

CHARTER FOR THE CITY OF WHITWELL, TENNESSEE

(HOME RULE)¹

CHAPTER

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CHAPTER 18

UNIFORM CITY MANAGER-COMMISSION CHARTER ADOPTION
OR SURRENDER

SECTION

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6-1801. Definition of terms. The words "city" or "said city" in chapters 18 to 23, inclusive, of this title shall refer to any city which may adopt the

¹IMPORTANT: The following is an unofficial compilation of the charter of the City of Whitwell. Whitwell adopted home rule in 1958.

The Charter herein reflects the Uniform City Manager-Commission Charter as it appeared upon the 1958 adoption of home rule, with any amendments as adopted by the voters of Whitwell as of 2012.

provisions of said chapters, and the word "county" shall refer to the county in which any such city is located. [Acts 1921, ch. 173, art. 22, § 1; Shan. Supp., § 1997a244; Code 1932, sec. 3642.]

6-1802. Liberal construction. In the construction of any portion of chapters 18 to 23, inclusive, of this title whose meaning or application is in dispute, it is intended that its phraseology shall be liberally construed to effect the substantial objects of said chapters. [Acts 1921, ch. 173, art. 22, § 2; Shan. Supp., § 1997a245; Code 1932, § 3643.]

6-1803. Right to adopt city-manager form--Incorporation within specified distances from existing municipalities. The residents of any incorporated municipality or of any territory which it is desired to incorporate shall have the right to adopt the provisions of chapters 18 to 23, inclusive, of this title in the manner herein provided; and thereupon such city or territory shall be and become incorporated and be governed as herein set forth. No unincorporated territory shall be incorporated under the provisions of chapters 18 to 23, inclusive, of this title unless such territory contains not less than two hundred (200) persons, who shall be actual residents of the territory, and shall also contain real estate included in said territory worth not less than five thousand dollars (\$5,000). Provided, however, that if any part of unincorporated territory proposed for incorporation is within five (5) miles of an existing city of one hundred thousand (100,000) or more in population or within two (2) miles of an existing city of five thousand (5,000) and less than one hundred thousand (100,000) in population, according to the latest census used for distributing state-shared taxes, then action on the petition as provided in sections 6-1804, 6-1805 shall be held in abeyance for fifteen (15) months from the date of filing the petition; if within this period such existing city does not annex at least twenty per cent (20%) of the land area or thirty-five per cent (35%) of the population of such territory proposed for incorporation, then proceedings shall be continued as provided in sections 6-1804, 6-1805 as though the petition had been filed at the conclusion of such fifteen (15) month period; if such existing city annexes at least said part of such territory within this period, then the petition shall be null and void and of no effect whatsoever. [Acts 1921, ch. 173, art. 1, § 1; Shan. Supp., § 1997a120; Code 1932, § 3517; Acts 1955, ch. 7, § 1; 1957, ch. 347, § 1.]

6-1804. Election to adopt city manager form. An election for the purpose of determining whether or not chapters 18 to 23, inclusive of this title shall become effective for any city shall be called by the county commissioners of elections of the county, upon the request or petition in writing of twenty per cent (20%) of the legal voters of such city or territory, voting at the last general election, which petition shall state therein the proposed corporate name and shall designate therein in a sufficient manner the boundaries of the proposed

municipal corporation, which may be done by a general reference to the boundaries then existing if there be one. Said commissioners shall call the election to be held on the fifth Tuesday following the date of the filing of such petition, and shall cause public notice of the time and place of holding same to be given by advertisement posted in at least ten (10) different places within the territory of such city or proposed city, and published at least three (3) times in a newspaper printed therein, or, if no newspaper is printed therein, then in a newspaper circulated therein; and shall likewise provide ballots for each voter to be printed on plain white paper containing these words, "For the adoption or rejection by the city of _____ (here name of city as it appears in said petition) of the city-manager form of charter, and below this the phrase "For the adoption" and under it the phrase "Against the adoption," with a square at the left of each phrase and below that the instruction "Vote for or against by placing a cross in one square." [Acts 1921, ch. 173, art. 1. § 3; Shan. Supp., § 1997a122; Code 1932, § 3519; modified.]

6-1805. Conduct of election--Returns. Said election shall be held at the usual places and during the usual hours of holding city elections in such city, if it be already incorporated, and if not, then at such reasonable places, and during such reasonable hours as may be designated by said county commissioners of elections, a list of which polling places shall be published at least one (1) week before the election, and such election shall be conducted by election officers to be designated by said board. Persons offering to vote shall present evidence of having registered in the manner prescribed by law, and between the time the election is called and the time it is held a special registration shall be fixed, published, and held by the county commissioners of elections. The officers holding such election shall make their election returns to the county commissioners of elections, and said commissioners shall thereupon canvass said vote and certify the result thereof within forty-eight (48) hours after said election is closed; and it shall publish such certificate in a newspaper circulated in said city or territory, and, if said city be already incorporated, shall file such certificate with the city council or other legislative body of such city at its first meeting thereafter, and the same shall be entered at large on the minutes of said body. (Acts 1921, ch. 173, art. 1, § 4; Shan. Supp., § 1997a123; Code 1932, § 3520; modified.)

6-1806. Effect of favorable vote--Waiting period after unfavorable vote. If it shall thereupon be found that the majority of the votes cast are in favor of the adoption of chapters 18 to 23, inclusive, of this title it shall be deemed to have been adopted. If a majority of the votes cast are not in favor of such adoption, then its provisions shall remain inoperative and no further proceedings hereunder shall be taken until after the expiration of one (1) year, after which date, upon the presentation of another petition or request as provided for herein, a like procedure shall be had and the question of the

adoption or rejection of the provisions of said chapters again submitted in the manner herein set forth and with the same force and effect. [Acts 1921, ch. 173, art. 1, § 5; Shan. Supp., § 1997a124; Code 1932, § 3521.]

6-1807. Succession to old corporation--Continuation of existing ordinances. Chapters 18 to 23, inclusive, of this title shall take effect in any city immediately after the election and organization of the first board of commissioners provided for herein, and thereupon any then existing charter of said city shall immediately become abrogated and null; provided, however, that the right, title and ownership of all property of said city and all of its uncollected taxes, dues, claims, judgments, and choices in action, and all of its rights of every kind whatsoever, shall immediately become vested in the corporation so chartered under said chapters; and said new corporation shall answer and be liable for all debts, contracts, and obligations of the corporation which it succeeds in the same manner and proportion and to the same extent as said former corporation was liable under existing laws; and provided further, that all ordinances, laws, resolutions, and by-laws duly enacted and in force under said preexisting charter and not inconsistent with the provisions of chapters 18 to 23, inclusive, of this title shall remain in full force until repealed, modified, or amended as herein provided. [Acts 1921, ch. 173, art. 1, § 2; Shan. Supp., § 1997a121; Code 1932, § 3518.]

6-1808. Surrender of city manager charter. After the adoption of this charter and the election of the commissioners, a majority of whom are elected for a period of four (4) years as hereinafter provided, no election for the surrender of this charter shall be called or held for a period of four (4) years from the date said first board of commissioners shall take their respective offices. After the expiration of said four (4) year period and upon the filing of a petition in the same manner as provided for the adoption of chapters 18 to 23, inclusive, of this title, containing the signatures of the same number of qualified voters and praying for a surrender of such charter, an election shall be held to determine whether or not the same shall be surrendered, provided that in case of a failure to surrender such charter, election shall not be held more frequently than at two (2) year intervals thereafter, and provided further, that for a period of four (4) years after the first board of commissioners shall take office the cost of calling and holding such an election shall be borne by those petitioning therefor, if such election does not result in a surrender of this form of charter. Should such election, however, result in a surrender, the cost of such election shall be borne by the city and following the expiration of such four (4) year period the cost of such election shall be borne by the city. [Acts 1951, ch. 92, § 1.]

6-1809. Conduct of surrender election. The election contemplated herein shall be called by the county commissioners of elections to be held upon the fifth

Tuesday next following the filing of such petition and such commissioners shall have the same responsibilities and duties with respect to giving notice of this election, its conduct, the canvass of the returns and other incidental matters as are now provided for an election to adopt a charter under the provisions of chapters 18 to 23, inclusive, of this title. Any person qualified to vote for members of the legislature at the election therefor next preceding the election herein provided and any person qualified to vote for members of the legislature upon the date on which this special election shall be held shall be eligible to vote therein, provided, of course, that he be a resident of the municipality. [Acts 1951, ch. 92, § 1; modified.]

6-1810. Termination of charter--New charter. If a majority of the votes cast in the election herein provided shall favor the termination of such form of government the provisions of such charter shall terminate at 12:01 a.m. on the sixtieth (60th) day next following the date of such election unless the same fall upon Sunday, in which case it shall terminate at 12:01 a.m. on the next day. If previous to the adoption of this form of charter such city or town functions under a different charter thereupon such prior charter shall become effective at the time above mentioned; and territory previously unincorporated shall revert to that status, provided, however, that if by law in the case of unincorporated territory another charter may be adopted by vote of the electors, the question as to whether or not such other form of charter shall be adopted may be placed upon the ballots to be used in the election herein mentioned, if the petition filed requests the same, and if all other necessary legal steps to adopt such other form of charter have been taken prior thereto. [Acts 1951, ch. 92, § 1.]

