

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

## CHAPTER NO. 455

Senate Bill No. 639  
(By Guffey)

AN ACT to provide a new charter for the City of Athens, in McMinn County, Tennessee, and to embrace all of such charter in one Act; and to incorporate said City of Athens under such new charter; and to repeal all Acts or parts of Acts in conflict with this Act.

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<sup>1</sup>Priv. Acts 1953, ch. 455 is the present basic charter act for the City of Athens. The text of the basic charter act as set out herein includes all its amendments through the 2008 session of the Tennessee General Assembly. Where a section of the charter has been amended the citation of the official act or acts making such change is carried at the end of the section so amended. Otherwise, no changes have been made in the wording of the charter as set out herein except that obvious typographical errors have been corrected, catch lines have been added to articles I and II and a table of contents has been added.

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## ARTICLE I

General

Section 1. Be it enacted by the General Assembly of the State of Tennessee, That the City of Athens, in McMinn County, Tennessee, be, and the same is hereby incorporated under and by this Act.

The municipal government provided by this Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this charter, all powers of the city shall be vested in an elective council, hereinafter referred to as "the Council." All powers of the city shall be exercised in the manner prescribed by this charter, or if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section 2. Be it further enacted, That the inhabitants of the City of Athens, in the County of McMinn, within the present limits of the City of Athens as hereinafter described, be and they are hereby constituted a body politic and corporate under the name and style of "City of Athens," and as such shall have perpetual succession; may sue and be sued; implead and be impleaded in all courts of law and equity, and in all actions whatsoever; may, for municipal purposes, purchase, receive and hold property for the benefit of the city, and do all other acts touching the same as may natural persons; may have and use a common seal and may change it at pleasure; and exercise all the rights, powers and privileges set forth in the succeeding sections of this Act.

Section 3. Be it further enacted, That the right, title and ownership of all property of said City of Athens, and all its uncollected taxes, assessments, dues, fines, costs, claims, judgments, choses in actions, and all its rights of every kind and character whatsoever, shall immediately become, and are hereby, vested in the municipal corporation created by this Act; and said new corporation be, and hereby is, burdened and charged and made liable for all legal debts, contracts, bonds and obligations of the old corporation which it succeeds, in the same manner and form and to the same extent as the said prior municipal corporation was under existing laws.

Section 4. Be it further enacted, That all laws, ordinances and resolutions lawfully enacted by the governing body of said city under any preceding charter or charters and not inconsistent with this charter, shall be and do remain in full force and effect under this new charter until such time as the governing body of said city created under and by this Act, shall elect to amend, modify or repeal the same.

## ARTICLE II

Corporate Boundaries<sup>1</sup>

Section 1. Be it further enacted, That the boundaries of the City of Athens, hereby incorporated, shall be as follows:

"Beginning on Hammer Hill at the intersection of the old Niota Road and Highway No. 11; thence southeast along the west side of the old Niota Road to the L&N Railroad; thence east along the L&N Railroad to Service Lumber Company; thence south across the Slack Road at Hub Stephens and Smith; thence south to the Athens-Englewood Road where road crosses branch east of the Starlite Drive-In Theater; thence with the said Athens-Englewood Road south to the intersection of the Athens-Englewood Road and the Athens-Etowah Road; thence with the Athens-Etowah Road to the center of the culvert on said road at the southwest corner of the Starlite Drive-In Theater; thence in an easterly direction along the branch to a point one hundred (100) feet from the center of the culvert on the Athens-Englewood Road; thence southwest to the Athens-Etowah Road at Jim Hamby's and Glenn Lawson's property; thence west across the old Piney Grove Road just south of Floyd Webb's home; thence west across Keith Lane extended between the Gilbert Snyder Lane and Cartwright Addition; thence west across Cedar Springs Road between Walthall and Warren Giles property; thence west to the intersection of Rocky Mt. Road and Highway No. 11 at Pickwatina, including Pickwatina; thence west across the Southern Railway to the Gay Johnson home; thence north on the line between Lloyd Kimbrough and George Matthews at the Athens-Decatur Highway; thence north to Dude Richeson's home place at the Athens-Clearwater Road; thence east

