

ORDINANCE NO. 389

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ETOWAH: SECTION 1. PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION 9, OF THE STATE OF TENNESSEE, THE FOLLOWING NEW CHARTER IS HEREBY PROPOSED FOR THE CITY OF ETOWAH, AND SHALL BE SUBMITTED TO THE VOTERS OF THE CITY OF ETOWAH FOR THEIR APPROVAL IN THE GENERAL STATE ELECTION TO BE HELD ON AUGUST 2, 1984.

CHARTER FOR THE CITY OF ETOWAH, TENNESSEE<sup>1</sup>

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<sup>1</sup>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 which is set out here, as amended, beginning on page 1. As set out herein all of its general and permanent amendments through 2009 have been incorporated. The table of contents is unofficial.

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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.

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.<sup>1</sup>

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 by resolution and ordinances:

- 1) TAXES: To assess as hereinafter provided and to levy and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for state, county, or 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 anticipate the annual revenue by borrowing to meet the payments of interest on the bonded debt of the city or other budgeted obligations; provided the amount borrowed in any year shall not

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

exceed fifty per centum of the annual tax levy for that year, which shall promptly be repaid out of such tax collections.

6) REFUNDING BONDS: To issue and exchange, sell, pledge or in any manner dispose of negotiable or non-negotiable interest bearing or non-interest bearing refunding bonds and fix the interest rate and maturity date thereof to refinance or extend the existing bonded in indebtedness 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) NEW BONDS, ISSUANCE: To issue and sell any new interest bearing or non-interest bearing bonds for any purpose permitted by this charter or permitted by the statutes of Tennessee; to fix the interest rate and maturity dates of such bonds and to issue the same 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.

8) MONEY EXPENDED: To expend the money of the city for all lawful purposes.

9) 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.

10) 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 or in such other manner as may be provided by law.

11) 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.

12) 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 or service to the city, its inhabitants or any part thereof; or to inhabitants in areas adjacent to the city.

13) PUBLIC UTILITIES, GRANTS, FRANCHISES, REGULATIONS: To grant any person, firm, association or corporation, franchise for public utilities and public service to be furnished the city and those therein and 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. 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 said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened.

14) 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 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 as of the date of the contract, and as said corporate limits thereafter may be enlarged; and to any other streets, alleys, and other thoroughfares that thereafter may be opened.

15) 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.

16) 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, bridges, viaducts, subways, tunnels, sewers, and drains within the corporate limits and to regulate the use thereof within the corporate limits, and property may be taken and appropriated therefor under the provisions of the general law.

17) 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 under and as provided by Tennessee Code Annotated or any general law of the State, now or hereafter in effect.

18) 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 or other nuisances or danger to the public health and welfare, cutting and removing obnoxious weeds and rubbish; the lighting of streets; the cleaning and rendering sanitary, or removal, abolishing, and prohibiting of closets and privies, in such manner as may be prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the City Commission.

19) 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.

20) DRAINAGE, SEWAGE, OFFAL, ETC: To collect and dispose of drainage, sewage, offal, ashes, garbage and refuse, or to license and regulate such collection and disposal, subject to any applicable state laws and regulations.

21) LICENSE TAX: To impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling so long as said tax is 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 likely to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the City, and to accomplish that purpose by the exercise of general police power.

23) LIMIT OCCUPATIONS LIKELY TO BECOME A NUISANCE: To prescribe limits within which businesses, 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) INSPECTION, WEIGHTS, AND MEASURES: To inspect, test, measure, and weigh any article for consumption or use within the city, and to charge reasonable fees therefor, and to provide standards of weights, tests, and measures.

25) SAME: To establish, regulate, license, and inspect weights and measures.

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

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

28) ENFORCEMENT OF ORDINANCES - FINES AND IMPRISONMENT: To enforce any ordinance, rule or regulation by means of fines, forfeitures, penalties, or by action or proceedings in any court of competent jurisdiction or by any one or more of such means and to impose costs as a part thereof, but no fine, forfeiture, or penalty shall exceed fifty dollars, exclusive of court costs.

29) SCHOOLS: To establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation; 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 an educational system within the city.

30) 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.

31) BRIDGES AND VIADUCTS: To require and compel any steam, gasoline, diesel or electrical railway company operating within the said city and crossing with its lines any of the streets of the city, to build and construct and maintain all necessary bridges, viaducts, and underpasses under and over the tracks of said railroad company wherever said track or tracks cross the public streets, alleys, ways, and thoroughfares of said city, when in the judgment of the City Commission of said city such bridges, viaducts or underpasses should be build or constructed for the preservation or protection of the public use of such streets, alleys, ways, and thoroughfares; and the entire costs of the construction of such bridges, viaducts, or underpasses over such railroad or right-of-way of such railroad or railroads, to be paid and borne by such railroad or railroads, and the costs of the construction of the approaches to said viaducts or underpasses to the points above indicated to be borne by the City of Etowah, together with all damages which may accrue to the property owners by reason of change of grade, and the portion of such viaducts or underpasses constructed respectively by the railroad or railroads and by the City to be maintained by them respectively; provided the City of Etowah shall have no right, power, or authority to build or require of any railroad or railroads to build such bridges, viaducts or underpasses unless and until said City shall have available sufficient funds to lay out and construct the approaches to said viaducts, bridges or underpasses for that purpose and to so certify such fact to such railroad or railroads, the owners or operators thereof. In order to enforce this subsection, the City Commissioners of said City shall cause the necessary plans and specifications for the construction of such bridge, viaduct, or underpass to be made and prepared by competent civil engineers, such plans and specifications to make due and proper provisions for the safe operation of trains over and under such bridge, viaduct or underpass as well as traffic using said bridge, viaduct, or underpass, and upon approval of such plans and specifications, the City Commission of said City may, by ordinance, order and require the building and construction to be begun not more than sixty days after the passage of such ordinance and the work to be completed within such reasonable time as may be fixed and named in said ordinance and incase of the underpass as well as traffic using said bridge, viaduct, or underpass and upon approval of such plans and specifications, the City Commission of said City may, by ordinance, order and require the building and construction to be begun not more than sixty days after the passage of such ordinance and the work to be completed within such reasonable time as may be fixed and named in said ordinance and incase of the

failure of the owner or operator of any such railroad or railroads to comply with such ordinance, it shall be subject to a fine of fifty dollars for each day that it fails to comply therewith, such fine to be assessed and collected upon conviction before the City Judge of said City; but the City may also, by mandatory injunction, enforce compliance with such ordinance in the Chancery Court for McMinn County, Tennessee, or in the United States District Court for the Eastern District of Tennessee or other court of competent jurisdiction; or it may proceed to build and construct such bridge, viaduct, or underpass, charging the cost thereof, as above provided, where the same shall cross any railroad or railroads, to such railroads, or the owners or operators thereof, and recover such cost and expense with interest thereon, by suit instituted for that purpose in any court of competent jurisdiction.

