

ORDINANCE

AN ORDINANCE OF THE COMMISSION
OF KNOX COUNTY, TENNESSEE,
AMENDING ARTICLE VII OF THE
KNOX COUNTY CHARTER TO ESTABLISH,
AS SEC. 7.05, A PROVISION TO RECALL
AN ELECTED OFFICIAL FROM OFFICE
(Knox County Charter as adopted 11-8-88, as
amended through Referendums of 8-1-96 &
11-7-06).

ORDINANCE: O-07-11-103

REQUESTED BY: COMMISSIONERS M.
HARMON & LAMBERT

PREPARED BY: KNOX COUNTY LAW
DIRECTOR

APPROVED AS TO FORM
AND CORRECTNESS:

John E. Dings
DIRECTOR OF LAW

APPROVED 1ST READING: *November 19, 2007*
DATE

APPROVED 2ND READING: *December 17, 2007*
DATE

APPROVED EMERGENCY: _____
(YES) (NO)

VETOED: _____
DATE

VETO
OVERRIDE: _____
DATE

MINUTE
BOOK _____ PAGE _____

WHEREAS, the citizens of Knox County are urging for an amendment to the Knox County Charter which would allow for the recall of an elected official from office in Knox County; and

WHEREAS, it is the sense of the Knox County Commission that this amendment should be placed before the people for ratification at the next regularly scheduled County or State election.

NOW THEREFORE BE IT ORDAINED BY THE COMMISSION OF KNOX COUNTY AS FOLLOWS:

SECTION 1. This Amendment to Article VII of the Knox County Charter, set out in full below, is proposed for submission to the voters of Knox County in accordance with the requirements of the Knox County Charter.

SECTION 2. The proposed amendment to Article VII of the Knox County Charter is set forth below as follows:

Sec. 7.05. Recall.

(A) This recall provision is applicable only to officials holding the positions of Knox County Mayor, County Commissioner, Law Director, Sheriff, County Clerk, Trustee, Register of Deeds, Property Assessor, and member of the Knox County Board of Education. The Judicial Branch, including the court clerks, are not subject to recall.

(B) Such recall petition, process and recall election shall meet the requirements of state law.

(C) Notwithstanding subsection (B), in the case of a recall of an official elected county-wide, the petition shall be signed by fifteen percent (15%) of those registered to vote in the county; provided, however, that in the case of a recall of a county commissioner or member of the Board of Education, the petition shall be signed by fifteen percent (15%) of the those registered to vote in the district represented by said official. No such petition shall be circulated until after the official has served one full year in office, nor if the official has less than one (1) year left on their term in office.

(D) Notwithstanding subsection (B), the signed recall petition shall be filed with the Knox County Election Commission within ninety (90) days after final certification of the proper form of the petition by the Election Commission.

(E) In a recall election, the following question shall be presented to each qualified voter:

“Shall _____ (name of official) be recalled and removed from the Office of _____ (name of office) on the following grounds:

_____ and shall an election of a successor be held?”

“Yes _____”

“No _____”

(F) If a majority of the voters vote “no,” the incumbent shall remain in office. If a majority of the voters vote “Yes,” the incumbent shall be deemed recalled and removed from office upon the certification of the recall by the Knox County Election Commission.

(G) In the event the incumbent is recalled, subject to provision (H) and pending the election provided for in Section H, the County Commission may fill the vacancy temporarily; provided, however, that said temporary appointee shall serve only until the election results are certified and the newly elected official is qualified.

(H) In the event the incumbent is recalled, an election to fill the vacancy shall be held as follows:

(1) A primary election shall be held for the selection of all political party nominees of all parties which are qualified under State law as political parties for the selection of candidates for the vacant office no less than ninety (90) days nor more than ninety-five (95) days after certification of the recall. Any person deciding to submit his/her name to the voters in such primary election shall file a qualifying petition in compliance with general law with the Knox County Election Commission no later than the third Thursday following the certification of the recall. The Election Commission shall verify the compliance of the petition with all requirements and declare the person a candidate and place his/her name on the primary ballot pursuant to general law. All voters shall have the right to cast write-in ballots as provided by general law. The Election Commission shall give public notice of the election and employ officials to hold the primary as provided by general law. No person shall be placed on the ballot for any office in the general election and designated as a nominee of a political party, unless such person has received such nomination by virtue of having been selected as that party’s candidate for such office in such County primary election. The election shall be held in the manner provided by general law for holding primary elections.

(2) A general election shall be held no less than seventy-five (75) days nor more than eighty (80) days after certification of the primary election by the Knox County Election Commission. All such elections shall be held in the manner provided by general law for holding a county August general election.

(3) The person elected to fill the vacancy created by the recall shall serve the remainder of the term of that office.

(I) Notwithstanding paragraph (G), if the recall election is certified by the Knox County Election Commission within forty-five (45) days of the deadline for submitting a qualifying petition for the primary election for that office under Article VII of the Knox County Charter, then, such office will remain vacant for the balance of the term and will be filled through the ordinary primary and general election process for that office set out in the Charter and general state law.

(J) It shall be a violation of the Knox County Charter, punishable by a fine of One Thousand Dollars (\$1,000.00), for any person, directly or indirectly, personally or through any other person:

(1) By force or threats to prevent or endeavor to prevent any qualified voter from signing or promoting a petition for recall;

(2) To make use of any violence, force or restrain or to inflict or threaten the infliction of any injury, damage, harm or loss; or

(3) In any manner to practice intimidation upon or against any person in order to induce or compel such person to sign or refrain from signing a petition for recall;

(4) Any Knox County voter who has reasonable suspicion of the foregoing shall report said acts to the Knox County Election Commission, the Knox County Sheriff, the District Attorney General, and the Knox County Law Director.

(5) The General Sessions Court shall have jurisdiction of such Charter violation.

(6) This Charter subsection is in addition to and does not supplant any provision of state law which may render any of these acts a felony or misdemeanor.

(K) If any section or provision of this recall provision shall be held unconstitutional, invalid or inapplicable to any persons or circumstances, then it is intended and declared by the people of the County that all other sections or provisions of this recall provision and their application to all other persons and circumstances shall be severable and shall not be affected by any such decision.

SECTION 3. This Ordinance is to take effect from and after its passage, as provided by the Charter of Knox County, Tennessee, the public welfare requiring it.

Scott Moore 12-17-07
Presiding Officer of the Commission Date

George Stokelms
Chief Deputy
under the authority of T.C.A. 18-6-115 12-19-07

County Clerk Date

Approved: Michael R. Reynolds 12-19-07
County Mayor Date

Vetoed: _____
County Mayor Date