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<sup>1</sup>The corporate boundaries as set forth herein have been subsequently amended by the following ordinances which are of record in the city manager's office:

181	313	489	621	700	785	826 (3-18-97)	900 (6-18-02)
182	356	492	622	702	789	827 (3-18-97)	944(10-17-06) <sup>3</sup>
186	365	506	626	705	793	833 (8-19-97)	948(12-19-06)
188	399	527	635	707	803 (5-16-95)	838 (3-17-98)	
243	460	533	662	714	814 (9-17-96)	863 (3-21-2000)	
244	475	590	670	740	817 (9-17-96)	876 (5-15-2001)	
245 <sup>2</sup>	476	592	687	745	818 (9-17-96)	879 (7-17-2001)	
247	482	605	693	763	825 (1-21-97)	885 (11-20-2001)	

<sup>2</sup>Ord. No. 245 was amended by ord. No. 623.

<sup>3</sup>Ord. No. 944 was amended by ord. No. 959

to the beginning line at Hammer Hill at the old Niota Road on Highway 11."

### ARTICLE III

#### Corporate Powers

Section 1. Be it further enacted, That said municipal corporation, in addition to the powers, rights and authority vested in it by all other articles and sections, shall have the power by resolution or ordinance:

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

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

(3) Special Assessments: To make special assessments for local improvements.

(4) Contracts: To contract and be contracted with.

(5) Borrow Money: To anticipate the annual revenue by borrowing to meet the payments of interest on the bonded debt of the city or other budgeted obligations; provided the amount borrowed in any year shall not exceed fifty per centum of the annual tax levy for that year, which shall promptly be repaid out of such tax collections.

(6) Refunding Bonds: To issue and exchange, sell, pledge or in any manner dispose of negotiable or non-negotiable interest bearing or non-interest bearing refunding bonds and fix the interest rate and maturity date thereof to refinance or extend the existing bonded indebtedness of the city, upon the credit of the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more such credits.

(7) New Bonds, Issuance: To issue and sell any new interest bearing or non-interest bearing bonds for any purpose permitted by this charter or permitted by the statutes of Tennessee; to fix the interest rate and maturity dates of such bonds and to issue the same upon the credit of the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more such credits.

(8) Money Expended: To expend the money of the city for all lawful purposes.

(9) Acquisition and Disposition of Property: To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of

property, real or personal, and any estate or interest therein, within or without the city or state.

(10) Eminent Domain: To condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the city, for present or future public use; such condemnation to be made and effected in accordance with the terms and provisions of sections 3109-3134 of the Code of Tennessee, or in such other manner as may be provided by law.

(11) Property out of City: Administration of trusts; to take and hold property within or without the city or state upon trust; and to administer trusts for the public benefit.

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

(13) Public Utilities, Grants, Franchises, Regulations: To grant any person, firm, association or corporation, franchise for public utilities and public service to be furnished the city and those therein and to grant rights-of-way through the city streets, avenues, alleys, squares, ways and over the bridges and viaducts of the city for the use of public and quasi-public utilities; provided further, that such new franchise shall not destroy the terms of any existing franchise. Franchises may be granted for a period of twenty-five years or less, but no longer. Franchises may, by their terms, apply to the territory within the corporate limits of the city of the date of the franchise, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, and other thoroughfares that thereafter may be opened.

(14) Contracts for Public Utility Services: To make contracts with any person, firm, association or corporation, for public utilities and public services to be furnished the city and those therein. Such contracts may be entered into for the period of twenty-five years or less, but not longer. The City Council 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 any other streets, alleys and other thoroughfares that thereafter may be opened.