32) REGULATION OF MOTOR VEHICLES FOR HIRE: To levy a privilege tax upon all vehicles operated upon its streets for hire; to require the owners and operators of all such vehicles to maintain liability insurance thereon in such amounts as the City Commission by ordinance may require; to regulate by ordinance, the parking spaces to be used by such vehicles and the parking arrangements to be made therefor; to regulate by ordinance the fare charged by said vehicles for hire in the City of Etowah; to regulate by ordinance and provide for the number of said vehicles for hire which may operate on the streets of the City of Etowah; and to regulate by ordinance and provide for the condition in which such vehicles for hire shall thereon in such amounts as the City Commission by ordinance may require; to regulate by ordinance, the parking spaces to be used by such vehicles and the parking arrangements to be made therefor; to regulate by ordinance the fare charged by said vehicles for hire in the City of Etowah; to regulate by ordinance and provide for the number of said vehicles for hire which may operate on the streets of the City of Etowah; and to regulate by ordinance and provide for the condition in which such vehicles for hire shall be maintained in order that they may operate in said City.

33) GENERAL POWERS: To have all the powers granted to municipal corporations and to cities by the Constitution and general laws of this State, together with all the implied powers necessary to carry into execution all the powers granted; and, except as prohibited by the Constitution of this State or as restricted by this Charter, the City shall and may exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever. The numeration of particular powers, by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the City shall have and may exercise all such powers, under the Constitution of this State that it would be competent for this charter specifically to enumerate. [As amended by Ord. #418, Sept. 1986, and Ord. #420, Dec. 1986]

## 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. CANDIDATE ELIGIBILITY

All candidates shall be eligible to have their names placed on ballots as prescribed in this Charter and the election laws of the State of Tennessee.

#### SECTION 3. 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 4. TERMS OF COMMISSIONERS

The terms of all 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. [As replaced by Ord. #516, Nov. 1994]

#### SECTION 5. 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. Incumbent Commissioners whose terms expire in June of 1995 following the regular city election in May of 1995 shall have their terms extended to the first regular commission meeting following the election of their successors at the regular election on the first Thursday of August, 1996. Incumbent Commissioners whose terms expire in June of 1997 following the regular city election in May of 1997 shall have their terms extended to the first regular commission meeting following the election

of their successors at the regular election on the first Thursday of August, 1998. Ties will be resolved by a flip of the coin. [As replaced by Ord. #516, Nov. 1994]

#### SECTION 6. 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 7. 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 shall be subject to recall and a recall petition shall contain signatures equal in number to at least fifty (50%) percent of the vote cast for the commissioner receiving the highest number of votes in the preceding city election for 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 sixty (60) 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. Said 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 said 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 ten (10) 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 ten (10) 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 ten (10) 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 the first and 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. [As replaced by Ord. #516, Nov. 1994]

## SECTION 2. COMMISSION MEMBERSHIP ELIGIBILITY

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 shall have been convicted of malfeasance in office, bribery, or other corrupt practice, or of any criminal offense constituting a felony, or of violating any of the provisions of Tennessee Code Annotated in reference to elections and if any commissioner shall be so convicted, he shall forfeit his office.

## SECTION 4. COMMISSION SALARIES

The salary of each Commissioner shall initially be One Hundred (\$100.00) Dollars per month; provided the City Commission, by ordinance, may increase or decrease the salary of the Mayor and other commissioners provided further that no such increase or decrease in salary shall take effect until after the expiration of the terms of office of all commissioners in office at the time of the adoption of such ordinance increasing or decreasing the salary of the Mayor and other commissioners.

## 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 therefor, 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 or of any two Commissioners, the welfare of the city demands it, the Mayor shall call special meetings of the City Commission upon at least twelve hours written notice served on each commissioner 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. PRESIDING OFFICER

The Mayor shall preside at all meetings of the City Commission, except that in the absence or disability of the Mayor, the Vice-Mayor shall preside. If both the Mayor and Vice-Mayor shall be unavailable, the three remaining commissioners may elect a Chairman Pro-Tempore to preside.

#### SECTION 10. 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 until the next regular election. At the next regular municipal election a new commissioner shall be elected for the remainder of the unexpired term, if any. [As replaced by Ord. #516, Nov. 1994]

#### SECTION 11. 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 disability of the Mayor.

#### SECTION 12. VICE-MAYOR DUTIES

The Vice-Mayor shall act as Mayor during any temporary absence or disability of the Mayor, and whenever a permanent vacancy occurs in the office of Mayor, such member shall become Mayor and hold office as such for the unexpired term, and the office of Commission thus vacated shall be filled as otherwise provided herein; and a new Vice-Mayor shall be chosen from the commissioners at their next regular meeting.

### SECTION 13. QUORUM

A majority of all the members of said City Commission shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time and may compel the attending 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; or to take any other action.

### SECTION 14. COMMISSION RULES, ETC.

The City Commission may determine the rules of its proceedings, subject to this Charter, and may arrest and punish by fine or imprisonment, or both, any member or other person guilty of disorderly or contemptuous behavior in its presence. It shall have 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 Fifty (\$50.00) Dollars, 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 minutes of its proceedings, and the yeas and nays on all questions shall be entered therein.

