

CHATTANOOGA CITY CHARTER

APPENDIX NO. 1

J U D G M E N T¹

The agreed order and defendants' amended plan, both of which this Court has approved and filed this date, shall be the judgment of the Court in accordance with Rule 58, Federal Rules of Civil Procedure.

Under the plan, this Court will retain jurisdiction for the purpose of (1) reviewing, in accordance with 42 U.S.C. § 1973a(c), the first redistricting plan based on 1990 Census figures if such a plan is submitted to this Court, and (2) the assessment of costs and attorneys' fees, which are hereby awarded to the plaintiffs in accordance with 42 U.S.C. § 1973(e). Counsel for the plaintiffs are reminded of the provisions of L.R. 10.6, EDTN, which requires that all petitions for attorneys' fees must be filed within thirty (30) days after the entry of judgment.

SO ORDERED.

ENTER.

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE

¹ Filed in Brown, et al. v. Board of Commissioners, et al., No. CIV-1-87-388, in the United States District Court for the Eastern District of Tennessee, Southern Division, on January 18, 1990.

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AGREED ORDER²

Pursuant to the Order of the Court of August 8, 1989, directing the Defendants to submit an acceptable remedial plan to bring the City of Chattanooga, Tennessee, into compliance with the Voting Rights Act of 1965, as amended, and after the submission by Defendants of a proposed plan and following an evidentiary hearing pursuant to Section 2 of the Voting Rights Act, 42 U.S.C. Sec. 1973, the parties have agreed upon a remedy for the voting rights violation in this case, which is described more fully in Defendants' Amended Plan, a copy of which is attached hereto as Exhibit A and made a part hereof by reference. With the consent of the parties and for good cause shown, the Court accepts and adopts Defendants' Amended Plan as a full and complete remedy for the violation of Plaintiffs' rights in this case.

The Court's retention of jurisdiction over this case is limited by the agreement of the parties (which is contained in Paragraphs nineteen (19) and twenty (20) of said Amended Plan) pursuant to Section 3(c) of the Voting Rights Act, 42 U.S.C. Sec. 1973a(c). The Court retains jurisdiction over Plaintiffs' request for costs and attorneys' fees, and this case remains on the docket for this purpose only.

This Order shall be binding upon the parties, their successors, agents and assigns.

AND IT IS SO ORDERED.

January 18, 1990
Chattanooga, Tennessee

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE

We Consent:

Laughlin McDonald
Derek Alphan
January 17, 1990
Attorneys for Plaintiffs

² Filed in Brown, et al. v. Board of Commissioners, et al. in the United States District Court for the Eastern District of Tennessee, Southern Division, on January 18, 1990.

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<hr/> <p>Margaret Carey C. Victor McTeer January 17, 1990 Attorneys for Plaintiffs</p>	<p style="text-align: center;">City of Chattanooga</p> <p>By: _____ Mayor Gene Roberts January 17, 1990</p>
<hr/> <p>Myron Bernard McClary January 17, 1990 Attorney for Plaintiffs</p>	<hr/> <p>John P. Franklin, Commissioner January 17, 1990</p>
<hr/> <p>Richard Dinkins January 17, 1990</p>	<hr/> <p>Ron Littlefield, Commissioner January 17, 1990</p>
<hr/> <p>Eugene N. Collins City Attorney Emeritus January 17, 1990 Attorney for Defendants</p>	<hr/> <p>Ervin L. Dinsmore, Commissioner January 17, 1990</p> <hr/> <p>C. A. Rose, Commissioner January 17, 1990</p>

EXHIBIT A

DEFENDANTS' AMENDED PLAN

AMENDED PLAN TO REORGANIZE THE GOVERNING BODY OF THE CITY OF CHATTANOOGA AS ORDERED BY THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT, SOUTHERN DIVISION, AT CHATTANOOGA, TENNESSEE IN THE CASE OF BROWN, ET AL. V. CITY, ET AL., CIVIL ACTION NO. 1-87-388.