(15) Regulations of Public Utilities: To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, and compel from time to time reasonable extension of facilities for such services.

(16) Highways, Streets, Parks: To establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, cemeteries, and squares, 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 the general law.

(17) Abutting Property Improvement: To construct, improve, re-construct and re-improve by opening, extending, widening, grading, curbing, guttering, paving, graveling, macademizing, draining, or otherwise improving any street, 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 Section 3408 to 3493, Code of Tennessee, or any general law of the State, now or hereafter in effect.

(18) Charges Against Abutting Property: To assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth or other nuisances or danger to the public health and welfare, cutting and removing obnoxious weeds and rubbish; the lighting of streets; the cleaning and rendering sanitary, or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the City Council.

(19) Market Places, Public Buildings, Bridges, Etc.: To acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all market places, public buildings, bridges, sewers, cemeteries, and other structures, work and improvements.

(20) Drainage, Sewage, Offal, Etc.: To collect and dispose of drainage, sewage, offal, ashes, garbage and refuse, or to license and regulate such collection and disposal, subject to any applicable state laws and regulations.

(21) License Tax: To impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling so long as said tax is not prohibited by law.

(22) Regulation of Businesses, Callings, Etc.: To define, prohibit, abate, suppress, prevent, and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or likely to be detrimental, to the health, morals, comfort, safety, convenience, or welfare of the inhabitants of the city, and to accomplish that purpose by the exercise of general police powers.

(23) Limit Occupations Likely to Become a Nuisance: To prescribe limits within which businesses, occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained.

(24) Inspection, Weights and Measures: To inspect, test, measure and weigh any article for consumption or use within the city, and to charge reasonable fees therefor; and to provide standards of weights, tests, and measures.

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

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

(27) Charitable, Educational, Corrective, Institutions: To provide and maintain charitable, educational, recreative, curative, corrective, preventive or penal institutions, departments, functions, facilities, instrumentalities, conveniences, and services.

(28) Workhouse or City Colony: County Workhouse: 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 McMinn 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 covered by compensation due for such labor.

(29) Enforcement of Ordinances; Civil Penalties and Imprisonment. To enforce any ordinance, rule or regulation, by means of civil penalties, forfeitures and imprisonment or by action or proceedings in any court of competent jurisdiction or by any one (1) or more of such means and to impose costs as a part thereof.

(30) Schools: To establish schools, determine the necessary boards, officers, and teachers required therefor, and fix their compensation to purchase or otherwise acquire land for schoolhouses, playgrounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain, and operate a complete educational system within the city.

(31) Animals Running at Large, To Suppress: To regulate, tax, license or suppress the keeping or running at large of animals within the city; to impound the same and in default of redemption, to provide for their disposition, by sale, gift, or humane killing.

(32) Bridges and Viaducts: To require and compel any steam, gasoline, diesel or electric railway company operating within the said city and crossing with its lines any of the streets of the city, to build and construct and maintain all necessary bridges, viaducts and underpasses under and over the tracks of said railroad company wherever said track or tracks cross the public streets, alleys, ways and thoroughfares of said city, when in the judgment of the legislative body of said city such bridges, viaducts or underpasses should be built or constructed for the preservation or protection of the public using such streets, alleys, ways, and thoroughfares; and the entire costs of the construction of such bridges, viaducts, or underpasses over such railroad or right-of-way of such railroad or railroads, to be paid and borne by such railroad or railroads, and the costs of the construction of the approaches to said viaducts or

