

CHARTER FOR THE CITY OF ETOWAH, TENNESSEE¹

ARTICLE I

SECTION 1. CORPORATION

The city of Etowah, in McMinn County, Tennessee, is hereby constituted as a municipal corporation and a body politic under the laws of the state of Tennessee and is therefore entitled to all privileges and responsibilities accorded municipalities under law.

SECTION 2. PROPERTY AND OBLIGATIONS

The right, title interest and ownership of all property of said city of Etowah, as heretofore constituted under any previous charter, and all its uncollected taxes, assessments, dues, fines, costs, claims, judgments, choses in actions, and all its rights of every kind and character whatsoever, as vested in said city of Etowah under any previous charter, shall immediately become, and are hereby vested in the municipal corporation created by this charter, and said new corporation is hereby burdened and charged with and made liable for all legally enforceable debts, contracts, bonds and obligations of the old corporation which it succeeds, in the same manner and form and to the same extent as the said prior municipal corporation was under existing laws.

SECTION 3. ORDINANCES AND RESOLUTIONS

All laws, ordinances and resolution lawfully enacted by the governing body of said city under any preceding charter or charters and not inconsistent with this charter, shall remain in full force and effect under this new charter until such time as the governing body of said city created under and by this charter shall elect to amend, modify or repeal the same.

¹ In 1964 the city of Etowah adopted "home rule" and became a home rule municipality as authorized in article 11, section 9, of the constitution of Tennessee. Ordinance No. 299, which provided for the submission to the voters the question, "Shall this municipality adopt home rule?" was adopted by the board of commissioners on January 2, 1964. On April 6, 1964, at the election for the purpose of determining whether the city voters would ratify home rule, the results were 432 "yes" and 413 "no" votes. From 1964 until 1984 the city continued to operate under its private act charter, Chapter 116, Private Acts of 1909, as amended. On August 2, 1984, the voters of the city, by a vote of 466 to 243, ratified ordinance No. 389 which provided the city with the comprehensive new charter. On August 7, 2014, the voters of the City of Etowah, by a vote of 399 to 125, ratified Ordinance No. 757, which provided the City of Etowah with a new, revised charter which is set out herein. The table of contents is unofficial.

ARTICLE II

CORPORATE BOUNDARIES

SECTION 1. BOUNDARIES

The boundaries of the city of Etowah created by this charter shall be identical to those of the city of Etowah in effect at the time of the adoption of this charter, together with all annexations and additions which may hereafter expand said boundaries in accordance with law.²

ARTICLE III

CORPORATE POWERS

SECTION 1. CORPORATE POWERS

The city of Etowah, in addition to the powers, rights, and authority vested in it by all other articles and sections of this charter shall have the power:

- 1) TAXES: To assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for city purposes.
- 2) CLASSIFICATIONS OF TAXATION: To adopt such classifications of the subject and objects of taxation as are not contrary to law.
- 3) SPECIAL ASSESSMENTS: To make special assessments for local improvements.
- 4) CONTRACTS: To contract and be contracted with.
- 5) BORROW MONEY: To incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner provided in this charter.
- 6) REFUNDING BONDS: To issue and give, sell, pledge or in any manner dispose of negotiable or non-negotiable interest bearing or non-interest bearing bonds, warrants, promissory notes or order of the city, upon the credit of the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more such credits.
- 7) MONEY EXPENDED: To expend the money of the city for all lawful purposes.

² See Priv. Acts 1909, ch. 116, § 1, and Ords. #317, 369, 382, 394, 456, 481, 513, 559, 578, 579, and 588.

8) ACQUISITION AND DISPOSITION OF PROPERTY: To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the city or state.

9) EMINENT DOMAIN: To condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the city, for present or future public use; such condemnation to be made and effected in accordance with the terms and provisions of Tennessee Code Annotated Title 29, Chapter 16 or in such other manner as may be provided by law.

10) ADMINISTRATION OF TRUSTS: To take and hold property within or without the city or state upon trust; and to administer trusts for the public benefit.

11) PUBLIC UTILITIES: To acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge, or otherwise dispose of public utilities or any estate or interest therein, or any other utility that is of service to the city, its inhabitants or any part thereof; or to inhabitants in areas adjacent to the city.

12) PUBLIC UTILITIES, GRANTS, FRANCHISES, REGULATIONS: To grant any person, firm, association or corporation, franchises for public utilities and public services to be furnished the city and those therein. Such power to grant rights-of-way through the city streets, avenues, alleys, squares, ways, and over the bridges and viaducts of the city for the use of public and quasi-public utilities; provided further, that such new franchise shall not destroy the terms of any existing franchise. The city commission may prescribe in each grant of a franchise, the rates, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may be granted for a period of twenty-five years or less, but no longer. Franchises may, by their terms, apply to the territory within the corporate limits of the city as of the date of the franchise, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened.

13) CONTRACTS FOR PUBLIC UTILITY SERVICE: To make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the city and those therein. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association or corporation, but also as against the city itself. Such contracts may be entered into for the period of twenty-five years or less, but not longer. The city commission may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may, by their terms, apply to the territory within the corporate limits of the city at the date of the contract, and as the corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened.

14) REGULATIONS OF PUBLIC UTILITIES: To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, and compel from time to time reasonable extension of facilities for such service, but nothing in this subdivision (14) shall be construed to

permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

15) HIGHWAYS, STREETS, PARKS: To establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, cemeteries, squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within the corporate limits and to regulate the use thereof within or without the corporate limits, and property may be taken and appropriated therefor under Tennessee Code Annotated §§ 7-31-107 – 7-31-111 and 29-116-114, or in such other manner as may be provided by general laws.

16) ABUTTING PROPERTY IMPROVEMENT: To construct, improve, reconstruct, and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any streets, highways, avenues, alleys, or other public places within the corporate limits, and to assess a portion of the cost of such improvements upon the property abutting upon or adjacent to such streets, highways, or alleys as provided by Tennessee Code Annotated Title 7, Chapters 32 and 33.

17) CHARGES AGAINST ABUTTING PROPERTY: To assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish; street lighting; street sweeping; street sprinkling; street flushing and street oiling; the cleaning and rendering sanitary, or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the city commission.

18) MARKET PLACES, PUBLIC BUILDINGS, BRIDGES, ETC.: To acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all market places, public buildings, bridges, sewers, cemeteries, and other structures, works, and improvements.

19) DRAINAGE, SEWAGE, ASHES, ETC.: To collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or to license and regulate such collection and disposal, and the cost of such collection, regulation or disposal may be funded by taxation or special assessment to the property owner.

20) LICENSE AND REGULATE: License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession, or trade not forbidden by law;

21) LICENSE TAX: To impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling not prohibited by law.

22) REGULATION OF BUSINESS, CALLINGS, ETC.: To define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the city, and to exercise general police powers.

23) LIMIT OCCUPATIONS LIKELY TO BECOME A NUISANCE: To prescribe limits within which business, occupations and practices liable to be

nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted, or maintained.

24) BUILDINGS, REGULATED AND INSPECTED: To regulate the bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures in accordance with general law, and to inspect all buildings, lands, and places as to their condition for health, cleanliness, and safety, and when necessary, prevent the use thereof and require any alteration or changes necessary to make them healthful, clean and safe.

25) CHARITABLE, EDUCATIONAL, CORRECTIVE INSTITUTIONS: To provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services.

26) ENFORCEMENT OF ORDINANCES - FINES AND IMPRISONMENT: To enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent.

27) SCHOOLS: To establish schools, to the extent authorized pursuant to general law, determine the necessary boards and officers required therefor; to purchase or otherwise acquire land for schoolhouses, playgrounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain, and operate a complete educational system within the city.