1. The Charter of the City of Chattanooga, Tennessee (which is a compilation of various acts of the Tennessee General Assembly as well as certain ordinances enacted by the Board of Commissioners and ratified by a vote of the people pursuant to the Constitution of Tennessee) shall be amended as provided herein when approved and implemented by a final order of the United States District Court for the Eastern District of Tennessee, Southern

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Division sitting at Chattanooga, Tennessee, in the case of Brown, et al. v. City, et al., Civil Action No. 1-87-388.

2. The Board of Commissioners of the City of Chattanooga and the present offices of the Mayor and the Commissioners are hereby abolished as of noon, June 11, 1990. A special municipal election for the office of Mayor and members of the City Council of the City of Chattanooga shall be held on May 1, 1990. If there is to be a run-off election held pursuant to this Plan, then such election shall be held on Thursday, June 7, 1990. All persons duly elected to a City office hereunder shall file the appropriate bond, take the prescribed oath and assume the duties of office at noon on Monday, June 11, 1990.

3. There is hereby created the office of the Mayor, and all executive and administrative authority and responsibility now vested in and exercised by the Board of Commissioners and its individual members shall be vested exclusively in the Mayor. All references in the Charter to individual Commissioners or the Board of Commissioners acting in their administrative or executive capacity are hereby deleted and the word 'Mayor' substituted therefor.

4. There is hereby created a City Council of the City of Chattanooga, Tennessee, and all legislative and quasi-judicial authority and responsibility now vested in and exercised by the Board of Commissioners shall be vested exclusively in the City Council. All references to the 'Board of Commissioners' or 'Board' or 'City Commission' or 'Commissioners' or 'Commission' where the same refers to the Board of Commissioners acting in its or their legislative or quasi-judicial capacity in the present City Charter are hereby deleted and there is inserted in lieu thereof the phrase 'City Council' or 'Council' or 'Council Members' except as otherwise specified herein.

5. The Mayor shall be elected at-large and shall not be a member of the City Council. The Mayor shall not have a vote in any matter considered by the City Council. The Mayor shall have a veto over any ordinance enacted or resolution adopted by the City Council, but the City Council may override the veto of the Mayor at the next regular meeting of the Council but only by a majority vote of the entire membership of the City Council.

6. No person shall be elected to the office of Mayor unless he or she has been a resident of the City of Chattanooga for at least one year prior to his or her election and unless he or she shall be at least thirty (30) years of age. The residency and age requirements must be met at the time (s)he qualifies to run for office. Each candidate, at the time of qualification, shall sign an oath that (s)he meets the residency and age requirements.

Editor's note--Modified by Ord. No. 9432, § 1(2), adopted 8-21-90, and was approved by the voters of the city on 11-6-90.

7. The Chief Executive Officer of the City of Chattanooga shall be the Mayor. The Mayor shall be authorized to administer oaths and shall supervise and control all of the divisions of the City, except as otherwise provided, and shall see that the ordinances of the City and the provisions of the Charter are observed. The Mayor shall devote his or her entire time and attention to the duties of the office of the Mayor. The Mayor may attend any

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meeting of the Council or any of its committee meetings and may address the Council or its committee meetings subject to recognition by the Chairperson.

8. No person shall be eligible to be elected as Mayor for more than two (2) consecutive four (4) year terms.

9. In the case of the Mayor's death, resignation, inability to serve for any reason, recall or removal of his or her residence from the City, upon such fact being certified by resolution of the Council, the Chairperson of the Council shall become the interim Mayor upon being administered the oath and making bond. Such person shall hold the Office of the Mayor on an interim basis until a new Mayor is elected as provided in this Charter and qualified. The interim Mayor shall have the authority to cast a vote to break a tie in the City Council. A vacancy in the Office of the Mayor shall be filled by election at the next regularly scheduled election to be held in the City not less than ninety (90) days but not more than one hundred twenty (120) days after the vacancy is certified by the Council. If no such election is scheduled, a special election shall be held within not less than ninety (90) nor more than one hundred twenty (120) days. The person so elected shall serve the remainder of the term vacated by the Mayor.