underpasses to the points above indicated to be borne by the City of Athens, together with all damages which may accrue to the property owners by reason of change of grade, and the portion of such viaducts or underpasses constructed respectively by the railroad or railroads and by the City to be maintained by them respectively; provided the City of Athens shall have no right, power or authority to build or require of any railroad or railroads to build such bridges, viaducts or underpasses unless and until said City shall have available sufficient funds to lay out and construct the approaches to said viaducts, bridges or underpasses for that purpose and to so certify such fact to such railroad or railroads, the owners or operators thereof. In order to enforce this subsection, the legislative body of said City shall cause the necessary plans and specifications for the construction of such bridge, viaduct or underpass to be made and prepared by licensed civil engineers, such plans and specifications to make due and proper provisions for the safe operation of trains over and under such bridge, viaduct or underpass as well as traffic using said bridge, viaduct or underpass, and upon approval of such plans and specifications, the legislative body of said City may, by ordinance, order and require the building and construction to be begun not more than sixty days after the passage of such ordinance and the work to be completed within such reasonable time as may be fixed and named in said ordinance and in case of the failure of the owner or operator of any such railroad or railroads to comply with such ordinance, it shall be subject to a civil penalty for each day that it fails to comply therewith, such fine to be assessed and collected upon conviction before the City Judge of said City; but the City may also, by mandatory injunction, enforce compliance with such ordinance in the Chancery Court at Athens, Tennessee, or in the United States District Court for the Eastern District of Tennessee; or it may proceed to build and construct such bridge, viaduct or underpass, charging the cost thereof, as above provided, where the same shall cross any railroad or railroads, to such railroads, or the owners or operators thereof, and recover such cost and expense with interest thereon, by suit instituted for that purpose in any court of competent jurisdiction.

(33) Regulation of Motor Vehicles: To levy a privilege tax upon all vehicles operated upon its streets for hire; to require all such vehicles to file with the Head of the Department of Finance, indemnity insurance contracts as prescribed by the Tennessee Financial Responsibility Law of 1977, as amended in favor of any person or persons who may suffer loss or injury to persons or property on account of the operation of such vehicle by the operators thereof; to regulate by ordinance, the parking spaces to be used by such vehicles and the parking arrangements to be made therefor; to regulate the fares charged all passenger-carrying vehicles for hire in the City of Athens; to regulate and provide for the number of taxicabs which may operate on the streets of the City of Athens and to regulate and provide for the condition in which such vehicles shall be maintained in order that they may operate in said City.

(34) General Powers: To have all the powers granted to municipal corporations and to cities by the constitution and general laws of this State, together with all the implied powers necessary to carry into execution all the powers granted; and, except as prohibited by the constitution of this State or restricted by this charter, the city shall and may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all such powers, under the constitution of this State that it would be competent for this charter specifically to enumerate. [As amended by Priv. Acts 1971, ch. 136, § 1; Priv. Acts 1990, ch. 213, §§ 2 and 3; Priv. Acts 1994, ch. 180, §§ 1 and 2; and Priv. Acts 1995, ch. 6, §§ 1 and 2]

## ARTICLE IV

### Elections

Section 1. Be it further enacted, That elections of Councilmen under this charter shall be held under the same provisions of the State law under which elections are prescribed to be held for such officials as Sheriff or Trustee of McMinn County, in all things except as to the time and date thereof, upon legal notice of the same, published in one or more of the newspapers of general circulation in the city.

Section 2. Be it further enacted, That all candidates shall be eligible to have their names placed on ballots only on the same conditions and in the same manner prescribed for the placing on the ballot of the names of candidates for such offices as Trustee and Sheriff of McMinn County.

Section 3. Be it further enacted, That all city elections, including all elections respecting bond issues, shall be held under the supervision of the County Board of Election Commissioners, and in accordance with the law governing all State and County elections, as hereinbefore set out.

This section may be enforced by appropriate ordinance.