### SECTION 15. PUBLIC MEETINGS

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

### SECTION 16. 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.

### SECTION 17. COMMISSION POWERS

All powers of the city and the determination of all matters of policy shall be vested in the City Commission. Without limitation of the foregoing, the Commission shall have power to:

1. Appoint and remove the City Manager.
2. Establish other administrative departments and distribute the work of the division;
3. Adopt the budget;
4. Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
5. Appoint the members of the Etowah Utilities Board if it chooses to do so by ordinance as hereafter provided;
6. Appoint all other boards, except members of the Board of Education, that may now or hereafter be authorized by the ordinances or the Charter of the City of Etowah or by the laws of the State;
7. Adopt plats;
8. Adopt and modify the official map of the city;
9. Regulate and restrict the height and number of stories of buildings and other structures; the size of yards and courts; the size and location of signs; the density of populations and the location and use of buildings for trade, industry, business, residence or other purposes;
10. Provide for safe and sanitary housing accommodations for families of low income;
11. Create a housing authority and planning commission with their membership appointed by the Mayor subject to the approval of the remaining Commissioners provided the members of the Etowah Housing Authority and the Etowah Planning Commission, at the time of the adoption of this Charter, shall continue in office until the expiration of their present terms;
12. Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;
13. Adopt, modify and carry out plans proposed by the planning commission for the replanning, improvement and redevelopment of the neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.

SECTION 18. 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 six (6) days shall elapse between the first and second readings. Any ordinance not so read shall be null and void. An ordinance shall not take effect until ten (10) days after the final passage thereof, except in case of an emergency ordinance. An emergency ordinance may become 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.

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. VOTES REQUIRED

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

#### SECTION 4. ORDINANCE BOOK REQUIRED

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

#### SECTION 5. PUBLICATION REQUIRED

A summary of all ordinances of a penal nature shall be published at least once in a newspaper of general circulation in the City and no such ordinance shall be in force until it is so published. The notice shall state that a full copy of the ordinance shall be available for inspection in the office of the City Manager during regular business hours. [As amended by Ord. #418, Sept. 1986]

### 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 minutes 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.

##### SECTION 2. MAYORAL POWERS

The Mayor shall have power and it is hereby made his duty to perform all acts that may be required of him by an ordinance duty enacted by the Commission, not in conflict with any of the provisions of this Charter.

### ARTICLE VIII

#### OFFICERS AND EMPLOYEES

##### SECTION 1. APPOINTMENT OF CITY MANAGER

The City Commission shall, as soon as practicable, appoint a City Manager and fix his salary, such salary to be payable in equal monthly installments. He shall be appointed solely on the basis of his executive qualifications and need not, when appointed, be a resident of the City of Etowah

or the State of Tennessee. 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. The City Manager may be removed from office at any time by the City Commission.

#### SECTION 2. APPOINTMENT AND SALARIES OF CITY EMPLOYEES

The City Commission shall fix the salaries of the employees hired by the City Manager, being guided in this action by the City Manager's recommendations. The City Commission shall establish and make provisions in the appropriation ordinance for such other officers, agents and employees, except the City Judge, City Attorneys, and members of and employees under the supervision of the Etowah City Board of Education and the Etowah Utilities Board shall be appointed by the City Manager and removed by him at any time.

#### SECTION 3. OATH REQUIRED

Every elected official, City Manager, department head, Chief of Police and police officer shall, before entering upon his duties, take and subscribe and file with the City Manager, 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 Constitution 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 surety bond with some 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. INSUFFICIENT FUNDS

If at any time it appears to the Mayor or City Manager that the surety of sureties on any official bond are insufficient, the officer or employee may 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 he shall have been notified, his 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 shall be:

(a) 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 or proper State Court.

(b) Except as otherwise provided by this Charter, to appoint and remove all heads of departments and all subordinate officers and employees, all appointments to be made upon merit and fitness alone; provided, however, that all such present officers and employees shall continue to serve until removed and/or their successors are appointed.

(c) 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.

(d) To see that all terms and conditions imposed in favor of the City or its inhabitants on 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, or Attorneys, who are hereby required to take such steps as are necessary to enforce the same.

(e) To attend all meetings of the City Commission, unless properly excluded, with the right to take part in the discussion, but not to vote.

(f) To recommend to the City Commission such measures as he may deem necessary or expedient.

(g) To act as budget officer and to keep the City Commission advised as to the financial condition and needs of the City.

(h) To be responsible for the purchase of all material, supplies and equipment for the proper conduct of the City's business, except those purchased by or for the Etowah City Board of Education and the Etowah Utilities Board.

(i) 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, but no purchase shall be made at any one time in an amount which in the aggregate will exceed One Thousand (\$1,000.00) Dollars unless bids shall have been requested through public advertisement and award made on bids most advantageous to the City. When any contract is not awarded to the lowest bidder, the reason for such action shall be given in writing to the City Commission.

## ARTICLE X

### CITY ATTORNEY

#### SECTION 1. APPOINTMENT

The City Commission shall employ a City Attorney or Attorneys, prescribe his duties and fix his compensation.

## ARTICLE XI

### TAXATION

#### SECTION 1. TAX ROLLS

It shall be the duty of the City Manager, 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 railroad, telephone, telegraph and other public utilities properties), together with a certified statement of the revenue. Upon the presentation of such statements by the City Manager, the City Commission shall proceed by ordinance to make the proper levy to meet the expenses of the City for the applicable fiscal year.

## SECTION 2. TAX BOOK PREPARATION

It shall be the duty of the City Manager, immediately after the levy of taxes by the City Commission, to cause the said levy to be extended upon a tax book 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 shall be collected in accordance with rules provided by ordinance, which shall specify, among other requirements, due date, penalty date, and penalty and interest rates. All taxes which the City of Etowah is empowered to collect at the time of the adoption of this Charter shall remain in full force and effect notwithstanding the adoption of this Charter under the same terms, conditions, due dates, interest rates and penalties applicable at the time of the adoption of this Charter unless and until altered, amended, abolished, modified or changed as provided in the first sentence of this paragraph.

