring its scheduled third reading for 6pm today Jan. 16, 2020 as this Ordinance will be null and void due to its defects and violations of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter and there is a distinct chance of imminent irreparable harm that Johnson City will lose the possibility to designate a district under HB 524 ("the city shall not contain more than one (1) such district" according to the HB 524).

Noted Potential Damage the Ordinance taking effect according to third reading:

1. Generally:
 - a. Invalidated ordinance
 - b. Eroding of public trust
2. Specifically to The Ordinance
 - a. Johnson City will lose the possibility to designate a district ("the city shall not contain more than one (1) such district" according to the Bill)
 - b. Harm to citizens of Johnson City deprived of the benefits conferred by this economic incentive zone designation

Noted Downside of Enjoiner

1. Delay in Ordinance taking effect

Second Cause:

Violation of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter

Summary: A violation of Ordinance adoption rules caused by an altered ordinance scheduled for a third reading 6pm Jan. 16, 2020.

Facts:

1. Johnson City Ordinance No 4723-19 (the "Ordinance", same as outlined above in the First Cause) had a second public reading on Jan. 2, 2020 (second public reading provided as Exhibit C).
2. The Ordinance is on the Johnson City Commission Agenda for a third and final public reading, provided as Exhibit E, after which the Ordinance will take effect as ordained by Section IV. of The Ordinance reading:
Section IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.
3. The Ordinance scheduled for the third and final reading is different from the Ordinance of the second reading. Noted differences include at least that the Ordinance on the Johnson City Commission Agenda for a third and final public reading include recitals not found in the Ordinance of the second reading, added recitals include adding land to/changing the district:
WHEREAS the Commissioners seek to include within the District three (3) parcels contiguous to the District, totaling 5.86 acres, and located south of Boones Creek road along Quality Circle.
4. Noted differences between the second and third reading include at least that the Ordinance on the Johnson City Commission Agenda for a third and final public reading changes recitals not found in the Ordinance of the second reading, changed recitals including changing the voting rules (City Ordinance requires a simple majority see point 6):

From the Second Reading:

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading of the Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

From the Third Reading:

SECTION IV. BE IT FURTHER ORDAINED that this ordinance shall take effect upon third and final reading and adoption by at least two-thirds (2/3) vote of the

Board of Commissioners of the City of Johnson City, as required by law, the public welfare requiring it.

5. Relating to voting, The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter state in part:
That in all cases under the preceding section, the vote shall be determined by yeas and nay; the names of the members voting for or against an ordinance shall be entered upon the journal.
6. The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter state in part that no ordinance shall be amended except by new ordinance,
7. With respect to changing the voting recital we have potential violations with at least changing an ordinance from second to third reading as well as City Ordinance rules regarding voting.

Violation:

5. The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter (Exhibit E) requires in part that an ordinance:
 - a. Be considered three times on different days
 - b. In a time period of a week or more
 - c. Or the ordinance is null and void
6. Above outlined portion of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter reproduced below:
"That every ordinance shall be considered on three (3) different days in open session before its adoption, and not less than one (1) week shall elapse between the first and third considerations, and any ordinance not so considered shall be null and void."
7. The above referenced portion of the City Charter was adopted to provide the public and citizens of Johnson City three readings and a time period to be allowed to take action on an ordinance.
8. Here the altered map of the third reading of the Ordinance would render the Ordinance and "null and void."

I request an enjoiner to stop this defective ordinance from proceeding and stay the Ordinance from taking effect ("this ordinance shall take effect upon third and final reading" according to the Ordinance) by deferring its scheduled third reading for 6pm today Jan. 16, 2020 as this Ordinance will be null and void due to its defects and violations of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter and there is a distinct chance of imminent irreparable harm that Johnson City will lose the possibility to designate a district under HB 524 ("the city shall not contain more than one (1) such district" according to the HB 524).