10. The Mayor shall appoint all department heads, subject to confirmation by a majority vote of the entire membership of the Council. The Mayor may remove department heads at any time with the approval of a majority vote of the entire membership of the Council. The City Council may remove department heads and/or City officials (but not the Mayor) for cause after notice and hearing, and pursuant to a vote of two-thirds of the entire membership of the Council.

11. Within sixty (60) days after taking office, the Mayor shall recommend to the Council any revisions to the names, functions, and organization of City departments that the Mayor deems appropriate. The Council shall adopt a plan of reorganization within thirty (30) days after receiving recommendations for the same from the Mayor, which recommendations the Council may accept, modify or reject.

12. The existing City departments as specified in Pr. Acts 1911, Ch. 10, Sec. 17, as modified directly or indirectly by Pr. Acts 1953, Ch. 105; Pr. Acts 1955, Ch. 56; Pr. Acts 1957, Ch. 73; and, Pr. Acts 1965, Ch. 207, will be retained and will continue to perform their respective duties pending the reorganization of the departmental structure described herein.

13. (a) No later than the date he or she appoints department heads, the Mayor shall appoint, with the approval of a majority of the entire membership of the City Council, persons to fill the positions of Fire Chief and Police Chief for terms concurrent with the Mayor and until they are discharged or their successors are appointed and qualified. The Mayor, with the approval of a majority vote of the entire membership of the Council, may discharge any of these officials prior to the expiration of their terms of office. Thereafter, vacancies shall be filled by appointment of the Mayor with the approval of a majority vote of the entire membership of the Council.

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Editor's note-Modified by Ord. No. 10745, § 1(3), adopted 8-18-98, approved by the voters of the city on 11-3-98.

(b) The persons holding the offices of City Auditor and City Treasurer on the operative date of these Charter amendments shall continue in those offices on an interim basis and until their successors are appointed and qualified. No later than the date the Mayor appoints department heads, the Mayor shall appoint, with the approval of a majority vote of the entire membership of the Council, a City Finance Officer in place of the City Auditor, and a City Treasurer, for terms concurrent with the terms of the Mayor, and until they are discharged or their successors are appointed and qualified. The Mayor may discharge the City Finance Officer or City Treasurer with the approval of a majority vote of the entire membership of the Council. Any vacancy occurring in said offices shall be filled by appointment of the Mayor with the approval of a majority vote of the entire membership of the Council.

(c) An Internal Auditor shall be appointed by the Council, independent of the Mayor, and may be removed and replaced at any time by the affirmative vote of a majority of the Council. The Internal Auditor's responsibilities will include, but not be limited to, auditing expenditures of the executive and administrative departments and verifying that all revenues due the City are properly collected and accounted for.

(d) The Mayor and Council shall jointly appoint a City Attorney for a four (4) year term from the date of appointment to said four (4) year term. The City Attorney may be removed from office at any time by the affirmative vote of two-thirds of the entire membership of the City Council, and the concurrence of the Mayor.

Editor's note-Subsection (d) herein has been amended by Ord. No. 9439, § 1(2), adopted 8-21-90, approved by the voters of the city on 11-6-90, and which is codified as § 3.62 of the City Charter.

14. The salary of the Mayor shall be at all times the same as the salary of the County Executive of Hamilton County.

15. The City shall be divided into nine (9) districts within the geographic boundaries of the City. The City Council shall be composed of nine (9) members with each member elected from one of such single districts. The candidate for each Council position who receives the majority of votes cast for that Council position shall be elected or appointed as a member of the Council who is not at least 21 years of age and who has not been a resident of the district for at least one year preceding his or her election. The residency and age requirements must be met at the time (s)he qualifies to run for office. Each candidate, at the time of qualification, shall sign an oath that (s)he meets the residency and age requirements.

Editor's note-Modified by Ord. No. 9432, § 1(2), adopted 8-21-90, and approved by the voters of the city on 11-6-90.