The City Manager shall be the custodian of the tax books and shall be the tax collector of the City; provided, however, that the City Commission, by ordinance, may provide for one or more assistant tax collectors, who will be compensated by salary, as the City Commission may determine.

Distress warrants may be issued for the collection of taxes and any such distress warrant shall be executed by a person designated by the City Commission.

## SECTION 4. ASSESSMENTS

All municipal assessments are to be made as of the first day of January of the year for which taxes are to be levied for the forthcoming fiscal year, or as of such other date as may be required by State law. No assessment shall be invalid because the size and dimensions of any tract, lot or parcel of land shall have been incorrectly described nor because the same had 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 objections of informality merely technical, but all such assessments shall be valid. The City Commission shall have power to correct any errors in the tax assessments upon a certificate filed by the assessor or assessing body.

## SECTION 5. TAX SALE

The City Manager shall 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 which 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 have the power, and is hereby given authority to file bills in the Chancery Court or other court of competent jurisdiction in the name of the City for the collection of delinquent assessments or levies made for payment for improvements or services for which assessments or levies may be made, or have been made, under this Charter, or by any other acts of the legislature, the cost of which is made a charge on the property; the suits commenced by said bills to 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; provided that the bills shall not be objectionable because the owners of different parcels or tracts or lots of land are made parties thereof, it being the intention of this Charter that all persons in the same assessment and levy for improving any portion of the City as aforesaid, and on whose property said assessment or levy is a lien, shall be made parties defendant to one bill.

### ARTICLE XII

#### DEPARTMENT OF FINANCE

##### SECTION 1. HEAD OF DEPARTMENT

The City Manager or Finance Director appointed by him shall be the head of the Department of Finance.

##### SECTION 2. DUTIES OF FINANCE DIRECTOR

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 shall 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.

The Finance Director shall exercise general supervision over the fiscal affairs of the City, and general accounting supervision over the city's property, assets and claims and the disposition thereof. The Finance Director shall be the general accountant 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 his office shall show the financial operations and condition, property, assets, claims and liabilities of the City, all expenditures authorized and all required proper fiscal accounts, records, settlements, and reports to be kept, made and rendered to him, by the several departments and officers of the City, including all deputies or employees of his department charged with the collection of expenditure of some money, and shall control the same.

The Finance Director shall cause an efficient system of accounting for the City to be installed and maintained, as provided for in the annual appropriation ordinance.

The Finance Director shall also serve as Treasurer of the City, and it shall be the duty of the Finance Director to collect, receive and receipt for the taxes and all other revenue of the City, all special assessments, the proceeds of its bond issues, and to disburse the same, under the supervision of the City Manager.

### SECTION 3. INTERNAL AUDITOR

Except as otherwise provided by this Charter, by ordinance of the City, or by law, the Finance Director shall prescribe and regulate the manner of paying creditors, officers, and employees of the City. The Finance Director shall pre-audit all payrolls, accounts and claims against the City, but no payroll, account or claims, or any part thereof, shall be paid unless authorized by law or ordinance and approved and certified by the City Manager, and the amount required for payment of the same is appropriated for the purpose by ordinance and in the Treasury. Whenever any claim shall be presented to the Finance Director, he shall have power to require that the amount claimed is justly due, and is in conformity to law and ordinance, and for that purpose he may summon before him any officer, agent or employee of any department of the municipality, or any other person, and examine him 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 checks in payment of all payrolls, account and claims against the City shall be signed by the Finance Director. 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 either in connection with the receipt or disbursement of city funds to be numbered consecutively and all spoiled or unused forms shall be accounted for.

SECTION 6. OTHER DUTIES

The Finance Director shall also perform any other duties imposed upon him by this Charter, ordinance, or by the City Manager.

SECTION 7. TEMPORARY ABSENCES

In the event of the temporary absence or inability of the Finance Director to act, the City Manager shall have the authority to delegate any of these responsibilities temporarily.

ARTICLE XIII

TAXATION AND REVENUES

SECTION 1. COLLECTION OF TAXES

The 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 business taxable by law, may 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.

### SECTION 4. TAXES BASED ON ASSESSMENTS

The City Commission of the City shall have full power to levy and collect taxes based upon assessments made as of dates governing counties as provided by state law.

### 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 and of the Public Utilities Commission of Tennessee, 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.

## ARTICLE XIV

### BUSINESS TAXES

#### SECTION 1. TAXES MAY BE IMPOSED

Business taxes may be imposed by ordinance under the laws of Tennessee.

## ARTICLE XV

### CITY BONDS

#### SECTION 1. BONDS AUTHORIZED

Some of the purposes hereby specifically authorized for which the bonds of the City may be issued and be given, sold, pledged, or disposed of on the credit of the City or solely upon the credit of specific property owned by 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 upon any two or more credits, are the following:

For the acquiring of lands for the purchase, construction, reconstruction, or extension of waterworks, public sewers, streets, alleys, buildings; and equipment for the fire department, bridges, and viaducts, gas or electric light works, power plants, police patrols and fire alarm system; for hospitals, jails and other charitable, corrective and penal institutions; for city halls, municipal buildings, libraries, and other public institutions, public works, public parks, parkways, boulevards, grounds, squares, and any other public improvements which the City may be authorized or permitted to make; for the purchase of lands or other property, real or personal, for school purposes; for the construction or purchase of playgrounds, either in connection with the schools or separate therefrom; and for the acquiring of lands and/or construction of buildings to be rented or leased for industrial uses; and for paying, refunding, or removing any bonded indebtedness of the City. The foregoing enumeration shall not be construed to limit any general provisions of this Charter authorizing the City to borrow money or issue and dispose of bonds, and such general provisions shall be construed according to the full force and effect of their language as if no specific purpose had been mentioned, and the authority to issue bonds for any of the purposes aforesaid, is cumulative and shall not be construed to impair any authority to make any public improvements.

#### SECTION 2. TYPES OF BONDS

Bonds may be so issued as to be payable on a specified date or serially or subject to call and redemption.