28) ANIMALS RUNNING AT LARGE - TO SUPPRESS: To regulate, tax, license, or suppress the keeping or running at large of animals within the city; to impound the same and in default of redemption, to provide by ordinance, resolution, regulation or otherwise, for the disposition, by sale, gift, or humane killing.

29) GENERAL POWERS: To have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though such powers were specifically enumerated in this section.

The enumeration of particular powers in this charter is not exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this chapter impair a power granted in any other part of this charter, and whether powers, objects, or purposes are expressed, conjunctively or disjunctively, they shall be construed so as to permit the city to exercise freely any one or more such powers as to any one or more such objects for any one or more such purposes.

ARTICLE IV

ELECTIONS

SECTION 1. ELECTION LAWS

The election of commissioners under this charter shall be held under the election laws of the state of Tennessee.

SECTION 2 ELECTIONS REGULATED, VOTER ELIGIBILITY

All city elections, including all elections respecting bond issues, shall be held under the supervision of the McMinn County Election Commission, and in accordance with the law governing state elections. All persons living within the limits of said corporation who shall be qualified to vote for members of the legislature of this state, and who shall have been a resident of said city for six months preceding said elections, shall be entitled to vote and to have his vote counted in said elections.

SECTION 3. TERMS OF COMMISSIONERS

The terms of all five city commissioners shall begin with them taking their oath of office at the first regular commission meeting following the certification of their election by the McMinn County Election Commission, and they shall serve for four (4) years or until their successors are elected and qualified. It is further the intent of this charter to continue the existing pattern of staggered four year terms precisely.

SECTION 4. ELECTION OF COMMISSIONERS

A non-partisan municipal election shall be held in the city on the first Thursday in August of each even-numbered year. Ties will be resolved by a vote of the members of the certified elected board members at the first regularly scheduled meeting following the election.

SECTION 5. ELECTION INVALIDATION

No informalities in conducting any election held under this charter shall invalidate it if such election is conducted fairly and in substantial conformity with the requirements of this article.

SECTION 6. RECALL PROVISIONS

Any person holding an elective office of the city, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided herein.

1) A recall of an incumbent of an elective office shall be initiated upon petition signed by registered voters. All commissioners and school board members are subject to recall and a recall petition shall contain signatures equal in number to at least fifteen (15%) percent of the registered voters in the city of Etowah. Every recall petition shall name the officer against whom it is directed.

2) Each elector signing a recall petition shall add to his signature, his residence, and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's

knowledge and belief the persons whose signatures appear on the sheet are registered voters of the city of Etowah, Tennessee.

3) A recall petition shall be tendered for filing with the McMinn County Election Commission. Said election commission shall examine it to see whether it contains a sufficient number of apparently genuine signatures. The election commission may question the genuineness of any signature or signatures appearing on the recall petition and if it shall find that any such signature or signatures are not genuine, it shall disregard them in determining whether the petition contains a sufficient number of signatures. It shall also disregard any signature dated more than thirty (30) days before the date the petition was tendered for filing. The election commission shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of the petition if a sufficient number of signatures remains after eliminating such an invalid sheet. The election commission shall complete its examination of the petition as soon as practical and shall thereupon file the petition if valid or reject it if invalid.

4) As soon as the McMinn County Election Commission has accepted a recall petition for filing, the chairman of the McMinn County Election Commission shall notify the incumbent named in the petition that the petition has been filed. Upon receipt of such notice, the incumbent may resign from his office and thereupon the recall proceedings shall terminate.

5) If the incumbent against whom a recall petition is directed does not resign from his office within eight (8) days after notice of the filing of such petition shall have been given to him, the McMinn County Election Commission shall arrange a recall election. If a regular or special election is to be held not less than thirty (30) days nor more than ninety (90) days after the eight (8) days have expired, the recall question shall be placed before the voters at such an election. Otherwise, a special recall election shall be fixed for a date not earlier than thirty (30) days nor later than ninety (90) days after the eight (8) days have expired. The incumbent against whom a recall petition is directed may resign at any time prior to the recall election and thereupon the election shall not be held.

6) The following question shall be presented to each elector in a recall election:

"Shall (name of officer) be recalled and removed from the office of (name of office)". The above question shall appear as to every officer whose recall is to be voted upon and provision shall be made for the elector to vote "Yes" or "No" on the question.

7) If a majority of the voters who vote on the question at a recall election shall vote "Yes", the incumbent shall be deemed recalled and removed from office, but if a majority of the voters who vote on the question at a recall election shall vote "No", he shall remain in office.

8) No person who has been removed from an elective office by a recall election or who has resigned from such an office after a recall petition directed against him has been filed, shall be eligible for election or appointment to any office of the city of Etowah within two years after his removal or resignation.

ARTICLE V

CITY COMMISSION

SECTION 1. ELECTION OF MAYOR

The commissioners shall, at the first regular meeting (or as soon thereafter as practical) after each biennial city election in August, elect one of their number as mayor for a term of two years, and thus organized, the body shall be known as the city commission.

SECTION 2. COMMISSION MEMBERSHIP ELIGIBILITY

No person who has been convicted of a felony is eligible for the election to the office of commissioner. Otherwise, any qualified voter of the city shall be eligible for the election to the office of commissioner, provided that his office shall automatically be vacated if he ceases to reside in the city of Etowah, Tennessee.

SECTION 3. COMMISSION MEMBERSHIP LIMITED

No person shall become a commissioner who has been convicted of malfeasance in office, bribery, or other corrupt practice or crime. If any commissioner shall be so convicted, he shall forfeit his office. No candidate for any office nor any other person shall, directly or indirectly, give or promise any person or persons any office, employment, money, benefit, or anything of value for the purpose of influencing or obtaining political support, aid, or vote for any candidate. Any person violating this section shall be punished by fine not exceeding state authorized maximum limits.

SECTION 4. COMMISSION SALARIES

The salary of the mayor and each commissioner may be set by ordinance and may be increased or decreased provided that no such increase or decrease in salary shall take effect until after the expiration of the terms of office of the mayor and all commissioners in office at the time of the adoption of such ordinance.

SECTION 5. COMMISSION POWERS

The legislative and all other powers of the city except as otherwise provided in this charter are delegated to and vested in the city commission; and the city commission may, by ordinance or resolution not inconsistent with this charter, prescribe the manner in which any powers of the city shall be exercised, provided all means necessary or proper therefore, and do all things needful within or without the city or state to protect the rights of the city.

SECTION 6. EXERCISE OF POWERS

The city commission shall exercise its powers in session duly assembled, and no member or group of members thereof, shall exercise or attempt to exercise the powers conferred upon the city commission except through proceedings adopted at some regular or special session.

SECTION 7. COMMISSION MEETINGS

The city commission shall, by ordinance, fix the time and place at which the regular meetings of said board shall be held.

SECTION 8. SPECIAL MEETINGS

Whenever, in the opinion of the mayor, city manager, or of any two commissioners, the welfare of the city demands it, the mayor or the recorder shall call special meetings of the city commission upon at least three calendar days written notice to the public and each commissioner, the city manager, recorder and city attorney, served personally, or left at his usual place of residence. Each call for special meeting shall set forth the character of the business to be discussed at such meeting and no other business shall be considered at such meeting.

SECTION 9. COMMISSION VACANCIES

When any vacancy in the city commission shall occur, such vacancy shall be filled by the remaining commissioners. The newly appointed member shall serve for the remainder of the unexpired term, if any.

SECTION 10. VICE-MAYOR

At the first meeting of the commission, and thereafter at the first meeting after a general city election, said commission shall choose from its membership a vice-mayor to act in the absence or inability of the mayor.

SECTION 11. VICE-MAYOR DUTIES

The vice-mayor shall act as mayor during any temporary absence or inability of the mayor, and whenever a vacancy occurs in the office of mayor, such member shall become mayor and hold office as such for the unexpired term.