6-1811. Election of new officers after surrender of charter. In case there shall be a previously incorporated city or if a new charter shall be adopted as provided herein, the county commissioners of elections shall call an election to be held not less than thirty (30) days nor more than fifty (50) days following the election for surrender of the charters provided herein, at which time municipal officials for the newly adopted form of government shall be chosen, who shall take office upon the date fixed for the termination of the previous charter. Any person eligible to vote in the election to surrender the old charter shall be eligible to vote in the election to be held for municipal officials. [Acts 1951, ch. 92, § 1; modified.]

6-1812. Succession to assets and liabilities after surrender of charter. In case of a reversion to a former form of charter or adoption of a new one simultaneously with the surrender of the old, all assets, liabilities and obligations of such city shall become such of the new municipality, and in the event that a city shall revert to an unincorporated status, the governing body of such city thereupon shall become trustees of the property and funds of such former city and under such bonds as may be required by the quarterly county

court, shall proceed to terminate the affairs of the city and dispose of its property. [Acts 1951, ch. 92, § 1.]

6-1813. Liquidation of affairs. Should the property and funds be more than sufficient to meet the city's obligations, the surplus shall be paid into the treasury of the county to become a part of its general fund. Should the property and funds be insufficient to meet all the city's current obligations, the county court is hereby authorized to levy and collect taxes upon the property within the boundaries of the former city and to pay same over to the trustees for the purpose of meeting such current deficit. The trustees shall terminate the affairs of the city as soon as possible, but in no event shall the trusteeship continue for more than thirty-six (36) months. Any matters, including obligations maturing after thirty-six (36) months, not disposed of within the period herein designated shall become the responsibility of the county court of the county wherein the city is located. [Acts 1951, ch. 92, § 1.]

CHAPTER 19

POWERS UNDER CITY MANAGER CHARTER

SECTION

6-1901. General powers to enact ordinances.

6-1902. Enumeration of powers not exclusive.

6-1903. School systems.

6-1904. Road work--Commutation.

6-1905. Public works contracts.

6-1901. General power to enact ordinances. Every city incorporated under chapters 18 to 23, inclusive, of this title shall have power by ordinance:

(1) To assess, levy, and collect taxes for all general and special purposes on all subjects or objects of taxation, polls and privileges taxable by law for state, county or city purposes.

(2) To adopt such classifications of the subjects and objects of taxation as may not be contrary to law.

(3) To make special assessments for local improvements.

(4) To contract and be contracted with.

(5) To incur debts by borrowing money or otherwise, and to give any appropriate evidence thereof, in the manner hereinafter provided.

(6) To issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest bearing or noninterest bearing bonds, warrants, promissory notes or orders of the city, upon 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 solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more such credits.

(7) To expend the money of the city for all lawful purposes.

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

(9) 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 chapter 14 of title 23, or in such other manner as may be provided by general law.

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

(11) 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 of service to the city, its inhabitants, or any part thereof.

(12) To grant to any person, firm, association, or corporation franchises for public utilities and public services to be furnished the city and those therein. Such power to grant franchises shall embrace the power hereby expressly conferred, to grant exclusive franchises, and whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also as against the city itself. Franchises may be granted for the period of twenty-five (25) years or less, but not longer. The board of commissioners may prescribe in each grant of a franchise, the rate, fares, charges, and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the city at the date of the franchises, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened.

(13) To make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the city and those therein. Such power to make contracts shall embrace the power, expressly conferred, to make exclusive contracts; and when an exclusive contract is entered into, it shall be exclusive not only against any other person, firm, association, or corporation, but also as against the city itself. Such contracts may be entered into for the period of twenty-five (25) years or less, but not longer. The board of commissioners may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association, or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the city at the date of the contract, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened.

(14) To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities and compel, from time to time reasonable extensions of facilities for such services, but nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subsections 12 and 13 of this section.

(15) 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, and squares, wharves, bridges, viaducts, subways, tunnels, sewers, and drains within or without 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 sections 6-1007--6-1011 and 23-1414, or in such other manner as may be provided by general law.

(16) 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 chapters 11 and 12 of this title.

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

(18) To acquire, purchase, provide for, construct, regulate, and maintain and do all things relating to all market places, public buildings, bridges, sewers and other structures, works and improvements.

(19) To collect and dispose of drainage, sewage, offal, ashes, garbage and refuse by discharging same into streams and rivers or otherwise, or to license and regulate such collection and disposal.

(20) To license and regulate all persons, firms, corporations, companies, and associations engaged in any business, occupation, calling, profession, or trade not forbidden by law.

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

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

(23) To prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained.

(24) 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) To establish, regulate, license, and inspect weights and measures.

(26) To regulate the location, bulk, occupancy, area, lot, 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 the use thereof and require any alteration or changes necessary to make them healthful, clean, or safe.

(27) To provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services.

(28) To purchase or construct, maintain, and establish a workhouse or farm colony, for the confinement and detention of any person convicted in the city court of offenses against the laws and ordinances of the city who fails to secure the fine and costs imposed upon him, or to contract with the county to keep said persons in the workhouse of said county and to provide by said contract and by ordinance for the commitment of such persons to the workhouse so provided, until such fine and costs shall be fully paid.

(29) To enforce any ordinance, rule, or regulations, by means of fines, forfeiture, penalties, and imprisonment or by action or proceedings in any court of competent jurisdiction or by any one or more of such means and to impose cost as a part thereof, but no fine, forfeiture, or penalty shall exceed fifty dollars (\$50.00), and no imprisonment shall exceed ninety (90) days.

(30) 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 a complete educational system within the city.

(31) To regulate, tax, license or suppress the keeping or going at large of animals within the city; to impound the same and in default of redemption to sell or kill the same.

(32) To call, regulate, provide for and control all municipal elections as hereinbefore provided.

(33) To have and exercise all powers which now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though said powers were specifically enumerated herein. (Acts 1921, ch. 173, art. 3, § 1; Shan. Supp., § 1997a131; Code 1932, § 3528.)

6-1902. Enumeration of powers not exclusive. The enumeration of particular powers in this charter is not exclusive of others, nor restrictive of general words or phrases granting powers, nor shall a grant or failure to grant power in this chapter impair a power granted in any other part of this charter and whether powers, objects, or purposes are expressed, conjunctively or disjunctively, they shall be construed so as to permit the city to exercise freely any one or more such powers as to any one or more such objects for any one or more such purposes. [Acts 1921, ch. 173, art. 3, § 2; Shan. Supp., § 1997a132; Code 1932 § 3529.]

6-1903. School systems. Such town may establish, erect, and maintain public schools, and may assess and levy taxes for such purpose. [Acts 1921, ch. 175, § 1; Shan. Supp., § 2023a53bl; Code 1932, § 3647.]

¹6-1904. Road work--Commutation. All male inhabitants in the city between the ages provided by general law for working of public roads, except such as are permanently disabled from performing ordinary labor, who may be released by the board of commissioners shall work on the public streets avenues and alleys of the city not less than three (3) nor more than six (6) days to be prescribed by ordinance, in each years upon three (3) days' notice being given by the street foreman or other officer appointed by the city manager of the time and place to commence; and such notices may be served either by the street foreman or any member of the police force or sent by mail, and mailing such notice to the last known address of any person shall be sufficient service thereof on such person. Any person so notified may be exempt from such work by sending an able-bodied and satisfactory substitute, or by paying to the recorder, to go to the street fund, such sum as the board of commissioners may fix, but not less than fifty cents (50¢) for each day's work prescribed.

A day's work within the meaning of this section shall be not less than eight (8) hours of actual service.

The board of commissioners may by ordinance provide all needful and proper rules and regulations for the organization, management, and control of the street force. [Acts 1921, ch. 173, art. 12, § 12; Shan. Supp., § 1997a203; Code 1932, § 3601.]

6-1905. Public works contracts. Any public work or improvement, costing more than one thousand dollars (\$1,000), shall be executed by contract, except when a specific work or improvement is authorized by the board of commissioners, and approved by the city manager.

All contracts for more than one thousand dollars (\$1,000) shall be awarded to the lowest responsible bidder, after publication, advertisement, and competition, as may be prescribed by ordinance; but no contract for any public work or improvement shall be awarded except on condition that the contractor gives bond with some bonding company authorized to transact business in the state of Tennessee as surety, in a sum equal to at least fifty per cent (50%) of the contract price of the particular work or improvement for the faithful performance of such contract.

But the city manager shall have the power to reject all of the bids and to perform the work himself and all advertisements shall contain a reservation of this right. [Acts 1921, ch. 173, art. 21, § 1; Shan. Supp., § 1997a243; Code 1932, § 3641.]

¹Repealed under the Uniform Manager-Commission Charter, by pub. acts 1963, ch. 3 § 1 however Whitwell was home rule at the time of repeal, therefore the repeal has no legal affect on Whitwell's Charter.