#### SECTION 3. ESTIMATED LIFE

The City Commission shall estimate the probable life of improvements proposed to be erected or purchased with the proceeds of any such bonds; provided, however, that such estimate, if erroneous, shall not affect the validity of such bonds.

SECTION 4. SINKING FUNDS

If the bond covenants require sinking funds, the amount of the annual installments to be paid into the sinking fund shall be fixed by the City Commission for each bond issue.

SECTION 5. ELECTION REQUIRED

All bonds of the City, except bonds for paying, refunding, or removing bonded indebtedness, and except bonds issued under the provisions of the general statutes of the State of Tennessee and revenue bonds, shall be issued only with the assent of a majority of the qualified voters actually voting at an election held for the purpose, in the manner heretofore provided.

SECTION 6. PAYMENT METHOD

Whenever any bonds, interest coupons, or other written evidence of the City's debt shall be paid and discharged, they shall be cancelled by the Finance Director.

Interest coupons and other evidence of debt shall be cancelled by stamping and punching, immediately upon their redemption.

The cancelled bonds, coupons, and other evidences of debt shall be exhibited to and verified by the City Commission at its next meeting and shall be filed and presented for examination in annual audits.

ARTICLE XVI

SINKING FUND

SECTION 1. INVESTMENT

All the sinking funds of the City may be invested by the City Manager by and with the consent of the City Commission, in bonds of the United States, the State of Tennessee, or other authorized securities at the best price obtainable.

SECTION 2. TRANSFER OF SECURITIES

The City Manager by and with the consent of the City Commission, may sell the securities belonging to a sinking fund, or any part of them at any time, when the proceeds thereof may be needed for the payment of bonds, on the best obtainable terms.

### SECTION 3. EXCHANGE OF SECURITIES

The City Manager by and with the consent of the City Commission, may exchange any bonds belonging to a sinking fund for bonds of the City whenever such exchange may be advantageous for the City.

### SECTION 4. PAYMENTS TO SINKING FUND MAY BE SUSPENDED

If the amount of any sinking fund, with the interest or revenue thereof, computed to the maturity of the city bonds, be sufficient to pay the remainder of the City's obligations as represented by said bonds, the tax for such sinking fund may then be omitted, but, if by reason of interest or depreciation of investments or other cause said fund shall not be sufficient, the levy shall not be resumed.

### SECTION 5. EXCESS RETURNED TO GENERAL FUND

Any money remaining in a sinking fund, after payment of the entire bonded debt for which it was accumulated, shall be paid into the general fund.

## ARTICLE XVII

### 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.

The classification of the estimate of expenditures shall be in accordance with the uniform classification of accounts by the Comptroller's Office of the State of Tennessee and shall give in parallel columns the following information:

- a) An accurate statement of any operation surplus for the preceding fiscal year.
- b) A detailed estimate of the expense of conducting each department as submitted by the department.
- c) Expenditures, when possible, for corresponding items for the last two fiscal years, stated separately.
- d) Expenditures for corresponding items for the current fiscal year.

- e) Increase or decrease of appropriations proposed by each department, compared with the corresponding appropriations for the current year.
- f) Such other information as is required by the City Commission or that the City Manager may deem advisable to submit.

The recommendations of the City Manager as to the amounts to be appropriated with reasons therefor, in such detail as the City Commission may direct, shall be submitted in writing to the City Commission. Sufficient copies of such recommendations shall be prepared and submitted so that there may be copies on file in the office of the City Manager for inspection by the public. The failure of the City Manager to provide the information and make the recommendations required by this Section shall not preclude the City Commission from acting to adopt an appropriations ordinance for any given fiscal year.

Upon receipt of said recommendations of the City Manager, the City Commission shall publish or cause to be published proper notice of a public hearing to consider the adoption of the annual appropriations ordinance. Said notice shall be published in a newspaper of general circulation in the City at least ten (10) days before the public hearing.

Before acting upon the appropriations ordinance, the City Commission shall consider same at the advertised meeting and all voters and taxpayers may appear at said meeting and be heard in person or by attorney. The appropriations ordinance for each fiscal year shall be finally adopted before the first day of the fiscal year, provided, however, the failure to do so shall not preclude the City Commission from adopting an appropriations ordinance after the beginning of the fiscal year.

## 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 therewith will be necessary.

## SECTION 3. APPROPRIATIONS DEFICIT

In the event expenditures for a preceding year exceeded appropriations, contrary to the provisions of the Charter, an appropriation for the resulting deficit shall be made in the appropriations ordinance for the year following that in which the deficit was created, and any such deficit so occurring shall be paid out of any and all revenues during that current fiscal year.

SECTION 4. CITY MANAGER RESPONSIBLE

The City Manager shall be responsible for limiting expenditures and obligations to the amounts of appropriations for all departments and shall establish and maintain a system of allotments and require the installation and maintenance of such system of accounts and records and prescribe such purchasing procedure as may be necessary to that end. 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. If it appears that the revenue will not be sufficient to cover the appropriations authorized for the year, or if for other reasons it appears to be necessary to reduce or adjust the appropriations, he shall made recommendations to the City Commission for such reductions or adjustments as may be required to maintain a balanced budget. The City Manager and the City Commission shall do all other things not in conflict with this Charter which may be necessary to maintain a balanced budget for the city government.

ARTICLE XVIII

DEPARTMENTS

SECTION 1. DEPARTMENTS CREATED

So 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 Finance;
- (2) Department of Fire;
- (3) Department of Public Works;
- (4) Etowah City Board of Education;
- (5) Etowah Utilities Board;
- (6) Department of Police; and
- (7) Department of Parks and Recreation.

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.

## ARTICLE XIX

### POLICE AND FIRE DEPARTMENTS

#### SECTION 1. APPOINTMENT OF POLICE CHIEF

The City Manager shall appoint a Chief of Police and such patrolmen and other members of the police force as may be authorized by appropriate ordinance.