SECTION 12. QUORUM

A majority of all the members of the city commission constitutes a quorum, but a smaller number may adjourn from day to day and may compel the attendance of the absentees in such manner and under such penalties as the city commission may provide. Unless otherwise provided in this charter, a majority vote of all

members of the city commission shall be required to pass an ordinance, resolution, or motion; to appoint or discharge the city manager and members of any board.

SECTION 13. COMMISSION RULES, ETC.

The city commission may determine the rules of its proceedings, subject to this charter, and may arrest and punish by fine any member or other person guilty of disorderly or contemptuous behavior in its presence. The board has the power and may delegate it to any committee, to subpoena witnesses, and order the production of books and papers relating to any subject within its jurisdiction; to call upon its own officers or the chief of police to execute its process, and to arrest and punish by fine any person refusing to obey such subpoena or order.

No fine for any one offense under this section shall exceed state authorized maximum limits, exclusive of court costs, but each day's continuance in any refusal as aforesaid shall be a separate offense. The presiding officer of the city commission or the chairman of any committee may administer oaths to witnesses. The city commission shall keep a journal of its proceedings, and the yeas and nays on all questions shall be entered thereon.

SECTION 14. PUBLIC MEETINGS

All sessions of the commission shall be public; and subject to change of time and/or place in case of emergency.

SECTION 15. APPOINTMENT, REMOVAL AND SUPERVISION OF CITY EMPLOYEES

Neither the commission nor any of its members shall request, propose, direct or otherwise attempt to influence the city manager, or any of his subordinates in the selection, promotion, or demotion, or removal of an employee in any administrative service or activity, or office of the city government. Neither the commission nor the members thereof shall give any orders to any subordinate of the city manager, either publicly or privately, directly or indirectly.

ARTICLE VI

ORDINANCES

SECTION 1. BEGINNING

All ordinances shall begin by an enacting clause, as follows: "Be it ordained by the city commission of the city of Etowah".

SECTION 2. READINGS, EFFECT

Every ordinance shall be read two different days in open session before its adoption and not less than seven calendar days shall elapse between the first and second readings. Any ordinance not so read shall be null and void. The commission may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during session in which the ordinance has its second reading. An ordinance shall take effect immediately upon final passage.

In case of an emergency ordinance, one day shall elapse between first and second readings. An emergency ordinance becomes effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency. The unanimous vote of all members of the board present shall be required to pass an emergency ordinance. No ordinance making a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as an emergency ordinance.

No ordinance shall be amended except by a new ordinance.

SECTION 3. ORDINANCE BOOK REQUIRED

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

SECTION 4. PUBLICATION REQUIRED

Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, may be published after its final passage in a newspaper of general circulation in the city.

ARTICLE VII

MAYOR

SECTION 1. DUTIES OF MAYOR

The mayor shall preside at all meetings of the city commission and perform such other duties consistent with his office as may be imposed by it and he shall have a seat, a voice, and a vote, but no veto. He shall sign the journal of the city commission and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and he may introduce ordinances and resolutions and make motions in any meeting of the city commission.

ARTICLE VIII

OFFICERS AND EMPLOYEES

SECTION 1. APPOINTMENT OF CITY MANAGER

The board of commissioners shall appoint and fix the salary of the city manager, who shall serve at the will of the board.

The city manager may not be removed within twelve (12) months from the date on which the city manager assumed the duties of the city manager, except for incompetence, malfeasance, misfeasance, or neglect of duty.

In case of the city manager's removal within that period, the city manager may demand written charges and a public hearing thereon before the board prior to the date on which final removal shall take effect. The decision and action of the board on such hearing shall be final, and pending such hearing, the board may suspend the city manager from duty.

No member of the City Commission shall, at any time, be chosen during the term for which he is elected, as City Manager, nor for two years after having last served as a City Commissioner.

SECTION 2. APPOINTMENT AND SALARIES OF CITY EMPLOYEES

The city manager may appoint, promote, suspend, transfer and remove any officer or employee of the city responsible to the city manager; or the city manager may, in the city manager's discretion, authorize the head of a department or office responsible to the city manager to take such actions regarding subordinates in such department or office. The city manager shall appoint such heads of administrative offices or organizational units as the city manager deems necessary. The city manager may combine, or personally hold, any such administrative offices established pursuant to this subsection or otherwise established or may delegate parts of the duties of the city manager's office to designated subordinates.

Except for the Etowah Utility Board and its employees, the Etowah City Board of Education and its employees, the city judge and the city attorney, or as otherwise provided in this charter, the compensation of all officers and employees of the city shall be fixed by the city manager within the limits of the appropriations ordinance and in accordance with a comprehensive pay plan adopted by the board of commissioners.

SECTION 3. OATH REQUIRED

Every officer, agent, and employee holding a position upon an annual salary shall, before entering upon his duties, take and subscribe and file with the city recorder, an oath or affirmation that he has all the qualifications named in this charter for the office or employment he is about to assume; that he will support the constitutions of the United States and of this state and the charter and ordinances of the city, and that he will faithfully discharge the duties of his office or employment.

SECTION 4. BONDS REQUIRED

The city manager and every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties execute a fidelity bond with some surety company authorized to do business in the state of Tennessee, as surety, except that bonds for five hundred (\$500) or less may be given with personal surety, in such amount as shall be prescribed by ordinance of the city commission, except where the amount is prescribed in this charter. All such bonds and sureties thereto shall be subject to the approval of the city commission. The cost of making such bonds shall be paid by the city.

SECTION 5. ADDITIONAL BOND

If at any time it appears to the mayor, city manager or recorder that the surety or sureties on any official bond are insufficient, the officer or employee shall be required by the city commission to give additional bond, and if such officer or employee fails to give additional bond within twenty (20) days after being notified, the officer or employee's office shall be declared vacant.

ARTICLE IX

CITY MANAGER

SECTION 1. ADMINISTRATIVE HEAD

In addition to all other powers conferred upon the city manager, he shall be administrative head of the municipal government under the supervision of the city commission. The city manager shall be required to give his full time to the duties of his office.

During the absence or disability of the city manager, the city commission may designate some properly qualified person to temporarily perform the functions of the city manager.

SECTION 2. POWERS AND DUTIES

The powers and duties of the city manager are:

- 1) To see that the laws and ordinances are enforced, and upon knowledge or information of any violation thereof, to see that prosecutions are instituted in the city court.
- 2) Except as otherwise provided by this charter, to appoint, promote, demote, suspend, transfer and remove and otherwise discipline all department heads and all subordinate officers and employees at any time, subject only to any

personnel rules and regulations adopted by ordinance or resolution by the commission. Any hearings on, or appeals from, the city manager's personnel decisions provided for in the personnel rules and regulations shall be exclusively before the city manager or a hearing officer designated by the city manager.

3) To supervise and control the work of all employees of the city except the city judge, city attorneys and employees under the supervision of the Etowah City Board of Education and the Etowah Utilities Board.

4) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility or franchise are faithfully done, kept and performed, and upon knowledge or information of any violation thereof, to call the same to the attention of the city attorney who is hereby required to take such steps as are necessary to enforce the same.

5) To attend all meetings of the city commission, with the right to take part in the discussion, but not to vote.

6) To recommend to the city commission such measures as he may deem necessary or expedient.

7) To act as budget officer and to keep the city commission fully advised as to the financial condition and needs of the city.

8) Act as purchasing agent for the city (excluding the Etowah City Board of Education and the Etowah Utilities Board) and purchase all material, supplies and equipment for the proper conduct of the city's business in compliance with general state laws and local ordinances.

9) The city commission shall prescribe by ordinance the maximum expenditure which the city manager may make without specific authorization of the commission, and shall prescribe rules for competitive bidding.

10) Execute contracts on behalf of the city when this authority is delegated to the city manager by ordinance.

11) Perform such other duties as may be prescribed by this charter or required of the city manager by resolution or ordinance of the board.