16. At its initial meeting, the Council shall elect from its membership a Chairperson who shall preside over Council meetings. The Council shall also elect a Vice-

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Chairperson who shall preside in the Chairperson's absence. Terms of the Chairperson and Vice-Chairperson shall be for one year or until the end of the Council's term, whichever is shorter. No Council person may serve more than two years as Chairperson, nor more than two years as Vice-Chairperson, within any Council term. The Council may when necessary elect from their members a Chairperson *pro tempore* to preside at a particular meeting in the absence of the Chairperson and Vice-Chairperson.

Editor's note-Modified by Ord. No. 10090, § 1(2), adopted 08-23-94, and approved by the voters of the city on 11-8-94.

17. The Chairperson of the Council shall ascend to the Office of the Mayor as interim Mayor on a temporary basis in the event of a vacancy in the office of the Mayor by reason of death, resignation, removal, or otherwise, all as specified in paragraph 9 hereof. During service as interim Mayor, the Council Chairperson shall step down from his or her position as a member of the council. However, the temporary ascension of the Council Chairperson to the Office of the Mayor will not create a vacancy on the Council to be filled by the Council.

18. The following districts are hereby established for the various Council positions:

<u>District No.</u>	<u>Precincts</u>
District 1	Mountain Creek, Northwoods North, Northwoods South, Valleyview East, and Wauhatchie City.
District 2	Lupton City, Moccasin Bend, North Chattanooga, Northgate, Riverview, and Stuart Heights.
District 3	Dupont, Hixson, Kings Point, Lake Hills, Murray Hills, Hixson 2 and East Chattanooga.
District 4	Brainerd Hills, Concord, East Brainerd, and Tyner.
District 5	Airport, Bonny Oaks, Dalewood, Eastdale, and Woodmore.
District 6	Brainerd, Eastgate, Eastside, Missionary Ridge N, Missionary Ridge S, Ridgedale, and Sunnyside.
District 7	Alton Park, Cedar Hill, East Lake, Piney Woods, and St. Elmo.
District 8	Amnicola, City Hall, Clifton Hills, Courthouse, Downtown, and Howard.

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District 9 Avondale, Bushtown, Highland Park, Glenwood, and Orchard Knob.

19. Following publication of each new official decennial federal census, the Council shall reorganize and adjust by ordinance the boundaries of the districts currently established. The Council's reorganization and adjustment of the district boundaries shall be completed no later than one (1) year prior to the next City election; provided, however, that the Council shall have not less than six (6) calendar months within which to reorganize and adjust the districts. The adjusted districts shall be as equal in population as practicable. Such reorganization and adjustment of district boundaries shall not affect the qualifications of any Council member to fulfill his or her remaining unexpired term.

Editor's note-This section is augmented by Ord. No. 9724, § 1(2), adopted 5-19-92 and approved by the voters of the city on 8-6-92, and which is codified as § 5.28 of this Charter.

20. The first and only the first redistricting plan (based on the 1990 census figures only) prepared pursuant to paragraph 19 hereof, prior to its implementation, shall be submitted by the Mayor and Council, or the Chief Legal Officer (pursuant to Section 3(c) of the Voting Rights Act, 42 U.S.C. Sec. 1973 a(c)), to the District Court for the Eastern District of Tennessee, Southern Division, or in the alternative to the Attorney General of the United States for preclearance under Section 5 of the Act, 42 U.S.C. Sec. 1973c.

21. A majority of the entire membership of the Council shall constitute a quorum for the transaction of business. The affirmative votes of a majority of the members of the entire Council shall be necessary to enact any ordinance or adopt any resolution or take any affirmative action. Every ordinance enacted by the council shall be signed by the Council Chairperson, Vice-Chairperson or Chairperson *pro tempore* and shall also be approved or vetoed by the Mayor as provided by the Charter and shall then be delivered to the Clerk of the City Council. Except as provided herein, wherever in the Charter more than three (3) votes of the present Board of Commissioners is required to take any action, it shall mean more than five (5) votes of the entire membership of the City Council.