CHAPTER 20

COMMISSIONERS AND MAYOR UNDER CITY MANAGER CHARTER

SECTION

- 6-2001. Election of commissioners--Terms.
- 6-2002. Date of first election.
- 6-2003. Persons eligible as commissioners.
- 6-2004. Convictions disqualifying from office.
- 6-2005. Calling and regulation of elections.
- 6-2006. Qualifications of voters.
- 6-2007. Ballots.
- 6-2008. Elections valid despite informalities.
- 6-2009. Improper solicitation of political support.
- 6-2010. Commencement of terms of office.
- 6-2011. Filling of vacancies--Special election.
- 6-2012. Election of mayor.
- 6-2013. Election of vice-mayor.
- 6-2014. Duties of vice-mayor.
- 6-2015. Compensation of mayor and commissioners.
- 6-2016. Legislative powers of commissioners.
- 6-2017. Powers of board exercised in session.
- 6-2018. Regular meetings of board.
- 6-2019. Special meetings.
- 6-2020. Mayor presiding.
- 6-2021. Quorum of board.
- 6-2022. Regulation of board proceedings--Witnesses--journal.
- 6-2023. Board sessions public.
- 6-2024. Powers of mayor in meetings.
- 6-2025. Style of ordinances.
- 6-2026. Ordinance procedure--Emergency ordinances.
- 6-2027. Method of voting by board.
- 6-2028. Recording of ordinances.
- 6-2029. Publication of ordinances.
- 6-2030. Mayor performing required acts.
- 6-2031. Service of process against city.
- 6-2032. Removal of officers and employees.

6-2001. Election of Commissioners--Terms. There shall be elected five (5) Commissioners from the City at large of whom two (2) shall serve a term of two (2) years beginning November, 1960, and three (3) shall serve a term of four (4) years beginning November, 1960. The terms of all commissioners thereafter elected shall be for four (4) years, or until their successors are elected and qualified. (Approved by Whitwell voters Nov. 1966)

6-2002. Date of first election. The first election of commissioners in any city under chapters 18 to 23, inclusive, of this title shall be had on the fourth Tuesday following the election at which the provisions of said chapters have been adopted. [Acts 1921, ch. 173, art. 2, § 4; Shan. Supp., § 1997a128; Code 1932, § 3525.]

6-2003. Persons eligible as commissioners. An qualified voter of the City shall be eligible for election to the office of Commissioner.

The Districts herein set up may be altered by Municipal Ordinance but no such alteration shall become effective until ratified by a majority of the people voting in a special Election called by the Board of Commissioners for that purpose. (Acts 1921, ch. 173, art. 4, § 2; Shan. Supp., § 1997a134; Code 1932, § 3531)

6-2004. Convictions disqualifying from office. No person shall become commissioner who shall have been convicted of malfeasance in office, bribery, or other corrupt practice, or crime, or of violating any of the provisions of section 6-2009 in reference to elections, and if any commissioner shall be so convicted he shall forfeit his office. (Acts 1921, ch. 173, art. 4, § 3; Shan. Supp., § 1997a135; Code 1932, § 3532.)

6-2005. Calling and regulation of elections. The board of commissioners shall have the power by ordinance to call, regulate, and provide for all municipal elections, including all elections respecting bond issues; provided, however, that if the city has not made these provisions, they shall be made and supervised by the county election board and that in any event the county election board shall make all necessary provisions for the holding of the election to determine whether this charter shall be adopted and for the holding of the first election of commissioners under this charter. [Acts 1921, ch. 173, art. 2, § 2; Shan. Supp., § 1997a126; Code 1932, § 3523; impl. am. Acts 1951, ch. 75, § 1.]

6-2006. Qualifications of voters. In any election of commissioners under this charter, all registered voters who are and have been for six (6) months next preceding the election bonafide residents of said city or territory, and who, if liable therefore have paid their poll tax, shall be entitled to vote. [Acts 1921, ch. 173, art. 2, § 2; Shan. Supp., § 1997a126; Code 1932, § 3523.]

6-2007. Ballots. The ballots shall be of plain white paper on which shall be printed a list of the candidates in alphabetical order with instructions how many to vote for, and the requisite number receiving the highest number of votes shall be held to have been elected. [Acts 1921, ch. 173, art. 21 § 3; Shan. Supp., § 1997a127; Code 1932, § 3524.]

6-2008. Elections valid despite informalities. No informalities in conducting any election held under chapters 18 to 23, inclusive, of this title shall invalidate it if such election is conducted fairly and in substantial conformity with the requirements of said chapters. [Acts 1921, ch. 173, art. 2, § 5; Shan. Supp., § 1997a129; Code 1932, § 3526.]

6-2009. Improper solicitation of political support. No candidate for any office nor any other person shall, directly or indirectly, give or promise any person or persons any office, employment, money, benefit, or anything of value for the purpose of influencing or obtaining political support, aid, or vote for any candidate; and any person violating this provision shall be punished by fine of not more than fifty dollars (\$50.00) for each offense. [Acts 1921, ch. 173, art. 22, § 4; Shan. Supp., § 1997a247; Code 1932, § 3645.]

6-2010. Commencement of terms of office. The terms of all commissioners shall begin on the second Tuesday following the date of their election. (Acts 1921, ch. 173, art. 2, § 6; Shan. Supp., § 1997a130; Code 1932, § 3527.)

6-2011. Filling of vacancies--Special election. Any vacancy in said board shall be filled for the unexpired term by appointment by the remaining members thereof, provided, however, that no member shall be appointed under this section at any time when said board already has one member so appointed, but in case of any additional vacancy the said board shall forthwith, by ordinance or resolution call upon the election commissioners of the county to call a special election for the purpose of filling such additional vacancy; whereupon said election commissioners shall immediately call such special election and appoint the necessary officers therefor, and said special election shall be held in the same manner and subject to the regulations in this charter respecting general city elections. [Acts 1921, ch. 173, art. 4, § 8; Shan. Supp., § 1997a142; Code 1932, § 3539]

6-2012. Election of mayor. The commissioners, at the first regular meeting after each biennial election, shall elect one of their number mayor for a term of two (2) years, and thus organized the body shall be known as the board of commissioners. During the absence or disability of the mayor, the council shall designate some properly qualified person to perform his duties. (Acts 1921, ch. 173, art. 4, § 1; art. 7, § 1; Shan. Supp., §§ 1997a133, 1997a157; Code 1932, §§ 3530, 3554.)

6-2013. Election of vice-mayor. At the first meeting of the board, and thereafter at the first meeting after a general city election, said board shall choose from its membership a member to act in the absence, inability, or failure

to act of the mayor. (Acts 1921, ch. 173, art. 4, § 9; Shan. Supp., § 1997a143; Code 1932, § 3540.)

6-2014. Duties of vice-mayor. Such member shall act as mayor during any temporary absence, inability, or failure to act of the mayor, and whenever a vacancy occurs in the office of mayor such member shall become mayor and hold office as such for the unexpired term. (Acts 1921, ch. 173, art. 4, § 9; Shan. Supp., § 1997a144; Code 1932, § 3541.)

6-2015. Compensation of mayor and commissioners. The Mayor and Board of Commissioners of the City of Whitwell shall serve without compensation. (Approved by Whitwell voters Aug. 4, 1960)

6-2016. Legislative powers of commissioners. The legislative and all other powers except as otherwise provided by this charter are delegated to and vested in the board of commissioners; and the board of commissioners may by ordinance or resolution not inconsistent with this charter prescribe the manner in which any powers of the city shall be exercised, provide 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. [Acts 1921, ch. 173, art. 4, § 5; Shan. Supp., § 1997a137; Code 1932, § 3534.]

6-2017. Powers of board exercised in session. The said board 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 board except through proceedings adopted at some regular or special session. [Acts 1921, ch. 173, art. 4, § 5; Shan. Supp., § 1997a138; Code 1932, § 3535.]

6-2018. Regular meetings of board. The board of commissioners shall by ordinance fix the time and place at which the regular meetings of said board shall be held, and until otherwise provided by ordinance, the regular meetings of said board shall be held at 8:00 p.m., on the first and third Thursday of each month. [Acts 1921, ch. 173, art. 4, § 6; Shan. Supp., § 1997a139; Code 1932, § 3536.]

6-2019. Special meetings. Whenever, in the opinion of the mayor or city manager, or of any two (2) commissioners the welfare of the city demands it, the mayor or the recorder shall call special meetings of the board of commissioners upon at least twelve (12) hours written notice to each commissioner, the city manager, recorder, and city attorney, served personally or left at his usual place of residence. Each call for a 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. [Acts 1921, ch. 173, art. 4, § 6; Shan. Supp., § 1997a140; Code 1932, § 3537.]

6-2020. Mayor presiding. The mayor shall preside at all meetings of the board of commissioners. [Acts 1921 ch. 173, art. 4, § 7; Shan. Supp., § 1997a141; Code 1932, § 3538.]

6-2021. Quorum of board. A majority of all the members of said board shall constitute a quorum, but a smaller number may adjourn from day to day and may compel the attendance of the absentees in such manner and under such penalties as the board may provide. [Acts 1921, ch. 173, art. 4, § 10; Shan. Supp., § 1997a145; Code 1932, § 3542.]

6-2022. Regulation of board proceedings--Witnesses--Journal. Said board 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 or imprisonment or both any person refusing to obey such subpoena or order.

No fine for any one offense under this section shall exceed fifty dollars (\$50.00), nor shall any imprisonment for any one offense exceed ninety (90) days, but each day's continuance in any refusal as aforesaid shall be a separate offense.