It shall be 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, violations of law and of the city ordinances, and perform a general police duty; execute and return all processes, notices, and legal orders of the Mayor, City Manager, City Attorney or Attorneys, and the Finance Director, and all other processes, notices, and orders as in this Charter, or by ordinances, may be provided.

#### SECTION 2. CONSCRIPTION

In time of riot or other emergency, the Mayor or the City Manager shall have power to summon other persons, whether residents of the City or not, to assist the police or fire departments.

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 3. FIRE CHIEF APPOINTED

The City Manager shall appoint a Chief of the Fire Department and such other members of said department as may be provided for by 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.

SECTION 4. POLICE POWERS AT SCENE OF FIRE

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.

SECTION 5. ARSON INVESTIGATOR

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 6. MAY BE COMBINED

The City Commission may combine the police and fire departments under one head or chief, and prescribe their duties and functions and establish the salaries of all personnel of said departments.

ARTICLE XX

DEPARTMENT OF PUBLIC WORKS

SECTION 1. APPOINTMENT OF PUBLIC WORKS DIRECTOR

The City Manager shall appoint a Director of Public Works and such other employees of the Department of Public Works as the City Commission may by ordinance provide. The City Commission may by ordinance, however, provide for a Superintendent of Sanitation and a Superintendent of Streets in lieu of, or in addition to, a Director of Public Works.

SECTION 2. FUNCTION

The Public Works Department shall have responsibility for the collection, removal and disposal of solid waste. Said department shall also be responsible for keeping the streets, alleys, sidewalks and drainageways of the City of Etowah in good repair.

ARTICLE XXIDEPARTMENT OF PARKS AND RECREATIONSECTION 1. APPOINTMENT OF PARKS AND RECREATION DIRECTOR

The City Manager shall appoint a Director of Parks and Recreation and such other employees for the Department of Parks and Recreation as the City Commission may by ordinance provide.

SECTION 2. FUNCTION

The Department of Parks and Recreation shall be responsible for the recreation program for the City of Etowah and for the upkeep and maintenance of parklands.

ARTICLE XXIIETOWAH CITY BOARD OF EDUCATIONSECTION 1. SEPARATE SCHOOL DISTRICT CREATED

The City of Etowah is hereby created a separate school district, and 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 consist of five (5) members, which board 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. [As amended by Ord. #418, Sept. 1986, Ord. #419, Dec. 1986, and Ord. #437, April 1988]

SECTION 2. SCHOOL BOARD TO CONTROL SCHOOLS

Except as herein otherwise provided, said Etowah City Board of Education shall have full and exclusive power and authority as trustees or directors, to manage, control and regulate the public or city schools; to maintain and adequately insure all school property; to elect or employ competent and qualified teachers and a Superintendent of Schools; and prescribe all rules and regulations for the government, control and operation of said schools and the teachers and superintendent thereof. Said 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 candidate for or a member of the City Commission of the City of Etowah. The members of said Board shall be elected as herein provided, and subject to the same recall provisions as are the City Commissioners.

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

The Etowah City Board of Education shall consist of five (5) members who shall serve staggered four year terms. Members of the 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.

(a) Incumbent members of the Etowah City Board of Education whose terms expire in June of 1995 following the regular city election in May of 1995 shall have their terms extended to the first regular commission meeting following the election of their successors at the regular election on the first Thursday of August, 1996. Incumbent members of the Etowah City Board of Education whose terms expire in June of 1997 following the regular city election in May of 1997 shall have their terms extended to the first regular commission meeting following the election of their successors at the regular election on the first Thursday of August, 1998. Ties will be resolved by a flip of the coin.

(b) Effective September 1, 1996, the Etowah Board of Education shall be 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 City Commission shall by resolution prescribe the boundaries and numbers of the five districts from which members of the Board of Education shall be elected in accordance with that statute.

(c) The City shall appropriate monies necessary to absorb the additional expenses of a five member School Board.

The salary of each member of the Etowah School Board of Education shall initially be Fifty Dollars (\$50.00) per month; provided the City Commission, by ordinance, may increase or decrease the salaries of the members of said Board of Education provided further, that no such increase or decrease in salary shall take effect until after the expiration of the terms of office of all members of said

Board of Education in office at the time of the adoption of such ordinance increasing or decreasing the salaries of the members of said Board of Education. Any vacancies occurring in the membership of the Etowah City Board of Education shall be filled by appointment by the City Commission. [As replaced by Ord. #516, Nov. 1994]

#### 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 Fifty Thousand (\$50,000.00) Dollars; provided, however, the Etowah City Board of Education may require bonds in an amount over and above said Fifty Thousand (\$50,000.00) Dollars. The cost for said bonds shall be paid by said Board of Education.

Checks shall be issued only when adequate funds are available for the stated purpose and upon proper authorization by the School Board 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. [As replaced by Ord. #516, Nov. 1994]

#### 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

Salaries of the Superintendent, principals, teachers and others employed by the Etowah City Board of Education shall be fixed by said board before the

appointment of said employees and said salary schedule shall be written into the minutes of said 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 XVII, 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 shall provide such funds by the tax levy; provided, however, that if the funds required by said budget from the City shall, in the judgment of the City Commission, require a sum greater than can reasonably be furnished by the City, then said Commission shall notify the Board of Education. Thereafter, and as soon as practicable, the Board of Education and the City Commission shall confer together and, if possible, arrive at a figure to the mutual satisfaction of both. If no agreement can be reached, the will of the City Commission shall prevail.

#### SECTION 9. CAPITAL EXPENDITURES

Whenever the Board of Education shall deem 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 of the same . 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. BORROWING

The Board of Education of the City of Etowah, through its Chairman and Superintendent is authorized and empowered to borrow money to operate and maintain schools in said City and to issue interest bearing notes at the lowest interest rates available as an evidence of such moneys so borrowed, in anticipation of the collection of current school funds, as provided by state law.

## SECTION 11. PURCHASING AND CONTRACTS

No purchase or contract involving an amount set by the Board of Education or the general law of the State Board of Tennessee shall be made or entered into by the Board of Education or its duly authorized representatives without first having received competitive bids. When the lowest bid is not awarded, the reason for such action shall be given in writing in the minutes of said Board.