22. Removal of residence by a member of the Council from that member's district shall constitute a vacancy in that member's Council position. Any vacancy occurring on the Council, including any vacancy in the office of Chairperson of the Council, shall be filled by a vote of a majority of all of the remaining members of the Council. Any person elected to fill such a vacancy shall possess the same qualifications as a Council member elected by the people. Any person elected or appointed as a member of the Council shall serve until his or her successor is elected and qualified; provided, however, that if any general statute requires an earlier election, then such general statute shall apply.

23. Members of the Council shall be paid fifteen percent (15%) of the Mayor's salary as may be adjusted from time to time. The Chairperson shall be paid an additional Five Thousand Dollars (\$5,000.00) per annum, and the Vice-Chairperson shall be paid an additional Twenty-Five Hundred Dollars (\$2,500.00) per annum. Such salaries shall be payable on a monthly basis.

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24. The Council shall from time to time establish and publish such procedures and rules for its organization and orderly operation as the Council deems appropriate so long as the procedures and rules do not conflict with provisions of the Charter, state or federal law. The Council shall have the power to issue subpoenas and administer oaths. The Council's rules shall specify the schedule for its regular meetings, which shall be held at least twice a month, and the procedures for calling special meetings. In the event that a member of the council shall be absent from all Council meetings during three (3) consecutive months without proper and reasonable explanation acceptable to the Council, his or her office may be declared vacated by a majority vote of the remaining membership of the Council and such vacancy shall be filled as provided herein.

25. The Council may from time to time establish such committees, committee responsibilities, and the manner of committee appointment as the Council deems appropriate. The Council shall employ a Clerk whose duty it shall be to preserve, keep and retain all of the records of the Council and shall have the authority to certify the correctness of such records when necessary or requested by a citizen.

26. Members of the Council may be reimbursed their reasonable, necessary and actual expenses incurred in the performance of their official duties. The Council shall adopt procedures and guidelines for documentation and reimbursement of expenses of members of the Council and of all the officials and employees of the government after receiving appropriate recommendations on the same from the Mayor.

27. Only persons who are residents of the City of Chattanooga shall be eligible to vote in City elections.

28. Subsequent elections for Mayor and City Council members shall be held on the first Tuesday in March, 1993, and every four (4) years thereafter. The Mayor and each City Council member shall be elected by a majority of the votes cast for the office he or she seeks. If no candidate for Mayor or no candidate for one or more City Council seats attains a majority in the March elections, a run-off election shall be held on the second Tuesday in April. The run-off election shall be held between the two candidates in each such contest who receive the highest number of votes. Those candidates elected either in the first election in March or in the run-off election in April shall file a bond, take the oath of office and assume their respective duties on the first Monday after the second Tuesday in April following the initial March elections, each to serve until the first Monday after the second Tuesday in April, 1997, or until a successor is elected and qualified. A Mayor and all City Council members shall be elected to four (4) year terms of office in the same manner thereafter.

29. The current Chairman of the Board of Education shall serve until February 1, 1991. Thereafter, the Chairman of the Board of Education shall be elected by the Board from among its members, which Chairman shall have full voting rights on all matters and questions coming before the Board of Education.

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30. Current members of the Board of Education shall serve until their terms expire. Elections shall be held in the general election in November, 1990 for Districts 1, 3, 5, 7 and 9 as defined herein. The candidates receiving the most votes (plurality) in his or her district shall be elected. Those candidates elected shall take the oath of office and assume their respective duties February 1, 1991, for four (4) year terms. Thereafter, elections shall be held in the general election of November, 1994 and every four (4) years thereafter with terms of office to begin the following February first. An election shall be held in the general election of November, 1992 for Districts 2, 4, 6 and 8 as defined herein. Those candidates receiving the most votes (plurality) in his or her district shall be elected. The candidates elected shall take the oath of office and shall assume their respective duties on February 1, 1993. Thereafter, elections for Districts 2, 4, 6 and 8 shall be held in the general election of November, 1996 and every four (4) years thereafter with terms of office to begin the following February first. Members of the Board of Education shall be paid two and one-half percent (2.5%) of the Mayor's salary as adjusted from time to time. Qualifications for Board membership shall be the same as those for members of the City Council. Any vacancy occurring on the Board of Education shall be filled by appointment of the Mayor with the approval of a majority of the Council. Any person chosen to fill such a vacancy shall possess the same qualifications as that of a Board member elected by the people. Any person elected or appointed as a member of the Board of Education shall serve until his or her successor is elected and qualified; provided, however, that if any general statute requires an earlier election, then such general statute shall apply.