Its presiding officer or the chairman of any committee may administer oaths to witnesses. It shall keep a journal of its proceedings, and the yeas and nays on all questions shall be entered thereon. [Acts 1921, ch. 173, art. 4, § 11; Shan. Supp., § 1997a146; Code 1932 § 3543.]

6-2023. Board sessions public. All sessions of the board shall be public and subject to change of plan in case of emergency. [Acts 1921, ch. 173, art. 4, § 12; Shan. Supp., § 1997a147; Code 1932, § 3544.]

6-2024. Powers of mayor in meetings. The mayor shall preside at all meetings of the board of commissioners and perform such other duties consistent with his office as may be imposed by it and he shall have a seat, a voice, and a vote, but no veto. He shall sign the journal of the board 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 in the board of commissioners. [Acts 1921, ch. 173, art. 6, § 1; Shan. Supp., § 1997a154; Code 1932, § 3551.]

6-2025. Style of ordinances. All ordinances shall begin, "Be it ordained by the city of (here inserting name) as follows:". [Acts 1921, ch. 173, art. 5, § 1; Shan. Supp., § 1997a149; Code 1932, § 3546.]

6-2026. Ordinance procedure--Emergency ordinances. Every ordinance shall be read on three (3) different days in open session before its adoption and not less than one (1) week shall elapse between first and third readings, and any ordinance not so read shall be null and void.

An ordinance shall not take effect until fifteen (15) days 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.

The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

No ordinance making a grant, renewal, or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. [Acts 1921, ch. 173, art. 5, § 2; Shan. Supp., § 1997a150; Code 1932, § 3547.]

6-2027. Method of voting by board. In all cases under section 6-2026 the vote shall be determined by yeas and nays, the names of the members voting for or against an ordinance shall be entered upon the journal. [Acts 1921, ch. 173, art. 5, § 3; Shan. Supp., § 1997a151; Code 1932, § 3548.]

6-2028. Recording of ordinances. Every ordinance shall be immediately taken charge of by the recorder and by him numbered, copied in an ordinance book, filed and preserved in his office. [Acts 1921, ch. 173, art. 5, § 4; Shan. Supp., § 1997a152; Code 1932, § 3549.]

6-2029. Publication of ordinances. All ordinances of a penal nature passed shall be published at least once in the official newspaper of the city or county, and no such ordinance shall be in force until it is published. [Acts 1921, ch. 173, art. 5, § 5; Shan. Supp., § 1997a153; Code 1932, § 3550.]

6-2030. Mayor Performing required acts. The mayor shall have power and it is hereby made his duty to perform all acts that may be required of him by any ordinance duly enacted by the board of commissioners, not in conflict with any of the provisions of this charter. [Acts 1921, ch. 173, art. 6, § 2; Shan. Supp., § 1997a155; Code 1932, § 3552.]

6-2031. Service of process against city. All legal process against the city shall be served upon the mayor or recorder, and it shall be his duty forthwith to transmit the process to the city attorney, after writing thereon the time, place and manner of service. [Acts 1921, ch 173, art. 6, § 3; Shan. Supp., § 1997a156; Code 1932, § 3553.]

6-2032. Removal of officers and employees. The mayor or any commissioner or any employee may be removed from office by the board of commissioners for crime or misdemeanor in office, for grave misconduct showing unfitness for public duty, or for permanent disability, by a majority vote of the other members of the board voting for said removal. The proceedings for such removal shall be upon specific charges in writing, which, with a notice stating the time and place of the hearing shall be served on the accused or published at least three (3) times on three (3) successive days in a daily newspaper circulating in the city.

The hearing shall be public and the accused shall have the right to appear and defend in person or by counsel and have process of the board to compel the attendance of witnesses in his behalf. Such vote shall be determined by yeas and nays, and the names of the members voting for or against such removal shall be entered in the journal.

Immediately upon the vote for removal the term of the accused shall expire and his official status, power, and authority shall cease without further action.

Anyone removed hereunder shall have the right of appeal. [Acts 1921, ch. 173, art. 4, § 13; Shan. Supp., § 1997a148; Code 1932, § 3545.]

CHAPTER 21

CITY MANAGER, OFFICERS AND EMPLOYEES

SECTION

- 6-2101. Appointment of city manager--Removal.
- 6-2102. Appointment and compensation of subordinate officers.
- 6-2103. Oath of office.
- 6-2104. Surety bonds.
- 6-2105. Vacation of office for insufficient bond.
- 6-2106. Political activities of officers and employees.
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6-2101. Appointment of city manager--Removal. The board of commissioners shall appoint and fix the salary of the city manager, who shall serve at the will of the council, provided, however, that he may not be removed within twelve (12) months from the date on which he assumed his duties, except for incompetence, malfeasance, misfeasance, or neglect of duty. In case of his removal within said period, he may demand written charges and a public hearing thereon before the council prior to the date on which his final removal shall take effect; but the decision and action of the council on such hearing shall be final, and pending such hearing, the council may suspend him from duty. [Acts 1921, ch. 173, art. 7, § 1; Shan. Supp., § 1997a157; Code 1932, § 3554.]

6-2102. Appointment and compensation of subordinate officers. The said board shall fix the salaries of the recorder, chief of police, treasurer, and city attorney. The board of commissioners shall establish and make provisions in the appropriation ordinance for such other officers, agents, and employees as may be necessary. The recorder, chief of police, treasurer, city attorney, and all other officers, agents, and employees shall be appointed by the city manager and removed by him at any time. [Acts 1921, ch. 173, art. 7, § 2; Shan. Supp., § 1997a158; Code 1932, § 3555.]

6-2103. Oath of office. Every officer, agent, and employee holding a position upon an annual salary shall, before entering upon his duties, take and subscribe and file with the recorder, an oath or affirmation that he has all the qualifications named in this charter for the office or employment he is about to assume, that he will support the 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. [Acts 1921, ch. 173, art. 7, § 3; Shan. Supp., § 1997a159; Code 1932, § 3556.]

6-2104. Surety bonds. The city manager and every officer, agent, and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a fidelity bond with some surety company authorized to do business in the state of Tennessee, as surety (except that bonds for five hundred dollars (\$500) or less may be given with personal surety), in such amount as shall be prescribed by ordinance of the board of commissioners, except where the amount is prescribed in this charter. All such bonds and sureties thereto shall be subject to the approval of the board of commissioners. The cost of making said bonds is to be paid by the city. [Acts 1921, ch. 173, art. 7, § 4; Shan. Supp., § 1997a160; Code 1932, § 3557.]

6-2105. Vacation of office for insufficient bond. If at any time, it appears to the mayor, city manager, or recorder that the surety or sureties on any official bond are insufficient, the officer or employee shall be required 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 vacant. [Acts 1921, ch. 173, art. 7, § 5; Shan. Supp., § 1997a161; Code 1932, § 3558.]

6-2106. Political activities of officers and employees. Neither the city manager, recorder, city judge, chief of police nor any person in the employ of the city, under any of said officers, shall take any active part in or contribute any money toward the nomination or election of any candidate for election to the board of commissioners, except to answer such questions as may be put to them and as they may desire to answer.

A violation of this section shall subject the offenders to removal from office or employment and to punishment by fine of not more than fifty dollars (\$50.00) for each offense. [Acts 1921, ch. 173, art. 22, § 3; Shan. Supp., § 1997a246; Code 1932, § 3644.]

6-2107. Manager as administrative head--Absence--Time devoted to office. In addition to all other powers conferred upon the city manager, he shall be the administrative head of the municipal government under the direction and supervision of the board of commissioners; and he shall be appointed without regard to his political beliefs and need not be a resident of the city or state at the time of his appointment.

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

The city manager shall not be required to give his entire time to the affairs of the city unless the city commissioners, when employing the city manager, make his employment conditional upon his devoting his entire time to the interest of the city. [Acts 1921, ch. 173, art. 8, § 1; Shan. Supp., § 1997a162; Code 1932, § 3559.]

6-2108. Powers and duties of manager. 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.

(b) Except as in this charter provided, to appoint and remove all heads of departments and all subordinate officers and employees, all appointments to be made upon merit and fitness alone.

(c) To supervise and control the work of the recorder, the chief of police, the city attorney, treasurer, and all other officers, and of all departments

and divisions created by this charter or which hereafter may be created by the board of commissioners.

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

(e) To attend all meetings of the board of commissioners, with the right to take part in the discussion, but not to vote.

(f) To recommend to the board of commissioners for adoption such measures as he may deem necessary or expedient.

(g) To act as budget commissioner and to keep the board of commissioners fully advised as to the financial condition and need of the city.

(h) To act as purchasing agent for the city and to purchase all material, supplies and equipment for the proper conduct of the city's business. The board of commissioners shall prescribe by ordinance the maximum expenditure which the city manager may make without specific authorization of the board, 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 dollars (\$1,000), unless bids shall have been requested through public advertisement and award made to the lowest bidder.

(i) To perform such other duties as may be prescribed by this charter or required of him by resolution or ordinance of the board of commissioners. [Acts 1921, ch. 173, art. 8, § 2; Shan. Supp., § 1997a163; Code 1932, § 3560.]