SECTION 3. SPECIAL AUDIT

In the event of the death, resignation or removal of the city manager, as soon as practicable thereafter, the city commission may cause an audit to be made of the city books by a certified public accountant.

ARTICLE X

CITY ATTORNEY

SECTION 1. QUALIFICATIONS

The city attorney shall be an attorney at law entitled to practice in the courts of the state.

SECTION 2. DUTIES AND COMPENSATION

The city attorney shall:

- 1) Direct the management of all litigation in which the city is a party, including the functions of prosecuting attorney in the city courts;
- 2) Represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers are officially interested;
- 3) Attend any meetings of the board of commissioners when required by the board;
- 4) Advise the board and committees or members thereof, the city manager, and the heads of all departments and divisions, as to all legal questions affecting the city's interest; and
- 5) Approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city.

The city attorney shall receive a salary to be fixed by the board.

ARTICLE XI

TAXATION

SECTION 1. TAX ROLLS

It is the duty of the finance director, in each year, as soon as the assessment roll for the city is complete, to submit to the city commission a certified statement of the total amount of the valuation or assessment of the taxable property for the year within the city limits (including the assessment of all railroads, telephone, telegraph and other public utilities properties), together with a certified statement of the revenue derived by the city from privilege taxes, merchants' ad valorem taxes, street labor taxes, fines for the preceding fiscal year, and miscellaneous revenue. Upon the presentation of such statements by the finance director, the city commission shall proceed by ordinance to make the proper levy to meet the expenses of the city for the current fiscal year.

SECTION 2. TAX BOOK PREPARATION

It is the duty of the finance director, immediately after the levy of taxes by the city commission, to cause the levy to be extended upon the tax book prepared by the finance director in the same manner that extensions are made upon the tax books in the hands of the county trustee.

SECTION 3. TAXES DUE AND PAYABLE

All taxes due the city, except privilege and merchant's ad valorem taxes and street labor taxes, shall, until otherwise provided by ordinance, be due and payable by the deadline of the year for which the taxes are assessed. The finance director is the custodian of the tax books and shall be the tax collector of the city.

Distress warrants may issue for the collection of taxes and any such distress warrant shall be executed by the chief of police or any police officers of the city by a levy upon, and sale of goods and chattels under the same provisions as prescribed by law for the execution of such process of courts of general sessions.

SECTION 4. ASSESSMENTS

All municipal taxes on real estate in the city, and all penalties and costs accruing thereon, are hereby declared to be a lien on such realty from and after the deadline of the year for which same are assessed, superior to all other liens, except the liens of the United States, the state of Tennessee and the county, for taxes legally assessed thereon, with which it shall be a lien of equal dignity. No assessment shall be invalid because the size and dimensions of any tract, lot or parcel of land shall not have been precisely named nor the amount of the valuation or tax not correctly given, nor because the property has been assessed in the name of a person who did not own the same, nor because the same was assessed to unknown owners, nor on account of any objection or informality merely technical, but all such assessments shall be good and valid. The city commission shall have power to correct any errors in the tax assessments upon a certificate filed by the assessor of property or assessing body.

SECTION 5. TAX SALE

The finance director shall, under the provision of the state law for the collection of delinquent taxes, certify to the city attorney, or other attorneys designated by the city commission, a list of all real estate upon which municipal taxes remain due and unpaid, or that is liable for sale for other taxes, and the same shall be sold in like manner and upon the same terms and conditions as real estate is sold for delinquent state and county taxes.

SECTION 6. COURT PROCESS

The city commission shall has the power, and is hereby given authority, to file complaints in the chancery court in the name of the city for the collection of assessments and levies made for payment for improvements or service in the city, such as paving, sidewalks, curbing, guttering, sewers and other improvements, or services for which assessments may be made, under this charter, or by any other acts of the general assembly, and the cost of which is made a charge on property owners abutting the improvements and a lien on abutting property. The suits commenced by such complaints shall be conducted as other suits in chancery for the enforcement of like liens and under the rules of law and practice provided for the same. The complaints shall not be objectionable because the owners of different

parcels or lots of land are made parties thereto, it being the intention that all persons in the same improvement district, or liable for portions of the same assessment or levy is a lien, shall be made parties defendant to one complaint.

ARTICLE XII

DEPARTMENT OF FINANCE

SECTION 1. HEAD OF DEPARTMENT

The city manager or an officer appointed by the city manager shall serve as finance director.

SECTION 2. DUTIES OF FINANCE DIRECTOR

The finance director exercises a general supervision over the fiscal affairs of the city, and general accounting supervision over all the city's property, assets and claims and the disposition of such property, assets, and claims. The finance director shall be the general accountant and auditor of the city; he shall have custody of all records, paper and vouchers relating to the fiscal affairs of the city, and the records in the city manager's office shall show the financial operations and conditions, property, assets, claims and liabilities of the city, all expenditures authorized and all contracts in which the city is interested, require proper fiscal accounts, records, settlements, and reports to be kept, made and rendered to the city manager, by the several departments and officers of the city, including all deputies or employees of the city manager's department charged with the collection or expenditures of money, and shall control and audit the same; and at least monthly, adjust the settlements of officers engaged in the collection of the revenue.

The finance director, with the approval of the city manager, shall cause an efficient system of accounting for the city to be installed and maintained.

The city manager shall appoint a finance director. It is the duty of the finance director to collect, receive and receipt for the taxes and all other revenue and bonds of the city, and the proceeds of its bond issues, and to disburse the same. The city manager may appoint the recorder as finance director.

The finance director shall also perform any other duties imposed upon him by this charter, ordinance, or by the city manager.

SECTION 3. INTERNAL AUDITOR

Except as by this charter or by law or ordinance otherwise provide, the finance director shall prescribe and regulate the manner of paying creditors, officers, and employees of the city. The finance director shall audit all payrolls, accounts and claims against the city, and certify thereon the balance as stated by the finance director, but no payroll, account or claim, or any part thereof, shall be audited against the city or paid unless authorized by law or ordinance and approved

and certified by the city manager and the head of the department for which the indebtedness was incurred, and the amount required for payment of the same appropriated for that purpose by ordinance and in the treasury. Whenever any claim is presented to the finance director, he shall have power to require evidence that the amount claimed is justly due, and is in conformity to law and ordinance, and for that purpose may summon before him any officer, agent or employee of any department of the municipality, or any other person, and examine the officer, agency or employee upon oath or affirmation relative thereto. The city manager, the finance director, and the head of the department concerned, and their sureties, shall be liable to the municipality for all loss or damage sustained by the municipality by reason of the corrupt approval of any claim against the municipality.

SECTION 4. SIGNING OF CHECKS

Subject to the provisions of the foregoing section, all warrants shall be issued by the finance director.

Each warrant shall specify the particular departmental fund against which it is drawn and shall be payable out of no other fund.

Any officer or employee in the finance director's office may be designated by such finance director to draw warrants with the same effect as if signed by the finance director, such designation to be in writing, in duplicate, filed with the city manager. The city manager may make such designation if the finance director is absent or disabled and there is no one in the finance director's office designated to act. Any such designation may be revoked by the finance director while acting as such by filing the revocation in duplicate with the city manager and the treasury division.

All checks shall be countersigned by the mayor, or in the absence or disability of the mayor, by the vice-mayor.

SECTION 5. PROPER FORMS

The finance director shall cause all forms used in connection with either the receipt or disbursement of city funds to be numbered consecutively, and shall account for all spoiled or unused forms.

ARTICLE XIII

TAXATION AND REVENUES

SECTION 1. COLLECTION OF TAXES

The assessment, levy and collection of taxes and special assessments shall be in charge of the department of finance, subject to the limitations elsewhere found in this charter.

SECTION 2. TAXES MAY BE LEVIED

All property, real, personal, and mixed, subject to state, county, and city taxes and all privileges taxable by law, shall be taxed and taxes thereon collected by the city for municipal purposes as hereinafter provided.