Noted Potential Damage the Ordinance taking effect according to third reading:

1. Generally:

- a. Invalidated ordinance
- b. Eroding of public trust
- 2. Specifically to The Ordinance
 - c. Johnson City will lose the possibility to designate a district ("the city shall not contain more than one (1) such district" according to the Bill)
 - d. Harm to citizens of Johnson City deprived of the benefits conferred by this economic incentive zone designation

Noted Downside of Enjoinder

- 1. Delay in Ordinance taking effect

Third Cause:

And while the grounds above will lead to an invalidated ordinance, there are other challenges to this Ordinance.

For example, much of the "missing" recital of the Ordinance mentioned in the First Cause is directed towards the geographic parameters and title information of the Bill. For example, from the "missing" recital ("missing" recital provided as Exhibit D):

WHEREAS, House Bill 0524 and SEenate Bill 1434 amended Tennessee Code Annotated, Title 7, by adding Sections 2 through 12 as a new chapter and enacted Chapter No. 498 known as the Regional Retail Tourism Development District Act (the "Act");

.....

WHEREAS, the Commissioners find: (a) that some boundary of the district is no more than one-half (½) mile from an existing federally designated interstate exit; (b) that the boundary of the district is no more than (20) miles from the state borders of Virginia and North Carolina as measured by a straight line; and that that the district is no larger than a total area of nine hundred fifty (950) acres.

There is ongoing confusion about the applicability of the geographic parameters of the Bill. This is compounded by the fact that the "missing" recital was not provided in the first reading of the ordinance on Dec. 19, 2019 during which at the 24:10 minute mark of the meeting Johnson City Manager Peter Peterson stated:

"The district must be within one half mile of a federally designated interstate interchange, the area district cannot exceed 950 acres, it must lie in a location no more than twenty miles from two state lines as measured in a straight line, the Boones Creek Exit or Exit 17 on I-26 is the only location that meets all of those criteria."

Videos of Johnson City Commissioner meetings may be found online at https://www.johnsoncitytn.org/government/city_commission/government/agendas_and_minutes.php

And recently on Jan. 14 the Johnson City Press reports (report provided as Exhibit G):

"According to Wise, city staff believe there are about four exits in Johnson City that could meet the state border requirements in the legislation."

A clear discrepancy here among commissioners and the city manager in combination with the up until now known record of confusing statements from Johnson City in combination with the "missing" recital may render the designation of this district invalid and thus prevent Johnson City from the benefits of the Bill. New information is coming out regularly as citizens and lawyers start to take a closer look at this Ordinance and there is no reason to think this pattern will not continue.

Again I request an enjoinder to stop this defective ordinance from proceeding and stay the Ordinance from taking effect ("this ordinance shall take effect upon third and final reading" according to the Ordinance) by deferring its scheduled third reading for 6pm today Jan. 16, 2020 as this Ordinance will be null and void due to its defects and violations of The Johnson City Municipal Code Ordinance Adoption Procedures Prescribed by the City Charter and there is a distinct chance of imminent irreparable harm that Johnson City will lose the possibility to designate a district under HB 524 ("the city shall not contain more than one (1) such district" according to the HB 524).

Noted Potential Damage the Ordinance taking effect according to third reading:

1. Generally:
 - a. Invalidated ordinance
 - b. Eroding of public trust
2. Specifically to The Ordinance
 - e. Johnson City will lose the possibility to designate a district ("the city shall not contain more than one (1) such district" according to the Bill)
 - f. Harm to citizens of Johnson City deprived of the benefits conferred by this economic incentive zone designation

Noted Downside of Enjoinder

3. Delay in Ordinance taking effect

Respectfully submitted,



John Wood

TN Bar 037172

Resident of Johnson City TN

Verification

State of Tennessee

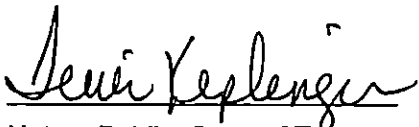
County of Washington

Before me, the undersigned authority, on this day personally appeared John Wood, known to me to be the person whose name is subscribed below, who, after being duly sworn, stated under oath that he has read the above and foregoing Original Complaint and Request for Injunctive Relief and that the facts stated therein are true and correct.



John Wood

Subscribed and sworn to before me on this the 16th day of January 2020, to certify which witness my hand and seal of office.



Notary Public, State of Tennessee