6-2109. Qualifications of city attorney. The city attorney shall be an attorney at law entitled to practice in the courts of the state. [Acts 1921, ch. 173, art. 19, § 1; Shan. Supp., § 1997a171; Code 1932, § 3568.]

6-2110. Duties and compensation of city attorney. The city attorney shall direct the management of all litigation in which the city is a party, including the functions of prosecuting attorney in the city courts, represent the city in all legal matters and proceedings in which the city is a party or interested, or in which any of its officers are officially interested, attend all meetings of the board of commissioners, advise the board of commissioners and committees or members thereof, the city manager and the heads of all departments and divisions, as to all legal questions affecting the city's interest; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the city. He shall receive a salary to be fixed by the board of commissioners. [Acts 1921, ch. 173, art. 10, § 2; Shan. Supp., § 1997a172; Code 1932, § 3569.]

6-2111. Departments of city. That the work and affairs of the city may be classified and arranged conveniently and conducted efficiently, there are

hereby established the following departments: (1) department of finance; (2) department of public safety; (3) department of public works and welfare; (4) department of education. [Acts 1921, ch. 173, art. 17, § 1; Shan. Supp., § 1997a224; Code 1932, § 3622.]

6-2112. Board control of departments. The board of commissioners shall fix all salaries in all departments except the department of education, prescribe the duties and functions of all departments except as fixed by this charter, and may by a two-thirds (2/3) vote of its entire membership create new departments, combine, or abolish existing departments, or establish temporary departments for special work. [Acts 1921, ch. 173, art. 17, § 2; Shan. Supp., § 1997a225; Code 1932, § 3623.]

6-2113. Supervision of departments by manager. The city manager shall supervise and control all departments now or hereafter created except as otherwise provided by this charter. [Acts 1921, ch. 173, art. 17, § 3; Shan. Supp., § 1997a226; Code 1932, § 3624.]

6-2114. Duties and compensation of recorder. The recorder shall be the head of the department of finance.

He shall receive a salary to be fixed by the board of commissioners, and give such bond to the city for not less than five thousand dollars (\$5,000) as may be provided by ordinance. He shall have a seat and voice, but not vote, in the board of commissioners. He shall have power to administer oaths. The recorder shall furnish to the board of commissioners a monthly statement of income and expenditures of all city funds. [Acts 1921, ch. 173, art. 11, § 1; Shan. Supp., § 1997a181; Code 1932, § 3578; Approved by voters on Aug. 4, 1960]

6-2115. Recorder pro tem. in the event of the temporary absence or disability of the recorder, the city manager may appoint a recorder pro tempore. [Acts 1921, ch. 173, art. 11, § 16; Shan. Supp., § 1997a195; Code 1932, § 3593.]

6-2116. Recorder's functions at board meetings. It shall be the duty of the recorder to be present at all meetings of the board of commissioners, and to keep a full and accurate record of all business transacted by the same to be preserved in permanent book form. [Acts 1921, ch. 173, art. 11, § 2; Shan. Supp., § 1997a182; Code 1932, § 3579.]

6-2117. Custody of official records. The recorder shall have custody of, and preserve in his office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the board of commissioners, contracts, bonds, title deeds, certificates, and papers, all official indemnity or security bonds (except his bond, which shall be in the custody of the mayor), and all other bonds, oaths and affirmations and all other records, papers, and documents not

required by this charter or by ordinance to be deposited elsewhere, and register them by numbers, dates, and contents, and keep an accurate and of. [Acts 1921, ch. 173, art. 11, § 3; modern index there Shan. Supp., § 1997a183; Code 1932, § 3580.]

6-2118. Copies of records and ordinances. The recorder shall provide, and when required by any officer or person, certify copies of records, papers, and documents in his office, and charge therefor, for the use of the city, such fees as may be provided by ordinance, cause copies of ordinances to be printed, as may be directed by the board of commissioners, and keep in his office for distribution. [Acts 1921, ch. 173, art. 11, § 4; Shan. Supp., § 1997a184; Code 1932, § 3581.]

6-2119. Judicial jurisdiction of recorder. The recorder shall have jurisdiction in and over all cases for the violation of and all cases arising under the laws and ordinances of the city. [Acts 1921, ch. 173, art. 9, § 1; Shan. Supp., § 19971164; Code 1932, § 3561.]

6-2120. Recorder's power to enforce ordinances. The recorder shall have power and authority to impose fines, costs, and forfeitures, and to punish by fine or imprisonment or both for violation of city ordinances; to preserve and enforce order in his court; to enforce the collection of all such fines, costs, forfeitures imposed by him, he shall have the power, and it shall be his duty, to commit the offender to the workhouse or other place provided for such purpose, and to such labor as may be provided by ordinance until such fines, costs, or forfeitures shall be fully paid, at the rate of a day's imprisonment for each fifty cents (50 ¢) of such fines, costs, or forfeitures; provided that no such imprisonment shall exceed thirty (30) days for any one (1) offense, and provided further, that no fine shall exceed fifty dollars (\$50.00), and that fines may be paid in installments in such manner as may be provided by ordinance. The recorder may remit with or without condition, fines and costs imposed for violation of any ordinance or charter provision. [Acts 19821, ch. 173, art. 9, § 2; Shan. Supp., § 1997a165; Code 1932, § 3562.]

6-2121. Recorder's docket. The recorder shall keep or cause to be kept a court docket or dockets embodying complete detailed records of all cases handles by him. [Acts 1921, ch. 173, art. 9, § 7; Shan. Supp., § 1997a170; Code 1932, § 3567.]

6-2122. Warrant for violation of ordinance--Arrest. Only one (1) warrant shall be issued for the same offense, said warrant to embrace all the parties charged with the same offense. No arrest shall be made except upon a warrant duly issued, unless the offense is committed in the presence of the officer making the arrest, or unless in a case of felony. The affidavit upon which the warrant

is issued shall especially state the offense charged. [Acts 1921, ch. 173, art. 9, § 4; Shan. Supp., § 1997a167; Code 1932, § 3564.]

6-2123. Appearance bond for ordinance violations. Whenever a person is arrested for the violation of any city ordinance in the presence of a police officer and no warrant has been issued or served, he may execute an appearance bond in an amount not exceeding fifty dollars (\$50.00), and file same with a police desk sergeant, or he may, in lieu of the execution of an appearance bond, deposit a sum not exceeding fifty dollars (\$50.00), with a police desk sergeant and be given a receipt for same, and on the appearance of such person before the city court at the time specified in said receipt such deposit shall be returned to him, but on the failure of such person to appear at the time specified the amount so deposited shall be forfeited to the municipality and he shall not be entitled to the return of any part thereof and it shall not be necessary to issue a scire facias; provided, however, that within two (2) days of the imposition of the forfeiture the city recorder shall have the power to set aside the conditional judgment imposing such forfeiture when it shall be made to appear that the failure of the accused to appear and defend his suit was due to no fault or negligence of the accused. After the expiration of two (2) days, there may be a final judgment imposing a forfeiture. [Acts 1953, ch. 196, § 1.]

6-2124. Fines and labor imposed for ordinance violations. All fines imposed by the recorder for violations of city ordinances shall belong to and be paid into the treasury of the city; and any labor performed in the execution of a workhouse or prison sentence for such violation or violations shall be performed for the city under the direction of the city manager. [Acts 1921, ch. 173, art. 9, § 5; Shan. Supp., § 1997a168; Code 1932, § 3565.]

6-2125. Costs before recorder--Collection of fines and costs. The recorder in all cases heard or determined by him for offenses against the corporate laws and ordinances shall tax in the bill of costs the same amounts and for the same items allowed in courts of justices of the peace for similar work in state cases, and in addition shall add thereto one dollar (\$1.00), as a tax on the same. He shall certify to the chief of police for collection, all fines, costs, and forfeitures imposed by him for offenses against the laws and ordinances of the city. Costs in favor of any person paid a fixed salary by the city shall belong to the city and be paid into its treasury. It shall be the duty of the recorder to collect and receipt for all fines imposed by him and he shall render a monthly report to the board of commissioners of all costs and fines collected and of all assessed and uncollected.

It shall be unlawful for any other person or officer to collect or receipt for said fines, costs, and recoveries, but the said recorder may authorize the chief of police to collect and receipt for fines and costs. [Acts 1921, ch. 173, art. 9, § 6; Shan. Supp., § 1997a169; Code 1932, § 3566.]

6-2126. Appeal from recorder's judgment. Any person dissatisfied with the judgment of the recorder in any case or cases heard and determined by the recorder, may, within two (2) entire days thereafter, Sundays exclusive, appeal to the next circuit court of the county, upon giving bond with good and sufficient security as approved by the recorder for his appearance or the faithful prosecution of the appeal, provided, however, that in prosecutions for violations of the city ordinances the bond shall not exceed two hundred and fifty dollars (\$250). [Acts 1921, ch. 173, art. 9, § 3; Shan. Supp., § 1997a166; Code 1932, § 3563.]

6-2127. Other duties of recorder. The recorder shall also perform any other duties imposed upon him by this charter or by ordinance. [Acts 1921, ch. 173, art. 11, § 15; Shan. Supp., § 1997a194; Code 1932, § 3592.]

6-2128. Appointment of police force. The city manager shall appoint a chief of police and such patrolmen and other members of the police force as may be provided by ordinance. [Acts 1921, ch. 173, art. 18, § 1; Shan. Supp., § 1997a227; Code 1932, § 3625.]