SECTION 3. AD VALOREM TAXES

The ad valorem tax upon merchants' stock, accounts and equipment may be assessed and collected in like manner as state and county merchants' ad valorem tax is assessed upon the same property. It is the duty of the county assessor of property and the comptroller of the treasury to prepare a separate assessment book or roll showing real, personal and mixed property assessable by the county assessor of property or the comptroller of the treasury lying within the limits of the city.

SECTION 4. TAXES BASED ON ASSESSMENTS

The city commission of the city shall have full power to levy and collect taxes.

SECTION 5. TAX ROLLS

As soon as practicable in each year after the assessment books for the state and county are complete (which shall be after equalization boards provided for by general law shall have finished their work), it shall be the duty of the city manager to prepare or cause to be prepared from the said assessment books of the county, a tax book similar in form to that required by laws of the state to be made out for the county trustee, embracing, however, only such property and persons as are liable for taxes within the city.

Such tax books, when certified to be true, correct and complete by the city manager shall be the assessment for taxes in said city for all municipal purposes' provided, that there may be an assessment by the city manager at any time, of any property subject to taxation found to have been omitted, and such assessment shall be duly noted and entered on the assessment books of the city. Instead of the assessment made by county and state officials as provided in this section, the city may, by ordinance insofar as not prohibited by general laws, provide for and regulate an assessment to be made by its own assessor of property.

ARTICLE XIV

CITY BONDS

SECTION 1. BONDS AUTHORIZED

Pursuant to Article III, Section 1 (5) and (6), the city may borrow money and do so in accordance with state regulations.

ARTICLE XV

BUDGET AND APPROPRIATIONS

SECTION 1. BUDGET OFFICER

The city manager shall be the budget officer. The fiscal year of the city shall begin the first day of July of each year.

The city manager shall, on or before the first Monday in May of each year, submit to the city commission an estimate of the expenditures and revenue of the city for the ensuing fiscal year. This estimate shall be compiled from detailed information obtained from the several departments, on uniform blanks to be furnished by the city manager.

Notwithstanding the provisions of any other law to the contrary, the governing body shall publish the annual operating budget and budgetary comparisons of the proposed budget with the prior year's actual figures and the current year's estimated figures, which information shall include the following:

- 1) Revenues and expenditures for the following governmental funds: general, streets/public works, general purpose school and debt service;
- 2) Revenues for each fund shall be listed separately by local taxes, state of Tennessee, federal government and other sources;
- 3) Expenditures for each fund shall be listed separately by salaries and other costs;
- 4) Beginning and ending fund balances shall be shown for each fund; and
- 5) The number of full-time equivalent employee positions shall be shown for each fund.

The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget.

In addition, the city will comply with the Municipal Budget Law of 1982.

SECTION 2. BALANCE REVERTS TO SURPLUS

At the end of each year, all unencumbered balances or appropriations in the treasury shall revert to the general fund and be subject to further appropriations. Such balances shall be considered unencumbered only when the city manager shall certify in writing that the purposes for which they were appropriated have been completely accomplished and that no further expenditure in connection with them is necessary.

SECTION 3. CERTIFICATION OF AVAILABILITY OF FUNDS TO MEET CONTRACT OBLIGATIONS

No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the board of commissioners or be authorized by any officer of the city, unless the finance director shall first certify to the board or the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the treasury or safely assured to be forthcoming and available in time to comply with, or meet such contract, agreement, obligation or expenditures; and no contract, agreement or other obligation involving the expenditure of money payable from the proceeds of bonds of the city shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this charter in reference to city bonds.

SECTION 4. CITY MANAGER RESPONSIBLE

The city manager shall be responsible for limiting expenditures and obligations to the amounts of appropriations for all departments. He shall present a monthly budget statement to the city commission, comparing amounts of receipts and of expense allotted to the elapsed portion of the fiscal year with the receipts actually realized and the expense actually incurred, and in general disclosing the condition of the budget.

ARTICLE XVI

DEPARTMENTS UNDER THE CITY MANAGER

SECTION 1. DEPARTMENTS CREATED

That the work and affairs of the city may be classified and arranged conveniently and conducted efficiently, there are hereby established the following departments and boards:

- 1) Department of City Administration
- 2) Department of Finance;
- 3) Department of Fire;
- 4) Department of Public Works/Streets/Sanitation;
- 5) Department of Police;
- 6) Department of Parks and Recreation;
- 7) Department of Community Development
- 8) Department of Human Resources/Risk Management

SECTION 2. SALARIES, DUTIES AND FUNCTIONS; DEPARTMENTS ABOLISHED OR CREATED

The city commission shall fix all salaries, not fixed by this charter, in all departments except the Etowah City Board of Education and the Etowah Utilities Board, prescribe the duties and functions of all departments except as fixed by this charter, and may, create new departments, combine or abolish existing departments, or establish temporary departments for special work.

SECTION 3. SUPERVISION OF DEPARTMENTS

Except as otherwise provided by this charter, the city manager shall supervise and control the work of all departments, now or hereafter created, other than the Etowah City Board of Education and the Etowah Utilities Board.

SECTION 4. DEPARTMENT OF CITY ADMINISTRATION

The city manager's position and duties are described in Article IX. The city manager may appoint such other employees of the department of city administration as may be authorized by appropriate ordinance.

SECTION 5. DEPARTMENT OF FINANCE

The city manager shall appoint a finance director and such other employees of the department of finance as may be authorized by appropriate ordinance.

It shall be the duty of the finance director to be present at all meetings of the city commission and to keep a full accurate record of all business transacted by the commission, which record shall be preserved in permanent book form.

The finance director may also serve as the city recorder and in such capacity shall have custody of and preserve in his office, the city seal, the public records, original rolls of ordinances, ordinance books, certificates and papers, all official indemnity or surety bonds, and all other bonds, oaths and affirmations, and he shall register them by numbers, dates, and contents, and keep an accurate and modern index thereof. The finance director shall provide a bond of such surety and in such amount as the commission may require by ordinance, said bond to be filed with the mayor. The failure of the finance director as city recorder to perform any duty required by this paragraph shall not void any ordinance otherwise valid.

When required by an officer or citizen, the finance director shall provide certified copies of records, papers, and documents in his office, and charge thereof, for the use of the city, such fees as may be provided by ordinance; and he shall cause copies of ordinances to be duplicated as may be directed by the city commission and keep them in his office for distribution.

SECTION 6. DEPARTMENT OF FIRE

The city manager may appoint a chief of the fire department and such other members of said department as may be authorized by appropriate ordinance.

It shall be the duty of the chief of the fire department and the members thereof, to take all proper steps for fire prevention and suppression, and elimination of conditions which create fire hazards.

The chief of the fire department or any assistant of such chief in charge at any fire shall have the same police powers at such fire as the chief of police. When any fire department or company recognized as duly constituted by the commissioner of commerce and insurance pursuant to Tennessee Code Annotated § 68-102-108 is requested to respond to a fire, hazardous materials incident, natural disaster, service call, or other emergency, it may, regardless of where the emergency exists, proceed to the emergency site by the most direct route at the maximum speed consistent with safety. While responding to, operating at, or returning from such emergency, the chief of the responding fire department or company, or any member serving in capacity of fire officer-in-charge, shall also have the authority to:

- 1) Control and direct the activities at the scene of the emergency;
- 2) Order any person or persons to leave any building or place in the vicinity of such scene for the purpose of protecting such person or persons from injury;
- 3) Blockade any public highway, street or private right-of-way temporarily while at such scene;
- 4) Trespass at any time of the day or night without liability while at such scene;
- 5) Enter any building or premises, including private dwellings, where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the fire;
- 6) Enter any building or premises, including private dwellings, near the scene of the fire for the purpose of protecting the building or premises, or for the purpose of extinguishing the fire that is in progress in another building or premises;
- 7) Inspect for preplanning all buildings, structures, or other places in the chief's fire district, except the interior of a private dwelling, where any combustible material, including waste paper, rags, shavings, waste, leather, rubber, crates, boxes, barrels, rubbish, or other combustible material that is or may become dangerous as a fire menace to such buildings, structures, or other places has been allowed to accumulate, or where such chief or the chief's designated representative has reason to believe that such combustible material has accumulated or is likely to accumulate;
- 8) Direct without liability the removal or destruction of any fence, house, motor vehicle, or other thing, if such person deems such action necessary to prevent the further spread of the fire;
- 9) Request and be furnished with additional materials or special equipment at the expense of the owner of the property on which the emergency occurs, if deemed necessary to prevent the further spread of the fire or hazardous condition; and

10) Order disengagement or discouplement of any convoy, caravan, or train of vehicles, craft, or railway cars, if deemed necessary in the interest of safety of persons or property.