### ARTICLE XXIII

#### 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 XXIII, shall have the following respective meanings unless a different meaning clearly appears from the context:

- (a) "Board" shall mean the Etowah Utilities Board.
- (b) "Board Member" shall mean an individual member of the Board.
- (c) "System" shall mean and shall include the water system, sewer system, the gas system, and the electric distribution system.
- (d) "Division" means the part of the system that includes all of one branch of the operation of the system, such as the branch having charge of the electric power operations, or the branch having charge of the water operations, or the branch having charge of the gas operations, or the branch having charge of the sewer operations.

##### 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 of the Utilities Department which it succeeds, in the same manner and form and to the same extent as the said prior Utilities Department was under existing laws.

#### 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 as set forth in Article V, Sections 2 and 3 of this Charter.

#### SECTION 5. BOARD MEMBERS

The Etowah Utilities Board shall consist of five (5) members who shall be the same five (5) persons as the City Commissioners, whose terms shall run concurrently with those of the City Commissioners. The City Commission shall have 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.

The terms of incumbent board members at the time of the adoption of this Charter shall be extended until the first Monday of June of the year next following the date of the adoption of this Charter. It is the intent of this provision that the incumbent board members be continued in office until their successors are elected or appointed and qualified under the provisions of this Charter.

#### SECTION 6. SALARIES OF BOARD MEMBERS

The salaries of the members of the Etowah Utilities Board shall initially be Fifty (\$50.00) Dollars per meeting; provided, the City Commission, by ordinance, may increase or decrease the salaries of the members of the Etowah Utilities Board provided further that no such increase or decrease in salary shall take effect until after the expiration of the terms of office of all City Commissioners in office at the time of the adoption of such ordinance increasing or decreasing the salaries of the board members of the Etowah Utilities Board.

#### SECTION 7. DIVISIONS CREATED

The system shall be divided into a Division of Water, a Division of Power, a Division of Gas, a Division of Sewer. The Division of Water shall control the operation and management of the water properties of the system. The Division

of Power shall control the operation and management of the electric properties of the system. The Division of Gas shall control the operation and management of the gas properties of the system. The Division of Sewer shall control the operation and management of the sewer properties of the system. 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 Board.

#### SECTION 8. ORGANIZATIONS AND MEETINGS OF BOARD

The Board shall elect from among its members a Chairman who shall preside over the meetings of the Board, and a Vice-Chairman who shall act for the Chairman during his absence or disability. 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. Board members who are appointed to the offices provided for in this paragraph shall 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.

A new election of officers of the Board shall be held annually at the first regular meeting of the Board in June or as soon thereafter as may be practical. 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 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, shall attend all meetings of the Board, and shall have a seat and voice but no vote in such meetings. Except as otherwise expressly provided herein, action by the 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

##### (a) Independent Control

Except as expressly provided in this section, the Board shall have an exercise and is hereby granted all the powers and duties possessed by the City of Etowah to construct, acquire, expand or operate the system. The Board, either by itself or by its duly authorized officers and employees, shall have and maintain 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. Except as expressly provided in this section, the system shall be free from jurisdiction, direction or control of other city officers and employees and of the City Commission.

(b) Surety Bonds

The Board shall require corporate surety bonds from such of the system's officers and employees and in such amounts as the Board shall deem necessary. Premiums for such bonds shall be paid out of the funds of the system.

(c) Fix Rates

The Board shall fix sufficient rates to be charged for services rendered by the system. 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 Board. Rates within the City may be less but not greater than rates for the same class of service outside the City.

(d) Contract, Lease, and Agreements

The Board may, in the operation of the system, either by itself or by its duly authorized officers and employees, execute deeds and enter into leases, contracts and agreements, provided the term of such leases, contracts and agreements shall be limited to not more than twenty (20) from the date of performance thereunder is to begin, and not more than twenty-two (22) years from the date of the execution thereof. 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 if 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. 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.

(e) Advances to System for Extensions

The Board is authorized to allow any person, firm or public or private corporation to pay all or part of the cost of making an extension or extensions of the system to reach customers under an agreement whereby such extension or extensions shall, when made, become the property of the City as a part of the system and the Board may further agree that the City shall pay a proportionate part of the net or gross receipts accruing to the system from such extension or extensions to the entity advancing the cost thereof, with or without interest, on the amount of such advance; provided, however, the Board can incur no such obligation for a longer period than fifteen (15) years from the time of the completion of such extension or extensions. Advance or loans made to the system under this paragraph shall not be subject to limitations or restrictions provided for elsewhere in this Charter.

(f) Short Term Loans

The 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.

(g) Improvement Bonds

The Board is hereby authorized to issue 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.

(h) Rules and Regulations

The Board shall have authority to make and enforce all necessary and desirable rules and regulations for the efficient use, operation, and management of the system.

(i) Joint Use of Poles and Other Property

The Board shall have 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.

(j) Eminent Domain

The Board is hereby given the same power and authority to exercise the right of eminent domain on behalf of the system which power and authority is now possessed by, or may hereafter be given, the City Commission.

(k) Investment of Surplus Funds

The Board shall have power to invest its surplus funds in bonds of the United States, the State of Tennessee, or other authorized securities at the best return possible.

(l) To Employ Attorney

The Board shall have the power to appoint an attorney or attorneys, to prescribe his duties and fix his compensation.

(m) Salaries

The Board shall have 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.

(n) Security for Service Charge

The Board shall have the right to require reasonable deposits as security for the payment of charges for service rendered by the system, or, by and with the consent of the owner of the premises served, the Board may make such charges to the occupants a lien on the real property, to which such services are rendered.

(o) Promotion Expenditures

The Board shall have the power to authorize reasonable expenditures for advertising and otherwise promoting the increased use of the services of the system.

SECTION 10. FINANCIAL REQUIREMENTS

(a) Separate Accounts for Separate Divisions of the System

The Board shall require that separate books and accounts be kept on the electric, gas, sewer, and water operations so that said books and accounts will

reflect the financial condition of each division, to the end that each division shall be self-sustaining.