6-2129. Duties of police force. 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, and all criminal acts, prevent the commission of crime, violations of law and of the city ordinances, and perform a general police duty, execute and return all processes, notices, and orders of the mayor, city manager, city attorney, and recorder, and all other processes, notices, and orders as in this charter or by ordinance may be provided. [Acts 1921, ch. 173, art. 18, § 2; Shan. Supp., § 1997a228; Code 1932, § 3626.]

6-2130. Emergency assistance to police. In time of riot or other emergency, the mayor or city manager shall have power to summon any number of male inhabitants to assist the police force. [Acts 1921, ch. 173, art. 18, § 3; Shan. Supp., § 1997a229; Code 1932, § 3627.]

6-2131. Duties of police in prosecution of violations. Members of the police force, whenever necessary for the purpose of enforcing the ordinances of the city, shall procure the issuance of warrants, serve the same, and appear in the city courts as prosecutors, relieving complaining citizens in so far as practical of the burden of instituting cases involving the violation of city ordinances; but shall not be construed to relieve any person from the duty of appearing in court and testifying in any case. [Acts 1921, ch. 173, art. 18, § 4; Shan. Supp., § 1997a230; Code 1932, § 3628.]

6-2132. Salaries of police force. The chief of police and other members of the police force shall receive salaries to be fixed by the board of commissioners. [Acts 1921, ch. 173, art. 18, § 5; Shan. Supp., § 1997a231; Code 1932, § 3629.]

6-2133. Appointment of fire department. The city manager shall appoint a chief of the fire department and such other members of the said department as may be provided by ordinance. [Acts 1921, ch. 173, art. 19, § 1; Shan. Supp., § 1997a232; Code 1932, § 3630.]

6-2134. Duties of fire department. 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. [Acts 1921, ch. 173, art. 19, § 2; Shan. Supp., § 1997a233; Code 1932, § 3631.]

6-2135. Police powers at fires. The chief of 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, under such regulations as may be prescribed by ordinance. [Acts 1921, ch. 173, art. 19, § 3; Shan. Supp., § 1997a234; Code 1932, § 3632.]

6-2136. Fire marshal. The city manager may appoint a fire marshal 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. [Acts 1921, ch. 173, art. 19, § 4; Shan. Supp., § 1997a235; Code 1932, § 3633.]

6-2137. Control of schools. The city manager of any municipality incorporated under chapters 18 to 23 inclusive, of title 6 shall have full power to manage and control the public schools. [Acts 1921, ch. 173, art. 20, § 1; Shan. Supp., § 1997a236; Code 1932, § 3634; modified; Acts 1955, ch. 121, § 2.]

6-2138. Appointment and supervision of school officers and employees. The city manager shall appoint, prescribe the duties and powers of, and fix the salary of the superintendent of schools of the city and appoint, fix the salaries of, and have power to remove all other officers and all teachers, agents, and employees of the department of education. [Acts 1921, ch. 173, art. 20, § 2; Shan. Supp., § 1997a237; Code 1932, § 3635; Acts 1955, ch. 121, § 2.]

6-2139. Transfer of schools to city.¹ Jurisdiction over schools within the city of any existing district school board or other supervising body subordinate to the county board of education shall be automatically terminated by and upon the appointment of the city manager, and all school property within the corporate limits of the city shall come under the control of the said manager, and the title thereto shall at the same time pass to and be vested in the city. [Acts 1921, ch. 173, art. 20, § 3; Shan. Supp., § 1997a238; Code 1932, § 3636; Acts 1955, ch. 121, § 2.]

6-2140. School building plans. All plans for the erection or improvement of school buildings or other buildings used for educational purposes shall be subject to the approval of city manager. [Acts 1921, ch. 173, art. 20, § 4; Shan. Supp., § 1997a239; Code 1932, § 3637; Acts 1955, ch. 121, § 2.]

6-2141. Purchase of school equipment and supplies. All material, supplies, and equipment for educational purposes shall be purchased by city manager. [Acts 1921, ch. 173, art. 20, § 5; Shan. Supp., § 1997a240; Code 1932, § 3638; Acts 1955, ch. 121, § 2.]

6-2142. State and county school funds. In apportioning the state and county school funds of the county, the county board of education (or other apportioning and disbursing body) shall apportion and pay over to the treasurer of the city such portion of the state and county school funds as by law is applicable to the schools within the limits of the city. [Acts 1921, ch. 173, art. 20, § 6; Shan. Supp., § 1997a241; Code 1932, § 3639; Acts 1955, ch. 121, § 2.]

6-2143. Disbursements from school fund. The board of commissioners shall provide by ordinance for the manner in which the state, county, and city taxes apportioned to the school fund shall be paid over by the city treasurer. [Acts 1921, ch. 173, art. 20, § 7; Shan. Supp., § 1997a242; Code 1932, § 3640; Acts 1955, ch. 121, § 2.]

¹Repealed under the Uniform Manager-Commission Charter, by pub. acts of 1963, ch. 3, § 1, but Whitwell was home rule at the time, therefore repeal has no legal affect on Whitwell charter. But see, T.C.A. 49-1-102(c) requiring that any local public school system shall be administered by a local board of education, and a superintendent or director.

CHAPTER 22

FISCAL AFFAIRS UNDER CITY MANAGER CHARTER

SECTION

- 6-2201. Duties of recorder.
- 6-2202. Taxes and assessments under department of finance.
- 6-2203. Property and privileges taxable.
- 6-2204. Ad valorem tax.
- 6-2205. Certification of assessments to recorder.
- 6-2206. Tax books.
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- 6-2208. Effective date of levy.
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- 6-2210. Extension of levy on tax books.
- 6-2211. Due date of taxes--Distress warrants.
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- 6-2228. Issuance of warrants.
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6-2201. Duties of recorder. The recorder as the head of the department of finance, shall exercise a general supervision over the fiscal affairs of the city, and general accounting supervision over all the city's property, assets, and claims and the disposition thereof. He shall be the general accountant and auditor of the city; he shall have custody of all records, papers, 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 contracts in which the city is

interested. He shall require 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 or expenditures of money, and shall control and audit the same. He shall, at least monthly, adjust the settlements of officers engaged in the collection of the revenue. [Acts 1921, ch. 173, art. 11, § 5; Shan. Supp., § 1997a185; Code 1932, § 3582.]

6-2202. Taxes and assessments under department of finance. The assessment, levy, and collection of taxes and special assessments shall be in charge of the department of finance, subject to the limitations elsewhere found in this charter. [Acts 1921, ch. 173, art. 12, § 1; Shan. Supp., § 1997a196; Code 1932, § 3594.]

6-2203. Property and privileges taxable.¹ All property, real, personal and mixed subject to state, county, and city taxes, and all privileges taxable by law, shall be taxed and taxes thereon collected by the city for municipal purposes as hereinafter provided. [Acts 1921, ch. 173, art. 12, § 1; Shan. Supp., § 1997a197; Code 1932, § 3595.]

6-2204. Ad valorem tax. The ad valorem tax upon the stocks, accounts, and equipment may be assessed and collected in like manner as state and county merchants ad valorem tax is assessed upon the same property. It shall be the duty of the county tax assessor and of the railroad and public utilities commission of Tennessee to prepare a separate assessment book or roll showing real, personal and mixed property assessable by him (or it) lying within the limits of the city. [Acts 1921, ch. 173, art. 12, § 1; Shan. Supp., § 1997a198; Code 1932, § 3596.]

6-2205. Certification of assessments to recorder. These records shall be certified to the recorder of the city upon the completion of the work of the boards of equalization, after they have been copied by the county court clerk of the county or the department of revenue of the state. [Acts 1921, ch. 173, art. 12, § 1; Shan. Supp., § 1997a199; code 1932, § 3597; modified.]

6-2206. Tax books. 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 recorder to prepare or cause to be prepared from the

¹See T.C.A. 67-5-103 for repeal of dollar amount limitations on municipal taxation.

said assessment books of the county and of the railroad and 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 recorder, shall be the assessment for taxes in said city for all municipal purposes; provided, that there may be an assessment by the recorder 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; and further provided, that, instead of the assessment made by county and state officials as herein provided, the city may, by ordinance in so far as not prohibited by general laws, provide for and regulate an assessment to be made by its own tax assessor. [Acts 1921, ch. 173, art. 12, § 2; Shan. Supp., § 1997a201; Code 1932, § 3599.]

6-2207. Tax levy to meet expenses for year. It shall be the duty of the recorder, in each year, as soon as the assessment roll for the city is complete, to submit to the board of commissioners a certified statement of the total amount of the valuation or assessment of the taxable property for the year within the city limits (including the assessment of all railroads, telephone, telegraph, and other public utility properties), together with a certified statement of the revenue derived by the city from privilege taxes, merchant's ad valorem taxes, street labor taxes, fines for the preceding fiscal year, and miscellaneous revenue. Upon the presentation of such statements by the recorder, the board of commissioners shall proceed by ordinance to make the proper levy to meet the expenses of the city for the current fiscal year. [Acts 1921, ch. 173, art. 10, § 3; Shan. Supp., § 1997a173; Code 1932, § 3570.]