When any fire department or company responds to any emergency outside its fire district, however, it shall at all times be subject to the control of the fire chief or designated representative in whose district the emergency occurs.

The city manager may appoint a member of the fire department whose duty shall be, subject to the chief of the fire department, to investigate the cause, origin, and circumstances of fires and the loss occasioned thereby, and assist in the prevention of arson.

SECTION 7. DEPARTMENT OF PUBLIC WORKS/STREETS/SANITATION

The city manager may appoint a director of public works and such other employees of the department of public works/streets/sanitation as the city commission as may be authorized by appropriate ordinance. The city commission may by ordinance, however, provide for a supervisor of sanitation and a supervisor of streets in lieu of, or in addition to, a director of public works/streets/sanitation.

It is the duty of the director of public works/streets/sanitation and members of the department to collect, remove and dispose of solid waste. The department shall also be responsible for keeping the streets, alleys, sidewalks and drainageways of the city of Etowah in good repair.

SECTION 8. DEPARTMENT OF POLICE

The city manager may appoint a chief of police and such patrolmen and other members of the police force as may be authorized by appropriate ordinance.

It is the duty of the chief of police and the members of the police force to preserve order in the city; protect the inhabitants and property owners therein from violence, crime, and all criminal acts; prevent the commission of crime, violations of law and of the city ordinances, and perform a general police duty, execute and return all processes, notices, and orders of the city manager, city attorney and city recorder, and all other processes, notices, and orders as provided in this charter, or by ordinances.

In time of riot or other emergency, the mayor or the city manager shall have power to summon any number of inhabitants to assist the police force.

Members of the police force, whenever necessary for the purpose of enforcing the ordinances of the city, shall procure the issuance of warrants, and citations, serve the same, and appear in the city courts as prosecutors, relieving complainant citizens, insofar as practicable, of the burden of instituting cases involving the violation of city ordinances, but this section shall not be construed to relieve any person from the duty of appearing in court and testifying in any case.

SECTION 9. DEPARTMENT OF PARKS AND RECREATION

The city manager may appoint a director of parks and recreation and such other employees for the department of parks and recreation as may be authorized by appropriate ordinance.

It is the duty of the director of parks and recreation to be responsible for the recreation programs for the city of Etowah and for the upkeep and maintenance of parklands.

SECTION 10. DEPARTMENT OF COMMUNITY DEVELOPMENT

The city manager may appoint a director of community development and such other employees for the department of community development as may be authorized by appropriate ordinance.

It is the duty of the director of community development to be responsible for all building codes enforcement/inspections/permits and city ordinance codes enforcement/letters/visits/ citations and as well as be responsible for retail development projects, retiree recruitment projects, public art projects, grant writing, website development, expanding the network of social media outlets and projects/tasks/assignments related to revitalizing the city and community.

SECTION 11. DEPARTMENT OF HUMAN RESOURCES/RISK MANAGEMENT

The city manager may appoint a director of human resources/risk management and such other employees for the department of human resources/risk management as may be authorized by appropriate ordinance.

It is the duty of the director of human resources/risk management to oversee personnel issues of the city, adherence to human resource policies, recommend policies and/or policy changes to the city commission regarding human resources, negotiate benefit packages, manage payroll, and minimize risk exposures.

ARTICLE XVII

ETOWAH CITY BOARD OF EDUCATION

SECTION 1. SEPARATE SCHOOL DISTRICT CREATED

The Etowah City Board of Education is hereby constituted as a separate school district. There is hereby created a board of education of and for the city of Etowah, to be known as the Etowah City Board of Education, which shall be a body corporate and may sue and be sued, contract and be contracted with, in its own name. The general school laws of the state in regard to common schools shall apply to the city of Etowah so far as the same are not modified herein, and the said district shall be entitled to all sums of money from the public school fund that it would be entitled to receive if the district were organized under the general laws of the state.

SECTION 2. SCHOOL BOARD TO CONTROL SCHOOLS

Except as herein otherwise provided, the Etowah City Board of Education has full and exclusive power and authority as trustees or directors, to manage, control and regulate the city schools; to maintain and adequately insure all school property and prescribe all rules and regulations for the government, control and operation of said schools and the teachers and superintendent thereof. The board of education shall also adopt and prescribe all necessary rules and regulations for its own conduct, and the dispatch of its business.

SECTION 3. QUALIFICATIONS FOR SCHOOL BOARD MEMBERS

The qualifications of the members of the Etowah City Board of Education shall be the same as the qualifications of city commissioners as provided in Article V, sections two and three of this charter, and no person shall be eligible as a member of the board of education who is a member of the city commission of the city of Etowah. The members of the board are elected as herein provided, and are subject to the same recall provisions as the city commissioners.

SECTION 4. MEMBERS OF THE BOARD OF EDUCATION - ELECTION, TERMS, SALARY, AND VACANCIES

The Etowah City Board of Education consists of five (5) members who shall serve staggered four year terms. Members of the Etowah City Board of Education shall be elected on the first Thursday in August of each even-numbered year to coincide with the municipal elections. Those persons elected in the election shall take office at the first meeting following the certification of such election by the McMinn County Election Commission.

Ties will be resolved by a vote of the members of the city commission at their first regularly scheduled meeting following the election. The Etowah City Board of Education is elected according to Tennessee Code Annotated, § 49-2-201 or any other general law, if any, governing the election of boards of education in effect on that date.

The salary of each member of the Etowah City Board of Education may be set by ordinance and may be increased or decreased provided that no such increase or decrease in salary shall take effect until after the expiration of the terms of office of all members of the board of education in office at the time of the adoption of such ordinance. Any vacancies occurring in the membership of the Etowah City Board of Education shall be filled by appointment by the city commission for the remainder of the term.

SECTION 5. BOARD OFFICERS

The board of education shall, at their first meeting after each general city election, elect from their number for a two-year term, a chairman, a vice-chairman,

and a secretary. Said board of education shall keep minutes of all its proceedings in a well bound book, signed by the chairman, and attested by the secretary; said book to constitute a permanent and public record. The superintendent shall receive and hold all school money for the city of Etowah, from whatever source until disbursed on checks signed by himself and countersigned by the chairman; provided, however, the chairman and superintendent shall, before entering upon the duties of their office, file with the finance director of the city of Etowah performance bonds conditioned upon the faithful discharge of their duties, which bonds shall be approved by the board of education, and which bonds shall name the city of Etowah as the obligee with a responsible indemnity corporation, qualified to do business in the state of Tennessee, being the surety on said bonds. The minimum principal sum of said performance bonds shall be set by the Etowah City Board of Education. The cost for said bonds shall be paid by the board of education.

Checks shall be issued only when adequate funds are available for the stated purpose and upon proper authorization by the board of education and appropriation ordinance. The superintendent shall submit a monthly financial statement to the city commission and the board of education on or before the fourth Monday of the next succeeding month for which the report covers.