Each of said divisions shall be operated independently of the others, except as herein otherwise provided and except insofar 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 said 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.

(b) Auditing

An independent certified public accountant, not an employee of the City or the system, shall be employed by the Board to make such audits and reports as the Board may deem necessary. Before any independent accountant shall be employed by the Board in accordance with the provisions of this paragraph, the accountant to be employed shall be approved by the City Commission.

(c) Reports to City Commission

It shall be the duty of the 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.

(d) Sufficient Power, Water, Gas, and Sewer Rates

The Board shall charge sufficient rates respectively for electric power, sewer, water, and gas to pay all obligations heretofore or hereafter incurred by the City on account of the ownership and operation respectively of the electrical division, water division, sewer division, and the gas division, including all legal claims, or judgments, for which the City has heretofore been or may hereafter be, liable on account of the ownership and operation of the electric division, water division, gas division, or sewer division, and including the payments to the City in lieu of taxes as hereinafter provided. Such obligations, whether in the form of bonds or otherwise, shall be provided for in the respective budgets of the respective electric, water, gas, and sewer divisions, and need not be included in the general city budget.

(e) Payments in Lieu of Taxes on Electric, Water, Sewer, and Gas Properties

From the separate revenues of the respective electric, water, sewer, and gas divisions, the Board may pay into the general funds of the City respective

sums equal in amount to that which would be the separate respective city real and personal property taxes on the respective electric, water, gas and sewer properties within the city limits of the City of Etowah, if such properties were privately owned. The separate valuation of the respective electric, water, gas, and sewer properties for determining the amounts of the respective payments required by this paragraph shall be made by the Finance Director at the same time tax assessments are made, but the Board shall have the right to appeal from the decision of the Finance Director in the same manner as any taxpayer who considers a tax assessment excessive. Payments to the City in accordance with the provisions of this paragraph shall be made monthly.

From the respective separate revenues of the electric, sewer, water and gas properties, the Board lay pay an amount or amounts equivalent to the respective amounts that would be payable for State and County real and personal property taxes in each county in which there are electric, water, sewer, or gas properties, if said properties were privately owned. The valuation thus fixed by the Board shall be final. In order to assist counties in estimating their budget requirements, the Board shall fix the valuation upon which any amount or amounts to be paid by the State and County is based, not later than the time county budgets are adopted. Payments provided for in this paragraph shall be made monthly.

Payment in lieu of taxes on the electric, water, sewer or gas properties may be made to the City, County or State only so long as the governmental body to which such payment is made, does not levy a property tax upon such electric, water, sewer or gas properties.

This section may be suspended by a majority vote of the Board and the City Commission.

#### SECTION 11. APPOINTMENT OF GENERAL MANAGER

The 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. The City Manager may, at the discretion of the Board, be the General Manager of the Etowah Utilities Board.

#### SECTION 12. PURCHASING

The Etowah Utilities Board shall prescribe by resolution the maximum expenditures which the General Manager may make without specific authorization of the Board and shall prescribe rules for competitive bidding in accordance with the general statutes of the State of Tennessee.

## ARTICLE XXIV

### CITY COURT

#### SECTION 1. APPOINTMENT OF CITY JUDGE

The City Commission shall appoint a City Judge who shall have jurisdiction in and over all cases arising under the laws and ordinances of the City. The compensation of the City Judge shall be fixed by the City Commission. In the event the City Judge shall be absent or unable to attend any session of the City Court, he is empowered to designate some person to hold sessions of the court in his stead; provided, however, that the person so designated shall not be a member of the City Commission.

#### SECTION 2. JURISDICTION

The City Judge shall have 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. 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.

#### SECTION 5. COURT COSTS

In addition to any fines levied by the City Judge, he may assess court costs against the defendant as allowed by the statutes of the State or ordinances of the City.

#### 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 XXV

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 XXVI

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

"This ordinance shall be published in the Etowah Enterprise in its entirety. The City Attorney shall draft and submit to the McMinn County Election Commission appropriate wording for this charter proposal to be placed on the ballot at the general State election to be held on August 2, 1984."

SECTION 3

This ordinance shall take effect from and after its passage, the welfare of the City requiring it.

Passed MAY 14, 1984.

s/James M. Cantrell  
MAYOR

s/Adele H. Lattimore  
RECORDER

ORDINANCES COMPRISING THE HOME RULE CHARTER OF  
ETOWAH, TENNESSEE<sup>1</sup>

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YEAR	ORD. #	SUBJECT
----	389	Adopt a home rule charter. <sup>2</sup>
----	394	Amended art. II, § 1, <u>Corporate Boundaries</u> .
1986	418	Amended art. III, § 29, <u>Schools</u> and art. XXII, § 1, <u>School Board</u> .
1986	419	Amended art. XXII, § 1, <u>School Board</u> .
1986	420	Amended art. III, § 29, <u>Schools</u> .
1988	437	Amended art. XXII, § 1, <u>School Board</u> and art. XXII, § 4, <u>Members of Board of Education - Election, Terms, Salary, and Vacancies</u> .
1990	456	Amended art. II, § 1, <u>Corporate Boundaries</u> .
1992	481	Amended art. II, § 1, <u>Corporate Boundaries</u> .
1994	513	Amended art. II, § 1, <u>Corporate Boundaries</u> .
1994	516	Replaced art. IV, § 4, <u>Terms of Commissioners</u> ; art. IV, § 5, <u>Election of Commissioners</u> ; art. V, § 1, <u>Election of Mayor</u> ; art. V, § 10, <u>Commission Vacancies</u> ; art. XXII, § 4, <u>Members of the Board of Education - Election, Terms, Salary and Vacancies</u> ; and art. XXII, § 5, <u>Board Officers</u> .

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<sup>1</sup>Art. 11, § 9 of the Constitution of Tennessee states that a municipality with a home rule charter has the power to amend their charter by ordinance.

<sup>2</sup>Priv. Acts 1909, ch. 116 was replaced in its entirety by Ord. #389, May 1984, which adopted a home rule charter.