6-2208. Effective date of levy. The board of commissioners of the city shall have full power to levy and collect taxes as of January 10th of each and every year. [Acts 1921, ch. 173, art. 12, § 1; Shan. Supp., § 1997a200; Code 1932, § 3598.]

6-2209. Poll tax for schools. The board of commissioners shall also have power by ordinance to levy and collect a poll tax to be used for school purposes not exceeding for any one year in amount the poll tax levied by the state. [Acts 1921, ch. 173, art. 12, § 11; Shan. Supp., § 1997a202; Code 1932 § 3600.]

6-2210. Extension of levy on tax books. It shall be the duty of the recorder, immediately after the levy of taxes by the board of commissioners, to cause the said levy to be extended upon the said tax book prepared by the recorder in the same manner that extensions are made upon the tax books in the hands of the county trustee. [Acts 1921, ch. 173, art. 10, § 4; Shan. Supp., § 1997a174; Code 1932, § 3571.]

6-2211. Due date of taxes--Distress warrants. All taxes due the city, except privilege and merchants ad valorem taxes and street labor taxes, shall, until otherwise provided by ordinance, be due and payable on the first day of November of the year for which the taxes are assessed.

The treasurer shall be custodian of the tax books and shall be the tax collector of the city.

Distress warrants may issue for the collection of taxes and any such distress warrant shall be executed by the chief of police or any policeman of the city by a levy upon, and sale of goods and chattels under the same provisions as prescribed by law for the execution of such process of justices of the peace. [Acts 1921, ch. 173, art. 10, § 5; Shan. Supp., § 1997a175; Code 1932, § 3572.]

6-2212. Lien of taxes--Errors and irregularities. All municipal taxes on real estate in the city, and all penalties and costs accruing thereon, are hereby declared to be a lien on said realty from and after the 10th day of January of the year for which same are assessed, superior to all other liens except the liens of the United States, state of Tennessee and county, for taxes legally assessed thereon, with which it shall be a lien of equal dignity. No assessment shall be invalid because the size and dimensions of any tract, lot or parcel of land shall not have been precisely named or the amount of the valuation or tax not correctly given, nor because the property has been assessed in the name of a person who did not own the same, nor because the same was assessed to unknown owners, nor on account of any objection or informality merely technical, but all such assessments shall be good and valid. The board of commissioners shall have power to correct any errors in the tax assessments upon a certificate filed by the assessor or assessing body. [Acts 1921, ch. 173, art. 10, § 6; Shan. Supp., § 1997a176; Code 1932, § 3573.]

6-2213. Delinquency penalties--Discount. On the first day of December of the year for which the taxes are assessed, or other date provided by ordinance, a penalty of one half of one percent (.5%) upon all taxes remaining unpaid shall be imposed and collected by the city and paid into the city treasury. Additionally, interest of one percent (1%) shall be added following the tax due date and on the first day of each succeeding month until said taxes are paid in full for an annual percentage rate of twelve percent (12%) per annum. [Acts 1921, ch. 173, art. 10, § 7; Shan. Supp., § 1997a177; Code 1932, § 3574.; as amended by Ord. #211, Oct. 1999]

6-2214. Change of due dates--Semiannual installments. The board of commissioners may, by ordinance passed by unanimous vote, change the due date and delinquent date of all taxes, and may provide for the semiannual payment of taxes and a discount for the prompt payment thereof.

In case a semiannual installment of taxes is made due and payable before the assessment and levy of taxes in the city for the current year is complete, the

amount of the installments so collected as a tax upon any property shall not be more than fifty per cent (50%) of the taxes levied on said property for the preceding year; such installment to be credited on the current year's taxes when determined and levied. [Acts 1921, ch. 173, art. 10, § 8; Shan. Supp., § 1997a178; Code 1932, § 3575.]

6-2215. Sale for delinquency. The recorder shall, under the provisions of the state law for the collection of delinquent taxes, certify to the trustee of the county 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. [Acts 1921, ch. 173, art. 10, § 9; Shan. Supp., § 1997a179; Code 1932, § 3576.]

6-2216. Bills in chancery to collect assessments. The board of commissioners shall have the power, and is hereby given authority, to file bills in the chancery court in the name of the city for the collection of assessments and levies made for payment for improvements or service in said city, such as paving, sidewalks, curbing, guttering, sewers and other improvements, or services for which assessments may be made under the charter, or by any other acts of the legislature, and the cost of which is made a charge on property owners abutting said improvements and a lien on abutting 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 lots of land are made parties thereto, it being the intention that all persons in the same improvement district, or liable for portions of the same assessment and levy for improving a 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. [Acts 1921, ch. 173, art. 10, § 10; Shan. Supp., § 1997a180; Code 1932, § 3577.]

6-2217. License taxes. License taxes may be imposed by ordinance upon any and all privileges, businesses, occupations, vocations, pursuits, or callings, or any class or classes thereof, now or hereafter subject to such taxation under the laws of Tennessee; and a separate license tax may be imposed for each place of business conducted or maintained by the same person, firm, or corporation.

The treasurer shall enforce the collection of merchants' taxes and all other license taxes, and for the purpose shall have and exercise the powers of law vested in, and follow the procedure and methods prescribed for, county court clerks. [Acts 1921, ch. 173, art. 13, § 1; Shan. Supp., § 1997a204; Code 1932, § 3602.]

6-2218. Accounting system. The recorder, with the approval of the city manager, shall cause an efficient system of accounting for the city to be installed and maintained. [Acts 1921, ch. 173, art. 11, § 6; Shan. Supp., § 1997a185½; Code 1932, § 3583.]

6-2219. Control over fiscal forms. The recorder 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. [Acts 1921, ch. 173, art. 11, § 14; Shan. Supp., § 1997a193; Code 1932, § 3591.]

6-2220. Appointment and duties of treasurer. The city manager shall appoint a treasurer. It shall be the duty of the treasurer to collect, receive and receipt for the taxes and all other revenue, (and bonds) of the city, and the proceeds of its bond issues, and to disburse the same. The city manager may appoint the recorder as treasurer. [Acts 1921, ch. 173, art. 11, § 7; Shan. Supp., § 1997a186; Code 1932, § 3584.]

6-2221. Depositories of city funds. Depositories of the city funds shall be designated by ordinance, which ordinance shall in every case require the depository, before being given custody of any city funds, to furnish adequate security to protect the interest of the city, either by collateral in the form of bonds of the city or state in an amount ten per cent (10%) in excess of the deposits, or by a bond in a sum ten per cent (10%) in excess of the deposits with surety to be approved by the board of commissioners. [Acts 1921, ch. 173, art. 11, § 13; Shan. Supp., § 1997a192; Code 1932, § 3590.]

6-2222. Budget commissioner--Fiscal year. The city manager shall be budget commissioner. The fiscal year of the city shall begin on the first day of January unless otherwise provided by ordinance. [Acts 1921, ch. 173, art. 16, § 1; Shan. Supp., § 1997a218; Code 1932, § 3616.]

6-2223. Budget estimate submitted to commissioners. The city manager shall on or before the 15th of November of each year, submit to the board of commissioners 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. [Acts 1921, ch. 173, art. 16, § 1; Shan. Supp., §§ 1997a219, 1997a220; Code 1932, §§ 3617, 3618.]

6-2224. Classification of expenses in budget--Publication. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments and shall give in parallel columns the following information:

(a) DEPARTMENT EXPENSE. A detailed estimate of the expense of conducting each department as submitted by the department.

(b) PREVIOUS EXPENDITURES. Expenditures when possible for corresponding items for the last two (2) fiscal years, stated separately.

(c) CURRENT EXPENDITURES. Expenditures for corresponding items for the current fiscal year, including adjustments due to transfers between appropriations plus an estimate of expenditure necessary to complete the current fiscal year.

(d) SUPPLIES AND MATERIAL ON HAND. Amount of supplies and material on hand at the date of the preparation of the estimate.

(e) APPROPRIATIONS, PREVIOUS AND CURRENT. Increase or decrease of appropriations proposed by each department, compared with the corresponding appropriations for the current year.

(f) OTHER INFORMATION. Such other information as is required by the board of commissioners or that the city manager may deem advisable to submit.

(g) APPROPRIATIONS RECOMMENDED. The recommendation of the city manager as to the amounts to be appropriated with reasons therefor in such detail as the board of commissioners may direct.

Such estimates shall be published not less than three (3) days before transmission to the board of commissioners in a newspaper of the city or county, and sufficient copies of such estimates shall be prepared and submitted that there may be copies on file in the office of the recorder for inspection by the public. [Acts 1921, ch. 173, art. 16, § 1; Shan. Supp., § 1997a221; Code 1932, § 3619.]

6-2225. Appropriation ordinance. Upon receipt of such estimate, the board of commissioners shall prepare a tentative appropriation ordinance which shall also be published in a newspaper of the city or county not less than one (1) week before it is taken up for consideration by the board of commissioners, and, before acting upon such tentative appropriation ordinance, the board of commissioners shall consider same at the next regular meeting and all voters and taxpayers may appear at said meeting and be heard in person or by attorney. The appropriation ordinance for each fiscal year shall be finally adopted before the first day of the fiscal year. [Acts 1921, ch. 173, art. 16, § 2; Shan. Supp., § 1997a222; Code 1932, § 3620.]