SECTION 6. REVENUES

The county trustee, the county clerk of McMinn County, or any other tax collector shall pay over to the Etowah City Board of Education out of all moneys collected by them for school purposes from any sources such portion as by law is applicable to the schools of the city of Etowah.

SECTION 7. SALARIES OF EMPLOYEES

Except as otherwise provided in this charter, the compensation of all officers and employees of the Etowah City Board of Education shall be fixed by the superintendent within the limits of the appropriations ordinance and in accordance with a comprehensive pay plan adopted by the board of education.

SECTION 8. APPROPRIATIONS

The board of education shall keep within and shall not at any time exceed the appropriations provided and authorized by the city commission of the city, with respect to the expense of the operation of the city school system. The board of education shall each year prepare and submit to the city manager a proposed budget for the ensuing year. Said budget shall be prepared on forms as prescribed in Article XV, Section 1, and contain information consistent with that required by the state Department of Education, including a detailed estimate of revenue and proposed expenditures. Whenever the funds required for the operation of schools shall exceed the estimated revenues from all other sources, such as state and federal aid, then the city commission may provide such funds by the tax levy.

SECTION 9. CAPITAL EXPENDITURES

Whenever the board of education deems it advisable to construct new school buildings or to purchase real estate for school purposes, it shall present to the city commission the plans for said buildings and/or a description of said real estate, together with the estimated cost. The city commission may provide the necessary funds by the issuance of bonds as authorized by this charter or as otherwise authorized by law, or from other available funds, or may reject the request.

SECTION 10. PURCHASING AND CONTRACTS

The board of education shall establish purchasing policies that comply with state laws and cover at least the following: a dollar limit over which competitive bidding is required, a dollar limit over which the school system need not advertise but must, when possible, obtain three (3) competitive bids and below which no advertisement or competitive bidding is required; procedures for public advertising, securing, and opening bids; and any exemptions from competitive bidding.

ARTICLE XVIII

ETOWAH UTILITIES BOARD

SECTION 1. UTILITIES BOARD CREATED

Except as otherwise provided in this charter and in general law, the purchase, production and distribution of electricity, gas, water, and sewer by the city of Etowah, both within and without the limits of the city, and the agencies and facilities used for such purposes, shall be under the jurisdiction, control, and management of a board to be known as the "Etowah Utilities Board," to be constituted as hereinafter set forth.

SECTION 2. DEFINITION OF TERMS

The following terms, whenever used or referred to in this article shall have the following respective meanings unless a different meaning clearly appears from the context:

- 1) "Board" shall mean the Etowah Utilities Board.
- 2) "Board member" shall mean an individual member of the board.
- 3) "System" shall mean and shall include the water system, sewer system, the gas system, and the electric distribution system.
- 4) "Division" means the part of the system that includes all of one branch of the operation of the system.

SECTION 3. PROPERTY AND OBLIGATIONS

The right, title, interest, and ownership of all property of the utilities department for the city of Etowah, as heretofore constituted under any previous charter, and all its rights of every kind and character whatsoever, as vested in the utilities department of the city of Etowah, under any previous charter, shall immediately become, and are hereby vested in the Etowah Utilities Board created by this charter, and said Etowah Utilities Board is hereby burdened and charged with and made liable for all legally enforceable debts, contracts, bonds, and obligations.

SECTION 4. QUALIFICATIONS OF THE BOARD

No person shall serve as a board member unless at the time of his appointment and at all times during his term as a board member he satisfies the requirements and qualifications of a commissioner, including that he has not been convicted of a malfeasance in office, bribery, or other corrupt practice, or crime. If any commissioner shall be so convicted, he shall forfeit his office. No candidate for any office nor any other person shall, directly or indirectly, give or promise any person or persons any office, employment, money, benefit, or anything of value for the purpose of influencing or obtaining political support, aid, or vote for any candidate. Any person violating this section shall be punished by fine not exceeding state authorized maximum limits.

SECTION 5. BOARD MEMBERS

The Etowah Utilities Board consists of five (5) members who may be the same five (5) persons as the city commissioners, and whose terms run concurrently with those of the city commissioners. The city commission has the power to change the membership of the Etowah Utilities Board by ordinance; provided, however, that in the event of the adoption of an ordinance providing for the appointment of noncommissioners to the board, no more than two (2) commissioners may be appointed to the board.

SECTION 6. SALARIES OF BOARD MEMBERS

The salary of each member of the Etowah Utilities Board may be set by ordinance and may be increased or decreased provided that no such increase or decrease in salary shall take effect until after the expiration of the terms of office of all members of the utilities board in office at the time of the adoption of such ordinance

SECTION 7. DIVISIONS CREATED

The system is divided into a division of water, a division of power, a division of gas, and a division of sewer. Each division is responsible for the control of its operation and management. The detailed division of duties between these respective divisions, the subdivisions of divisions, and the creation of other staff

positions and subordinate offices, shall be subject to the rules and regulations prescribed by the utilities board.

SECTION 8. ORGANIZATIONS AND MEETINGS OF BOARD

At the first meeting after a general municipal election, the board shall elect from among its members a chairman who presides over the meetings of the board, and a vice-chairman who shall act for the chairman during his absence, inability or failure to act as chairman. The board shall also elect a secretary who shall be either a board member or a full time employee of the system. The secretary shall keep the minutes of the meetings of the board and shall perform such other duties as the board may prescribe. Officers provided for in this paragraph receive no additional salaries for their service; however, the board may provide for the payment of a reasonable salary to the secretary if the secretary is not a board member.

If the secretary is not a board member he shall hold office at the will of the board. The board shall have the right to adopt by-laws, not inconsistent with the provisions of this charter. These by-laws may provide the time, place and manner of holding both regular and special meetings of the board. All such meetings shall be public, except when permissible by state law, and no action shall be taken by the board except by the affirmative vote of at least three board members. Three board members shall constitute a quorum of the board, but a smaller number may adjourn from day to day. The general manager and the division superintendent, if there be any, attend meetings of the board, and have a seat and voice but no vote in such meetings. Except as otherwise expressly provided herein, action by the utilities board may be by motion or by resolution passed on a single reading, and may be made effective immediately upon passage.

SECTION 9. POWERS OF BOARD

1) Independent Control. Except as expressly provided in this section, the board exercises and is hereby granted all the powers and duties possessed by the city of Etowah to construct, acquire, expand or operate the utility system. The board, either by itself or by its duly authorized officers and employees, has and maintains full control and complete jurisdiction over the management and operation of the system and may make all contracts and do any and all acts and things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the system. The general manager and every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties execute a surety fidelity bond with some surety company authorized to do business in the state of Tennessee, as surety in such amount as shall be prescribed by resolution of the Etowah Utilities Board, except where the amount is prescribed in this charter. All such bonds and sureties thereto shall be subject to the approval of the Etowah Utilities Board. The cost of making such bonds shall be paid by the utility system.

2) Fix Rates. The utility board recommends to the city commission sufficient rates to be charged for services rendered by the water and sewer systems. Such rates shall be fair, reasonable and uniform for all customers in the same class, but different rate schedules may be applied to different classes of customers, as determined by the utility board. Rates within the city may be less but not greater than rates for the same class of service outside the city.

3) Contract, Lease, and Agreements. The utility board has the authority to make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the utility system and those therein. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association or corporation, but also as against the utility system itself. Such contracts may be entered into for the period of twenty-five years or less, but not longer. The utility board may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may, by their terms, apply to the territory within the service area of the utility system as of the date of the contract, and as said the service area thereafter may be enlarged; and to the then existing any other streets, alleys, and other thoroughfares that thereafter may be opened.

All contracts whereby the system agrees to supply electric service, gas, service, water service, or sewer service, or two or more of the foregoing services, for a longer period than one year from the time of the execution of such contract, shall be subject to the condition that the rates at which such service is to be provided after the expiration of one year from the date of the contract, shall conform to the rates being charged other customers for similar service or services. The time limit prescribed in this paragraph for the duration of contracts and agreements shall not apply to bond issues.