Editor's note-This section is superseded by the Agreed Order entered August 9, 1990 in Brown v. Board of Commissioners, which was thereafter amended by Ord. No. 9713, § (1)(2), adopted 5-5-92, approved by the voters of the City on 8-6-92, and codified as part of § 17.28 of this Charter.

31. All employees of the City shall either be registered voters in the State of Tennessee, or eligible to vote in the State of Tennessee, except that those employees currently employed and living outside the State of Tennessee shall be exempted from this provision.

32. The Board of Trustees of the General Pension Plan is hereby expanded to seven (7) members. The Mayor shall be an ex officio member of the Board of Trustees and shall have the right to vote on all matters. The other six (6) Trustees shall be appointed by the Mayor with the approval of a majority vote of the entire membership of the City Council. (The City Auditor and City Treasurer shall no longer serve as ex officio members of the Board of Trustees.) The Mayor and Council shall ensure in the exercise of their appointment powers as vacancies occur on the Board of Trustees that black representation thereon will be consistent with the percentage of the black population in the City. No person shall be eligible to be a Trustee unless he or she (a) is a trust or investment officer, or has the qualifications of a trust or investment officer as determined from the requirements for those positions by prevailing custom in local government, and among the banks, insurance companies or licensed stock or bond brokers who have offices in Chattanooga, Tennessee, and (b) is a resident of the City of Chattanooga, Tennessee, or is employed within the corporate boundaries of the City of Chattanooga, Tennessee. Of the six (6) appointed members of the Board, no more than two (2) may be employed by the same employer. Two

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(2) of the members of the Board shall be appointed to initial terms of five (5) years, two (2) of the members shall be appointed to initial terms of four (4) years and two (2) of the members shall be appointed to initial terms of three (3) years. Thereafter, all terms shall be for five (5) years. The City Personnel Director (by whatever title) shall be the keeper of the records of the Board of Trustees.

33. The Mayor shall propose an annual budget and present it to the City Council. The Council shall enact a budget ordinance after receiving recommendations for the same from the Mayor, which recommendations the Council may accept, modify or reject.

34. On June 11, 1990, the current Mayor and Commissioners of the City of Chattanooga, shall act as consultants to the new Mayor and Council until April 15, 1991. As consultants they shall perform any duties specified by the Mayor and Council in keeping with their former positions and duties. Nothing herein shall prohibit any Commissioner from being elected or appointed to any position in City government. Any Commissioner who shall be elected or appointed to a position in City government shall receive for the remainder of his current elective term the greater of either the prior salary or the City salary to which such official shall be entitled by election or appointment. In addition to the prior salary, a Mayor or former Commissioner as a consultant shall be entitled to all the benefits to which said Mayor or Commissioner had been previously entitled, including health insurance, pension, and retirement benefits. Any Mayor's or Commissioner's entitlement shall terminate upon such Commissioner's establishment of residence outside the City or rejection of the offer of a position in the City government having a salary of not less than that of the former office held by such person.

35. Nothing herein shall preclude persons who are receiving benefits from any of the City's pension plans from serving on the City Council without loss of previously accrued pension benefits; provided, however, such service by such retired employees shall not constitute additional credited service toward greater pension benefits.

36. Any existing provision of the Charter of the City of Chattanooga not directly amended or materially and substantially affected by the foregoing amendments shall remain in full force and effect, but all provisions of the existing Charter that are in conflict or are not consistent with the foregoing amendments shall be considered repealed by implication.