6-2226. Reversion of appropriations to general fund. At the end of each year, all unencumbered balances or appropriations in the treasury shall revert to the general fund and be subject to further appropriations. Such balances shall be considered unencumbered only when the city manager shall certify in writing that the purposes for which they were appropriated have been completely accomplished and that no further expenditure in connection with

them shall be necessary. [Acts 1921, ch. 173, art. 16, § 3; Shan. Supp., § 1997a223; Code 1932, § 3621.]

6-2227. Approval and payment of claims against city. Except as by this charter or by law or ordinance otherwise provided, the recorder shall prescribe and regulate the manner of paying creditors, officers, and employees of the city. He shall audit all payrolls, accounts and claims against the city and certify thereon the balance as stated by him, but no payroll, account, or claim, or any part thereof, shall be audited against the city or paid unless authorized by law or ordinance and approved and certified by the city manager, and the head of the department for which the indebtedness was incurred, and the amount required for payment of the same appropriated for that purpose by ordinance and in the treasury. Whenever any claim shall be presented to the city recorder he shall have power to require evidence that the amount claimed is justly due, and is in conformity to law and ordinance, and for that purpose 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, recorder and head of the department concerned, and their sureties, shall be liable to the municipality for all loss or damages sustained by the municipality by reason of the corrupt approval of any claim against the municipality. [Acts 1921, ch. 173, art. 11, § 8; Shan. Supp., § 1997a187; Code 1932, § 3585.]

6-2228. Issuance of warrants. Subject to the provisions of section 6-2227, warrants shall be issued by the recorder. Each warrant shall specify the particular departmental fund against which it is drawn and shall be payable out of no other fund. Any officer or employee in the recorder's office may be designated by him to draw warrants with the same effect as if signed by the recorder, such designation to be in writing, in duplicate, filed with the city manager; provided, that the city manager may make such designation if the recorder be absent or disabled and there be no one in his office designated to act. Any such designation may be revoked by the recorder while acting as such by filing the revocation in duplicate with the city manager and the treasury division. [Acts 1921, ch. 173, art. 11, § 9; Shan. Supp., § 1997a188; Code 1932, § 3586.]

6-2229. Certification of availability of funds to meet contract obligations. No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution, or order for the expenditure of money be passed by the board of commissioners or be authorized by any officer of the city, unless the recorder shall first certify to the board of commissioners or the proper officer, as the case may be, that the money required for such contract, agreement, obligation, or expenditure, is in the treasury or safely assured to be forthcoming and available in time to comply with, or meet

such contract, agreement, obligation or expenditures, and no contract, agreement or other obligation involving the expenditure of money payable from the proceeds of bonds of the city, shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this charter in reference to city bonds. [Acts 1921, ch. 173, art. 11, § 10; Shan. Supp., § 1997a189; Code 1932, § 3587.]

6-2230. Authority for contract liability. No contract liability shall be incurred without previous authority of law or ordinance, but the board of commissioners may, by ordinance, empower the proper officials to pay out money or incur contract liability for the city for the necessary preservation of the city's credit, or in other extreme emergency, under such restrictions as may be provided in said ordinance; provided that any such liability shall mature not later than one (1) year from date of its incurrence. [Acts 1921, ch. 173, art. 11, § 11; Shan. Supp., § 1997a190; Code 1932, § 3588.]

CHAPTER 23

BONDS UNDER CITY MANAGER CHARTER

SECTION

- 6-2301. Purposes for which authorized.
- 6-2302. Consent of voters required.
- 6-2303. Regulation of bond elections.
- 6-2304. Contents of election notice.
- 6-2305. Maturity of bonds.
- 6-2306. Sinking fund payments.
- 6-2307. Custody of sinking funds,
- 6-2308. Investment of sinking funds.
- 6-2309. Sale of sinking fund securities.
- 6-2310. Exchange of sinking fund bonds for city bonds.
- 6-2311. Sinking fund tax levy.
- 6-2312. Disposition of surplus from sinking fund.
- 6-2313. Cancellation of discharged bonds.

6-2301. Purposes for which authorized. Some of the purposes hereby specifically authorized for which the bonds of the city may issue 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 (2) 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 systems; for hospitals, jails, workhouses, and other charitable, corrective and penal institutions; for courthouses, libraries, and other public buildings, 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, the construction or purchase of buildings and equipment for school purposes, and for the purchase of playgrounds, either in connection with the schools or separate therefrom, 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. [Acts 1921, ch. 173, art. 14, § 1; Shan. Supp., § 1997a205; Code 1932, § 3603.]

6-2302. Consent of voters required. No bonds of the city, except bonds for paying, refunding, or removing bonded indebtedness, and except bonds issued under the provisions of chapters 11 and 12 of this title, shall be issued without the assent of a majority of the qualified voters actually voting at an election held for that purpose. [Acts 1921, ch. 173, art. 14, § 3; Shan. Supp., § 1997a209; Code 1932, § 3607.]

6-2303. Regulation of bond elections. The board of commissioners may, by ordinance, call, provide for and regulate elections held respecting bond issues and may prescribe all forms, proceedings, and other matters with respect to any such election, and the amounts, purposes, issue, and disposition of bonds. [Acts 1921, ch. 173, art. 14, § 4; Shan. Supp., § 1997a210; Code 1932, § 3608.]

6-2304. Contents of election notice. It shall not be necessary in the ordinance calling the election, in the notice of election, in the question submitted or on the ballot, or in any of the matters preceding the said election, to state the amount of the bonds proposed to be issued for each purpose, but it shall be sufficient if the ordinance and notice of election state the total amount of bonds proposed to be voted upon at the said election and in general language the purpose or purposes for which such total amount is to be issued; and if a majority of the voters of the city voting at such election assent to the issuance of the amount of bonds, then such amount may be issued and such bonds or the proceeds thereof may from time to time by ordinance adopted by the board of commissioners be appropriated in any amount or amounts to the purpose or purposes for which such total amount was voted. [Acts 1921, ch. 173, art. 14, § 4; Shan. Supp., § 1997a211; Code 1932, § 3609.1

6-2305. Maturity of bonds. Bonds may be so issued so as to be payable on a specified date or serially or subject to call and redemption. The board of commissioners shall estimate the probable life of improvements proposed to be erected or purchased with the proceeds of any such bonds and the term of such bonds shall not exceed such probable life, provided that such estimate, if erroneous shall not affect the validity of such bonds. [Acts 1921, ch. 173, art. 14, § 2; Shan. Supp., §§ 1997a206, 1997a207; Code 1932, §§ 3604, 3605.]

6-2306. Sinking fund payments. All long term bonds shall be sinking fund bonds and the amount of the annual installments to be paid into the sinking fund shall be fixed by the board of commissioners for each bond issued and such sinking fund installments shall be a prior lien on the tax levy each year. [Acts 1921, ch. 173, art. 14, § 2; Shan. Supp., § 1997a208; Code 1932, § 3606.]

6-2307. Custody of sinking funds. The treasurer shall be custodian of all sinking funds established for retiring bonds of the city to be managed in accordance with the provisions of this charter and the law governing such sinking fund. [Acts 1921, ch. 173, art. 11, § 12; Shan. Supp., § 1997a191; Code 1932, § 3589.]

6-2308. Investment of sinking funds. All the sinking funds of the city may be invested by the recorder, by and with the consent of the board of commissioners, in bonds of the United States, of the state of Tennessee, of the county, or of other states or counties on the best terms obtainable. [Acts 1921, ch. 173, art. 15, § 1; Shan. Supp., § 1997a213; Code 1932, § 3611.]

6-2309. Sale of sinking fund securities. The recorder, by and with consent of the board of commissioners, 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. [Acts 1921, ch. 173, art. 15, § 1; Shan. Supp., § 1997a214; Code 1913, § 3612.]

6-2310. Exchange of sinking fund bonds for city bonds. The recorder, by and with the consent of the board of commissioners, may exchange any bonds belonging to a sinking fund for bonds of the city whenever such change may be advantageous for the city. [Acts 1921, ch. 173, art. 15, § 1; Shan. Supp., § 1997a215; Code 1932 § 3613.]

6-2311. Sinking fund tax levy. 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 at maturity all of the bonds for which it is held, the levy of the tax for such sinking fund may then be omitted, but, if by reason of decrease of interest or depreciation of investments or other cause said fund shall not be sufficient, the levy shall be resumed. [Acts 1921, ch. 173, art. 15, § 2; Shan. Supp., § 1997a216; Code 1932, § 3614.]

6-2312. Disposition of surplus from sinking fund. Any moneys remaining in a sinking fund, after payment of the entire bonded debt for which it was accumulated, shall be paid into the general fund. [Acts 1921, ch. 173, art. 15, § 3; Shan. Supp., § 1997a217; Code 1932, § 3615.]

6-2313. Cancellation of discharged bonds. Whenever any bonds, interest coupons, or other written evidence of the city's debt shall be paid and discharged, they shall be canceled by the recorder.

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

The canceled bonds, coupons, and other evidences of debt shall be exhibited to and verified by the board at its next meeting and shall be filed and

presented for examination in annual audits. (Acts 1921, ch. 173, art. 14, § 5; Shan. Supp., § 1997a212; Code 1932, § 3610.)