4) Sale of Utility. The authority given the board by this section shall not be construed to give the board authority to sell or lease all or a major portion of any division of the system, unless such transaction is approved by the city commission by ordinance, which ordinance shall not be passed as an emergency ordinance.

5) Short Term Loans. The utility board is hereby authorized to borrow money in accordance with the general statutes of the state of Tennessee and the regulations of the comptroller of the state of Tennessee.

6) Improvement Bonds. The utility board may recommend for the issuance of bonds for additions, extensions or other permanent improvements to any one or more of the systems under the jurisdiction and control of the board, but such bonds shall be payable exclusively from the revenues of the system or systems so improved. The issuance of such bonds shall be authorized by a resolution of the board and submitted to the city commission for approval. Said bonds shall be issued under the general statutes of the state of Tennessee and the regulations of the comptroller of the state of Tennessee.

7) Joint Use of Poles and Other Property. The utility board has the power to make agreements or contracts with any person, firm or public or private corporation for the joint use of poles and other property, belonging either to the system or such other person, firm or corporation or belonging jointly to both parties.

8) Eminent Domain. The utility board may recommend to the city commission that the city exercise its right of eminent domain on behalf of the system.

9) Investment of Surplus Funds. The utility board has power to invest its surplus funds in state authorized investments, as found in Tennessee Code Annotated § 6-56-106.

10) To Employ Attorney. The utility board has the power to appoint an attorney or attorneys, to prescribe his qualifications, duties, and fix his compensation.

11) Salaries. The utility board has the power to fix the salaries of all officers and employees of the system. This power may be delegated by the board to the general manager.

SECTION 10. FINANCIAL REQUIREMENTS

1) Separate Accounts for Separate Divisions of the System. To the end that each division is self-sustaining, the board requires that separate books and accounts be kept on the electric, gas, sewer, and water operations so that the books and accounts will reflect the financial condition of each division.

Each of the divisions is operated independently of the others, except as herein otherwise provided and except as the board may be of the opinion that joint operations shall be advisable and economical, in which event the expenses incurred, including the compensation of the board members, and other executives and attorneys, in such joint operation, shall be prorated between the four divisions in such manner as the board determines to be equitable.

2) Auditing. An independent certified public accountant, not an employee of the city or the system, may be retained by the utility board to make such audits and reports as the board may deem necessary. Before any independent accountant maybe retained by the board in accordance with the provisions of this paragraph, the accountant to be retained shall be approved by the city commission.

3) Reports to City Commission. It is the duty of the utility board to furnish to the city commission, through the city manager, monthly and annual reports of the operation of the system, which reports shall be kept on file in the Finance Director's office and open to public inspection during regular office hours.

4) Payments in Lieu of Taxes on Electric, Water, Sewer, and Gas Properties. The city commission may impose payments of lieu of taxes on any or all of the divisions within the utility system pursuant to state law.

SECTION 11. APPOINTMENT OF GENERAL MANAGER

The utility board shall appoint a general manager of the system who shall have executive ability and experience sufficient to qualify him for the management

of the system, who shall be responsible to the board and who shall serve at the pleasure of the board.

SECTION 12. PURCHASING

The utility board shall establish purchasing policies that comply with state laws and cover at least the following: a dollar limit over which competitive bidding is required, a dollar limit over which the utility system need not advertise but must, when possible, obtain three (3) competitive bids and below which no advertisement or competitive bidding is required; procedures for public advertising, securing, and opening bids; and any exemptions from competitive bidding.

ARTICLE XIX

CITY COURT

SECTION 1. APPOINTMENT OF CITY JUDGE

There shall be a city court presided over by a city judge. The board of commissioners may appoint a city judge who shall serve at the will of the board. The city judge shall have such qualifications and receive such compensation as the board may provide by ordinance.

If a city judge is unable to preside over city court for any reason, then, to the extent a general sessions court judge agrees to serve temporarily as city judge, the judge shall appoint a general sessions judge of the county within which the city lies to sit in the city judge's stead. If there is not a general sessions judge available, then the city judge shall appoint an attorney, meeting the same qualifications as a general sessions judge, to sit temporarily.

SECTION 2. JURISDICTION

The city judge has the power and authority to impose fines, costs, and forfeitures, and to punish by fine, for violation of city ordinances; to preserve and enforce order in his court; to enforce the collection of all such fines, costs, and forfeitures imposed by him; and in default of payment, or of good and sufficient security given for the payment of such fines, costs or forfeitures imposed by such city judge.

The city judge is authorized to enter an order for contempt of court for the payment of the fine in the amount established pursuant to Tennessee Code Annotated § 16-18-306.

Fines may be paid in installments in the manner provided by ordinance or in accordance with Tennessee Code Annotated § 40-24-104. Any court is authorized to enforce the collection of unpaid fines or forfeitures as a judgment in a civil action in any court with competent jurisdiction in accordance with § 40-24-105. The city

judge may remit, with or without condition, fines and costs imposed for violation of any ordinance provision.

The city judge may remit with or without condition, fines and costs imposed for violation of any ordinance or charter provision.

SECTION 3. RIGHT OF APPEAL

Any person dissatisfied with the judgment of the city judge in any case or cases heard and determined by the city judge may appeal in accordance with the general statutes of the state of Tennessee.

SECTION 4. FINES REMITTED

All fines imposed by the city judge for violation of the city ordinances shall belong to and be paid into the treasury of the city. Any labor performed in the execution of a workhouse or prison sentence for such violation or violations shall be performed for the city under the direction of the city manager.

SECTION 5. COURT COSTS

The city judge, in all cases heard or determined by such city judge for offenses against the corporate laws and ordinances, shall collect municipal court costs in accordance with the provisions of Tennessee Code Annotated § 16-18-304, shall levy and collect the litigation tax in accordance with the provisions of Tennessee Code Annotated § 16-18-305 and, in addition, shall add thereto the state privilege tax on litigation for municipal violations governing use of a public parking space. The city judge shall certify to the chief of police for collection, all fines, costs, and forfeitures imposed by the city judge for offenses against the laws and ordinances of the city. Costs in favor of any person paid a fixed salary by the city shall belong to the city and be paid into its treasury. It is the duty of the city judge to collect and receipt for all fines imposed by the city judge, and the city judge shall render a monthly report to the board of commissioners of all costs and fines collected and of all assessed and uncollected.

It is unlawful for any other person or officer to collect or receipt for such fines, costs, and recoveries, but the city judge may authorize the chief of police to collect and receipt for fines and costs.

SECTION 6. DOCKET

The city judge shall keep or cause to be kept a court docket or dockets embodying complete detailed records of all cases handled by him.

ARTICLE XX

CONSTRUCTION OF THIS CHARTER

SECTION 1. CONSTRUCTION

This charter shall be construed to cover the entire field of the chartered powers, limitations and restrictions of said city.

SECTION 2. SEVERABILITY

If any section, sub-section, sentence, clause or phrase of this charter is for any reason found and held to be invalid or unconstitutional, that fact shall not impair the validity or constitutionality of the remaining portions of the charter. Each separate power created by any section, sub-section, sentence, clause or phrase of this charter is declared to be severable, and the invalidity or unconstitutionality of any such part shall not affect any other portion of this charter.

ARTICLE XXI

EFFECTIVE DATE OF THIS CHARTER

SECTION 1. EFFECTIVE DATE

This charter and all sections thereof shall be effective sixty (60) days after the passage of this charter.

SECTION 2. PUBLIC NOTICE

It is the duty of the city commission to publish notice of this ordinance and submit the ordinance to the qualified voters of the city at a general state election. The city attorney shall draft and submit to the McMinn County Election Commission appropriate wording for charter proposals.