All persons living within the limits of such corporation who shall be qualified to vote for members of the Legislature of this state, and who shall have been a resident of the city for thirty (30) days preceding such elections, or any qualified voter living in McMinn County who owns fifty percent (50%) interest in developable land in the city shall be entitled to vote in the precinct where such person resides or owns land and to have their vote counted in such election. The Council may authorize the ballots for these non-resident property owners to be cast by mail only, pursuant to procedures approved by the State

Coordinator of Elections. [As amended by Priv. Acts 1992, ch. 215, § 1; Priv. Acts 2000, ch. 83, § 1; and Priv. Acts 2002, ch. 114, § 1]

Section 4. Be it further enacted, That the terms of all City Councilmen shall begin on the third Tuesday in November following the date of their election. [As replaced by Priv. Acts 1998, ch. 164, § 1]

Section 5. Be it further enacted, That a non-partisan municipal election shall be held in the City on the first Tuesday following the first Monday in November of each even-numbered year. The incumbent councilmen whose terms expire in July of 1999 shall have their terms extended to the third Tuesday in November of 2000. The incumbent councilmen whose terms expire in July 2001 shall have their terms extended to the third Tuesday in November of 2002. Ties will be resolved by a flip of the coin. The councilmen shall be elected to terms of four (4) years or until their successors are elected and qualified. [As replaced by Priv. Acts 1998, ch. 164, § 1]

Section 6. Be it further enacted, That no informalities in conducting any election held under this charter shall invalidate it if such election is conducted fairly and in substantial conformity with the requirements of this article.

Section 7. Be it further enacted, That any person holding an elective office of the City, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided herein.

(1) A recall of an incumbent of an elective office shall be initiated upon petition signed by the registered voters of the City of Athens. All councilmen currently in office or hereafter elected shall be subject to recall and the petition shall contain signatures equal in number to at least twenty percent (20%) of the registered voters for the City of Athens on the date of the city election preceding the filing of the petition. Every recall petition shall name the officer against whom it is directed.

(2) Each elector signing a recall petition shall add to his signature his occupation, his residence, and the date of signing. Signatures on a recall petition may be on separate sheets but each sheet shall have appended to it the affidavit of some person, not necessarily a signer of the petition, that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered voters of the city.

(3)<sup>1</sup> A recall petition shall be tendered for filing to the McMinn County Commissioners of Elections. Those persons filing a recall petition shall also file a cash bond with the McMinn County Election Commission, equal to the cost of the proposed recall election. The cash bond or the unused portion thereof shall be refunded to those persons if the recall petition is determined to be invalid, the incumbent resigns before the Election Commission calls the recall election, or before the election is held. If the vote for recall is successful and the named incumbents are removed from office, the cost of the election shall become an obligation of the City and the cash bond shall be refunded. The Election Commission shall examine the petition to see whether it contains a sufficient number of apparently genuine signatures. The board may question the genuineness of any signature or signatures appearing on the recall petition and if it shall find that any such signature or signatures are not genuine, it shall disregard them in determining whether the petition contains a sufficient number of signatures. It shall also disregard any signature dated more than sixty (60) days before the date of the petition was tendered for filing. The board shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of any sheet of the petition shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating such an invalid sheet. The board shall complete its examination of the petition within fifteen (15) days and shall thereupon file the petition if valid or reject it if invalid.

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

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

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<sup>1</sup>Priv. Acts 1953, chapter 455 provided for two subsections (3) of Article IV, section 7. When Priv. Acts 1998, chapter 164 amended subsection (3) of Article IV, section 7, in the judgment of the compiler, it was in reference to this subsection.

(5) The following question shall be presented to each elector in a recall election:--"Shall (name of officer) be recalled and removed from the office of (name of office)?" The above question shall appear as to every officer whose recall is to be voted upon and provision shall be made for the elector to vote "Yes" or "No" in the question.

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

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

(8) No recall petition shall be filed against any incumbent of an elective office within the first year or the last six months of the term of his office or within six months after an unsuccessful recall election against him but an officer who has been re-elected for a successive term shall be subject to recall also during the first year of such term. [As amended by Priv. Acts 1959, ch. 105; and Priv. Acts 1998, ch. 164, § 2]

## ARTICLE V

### City Council

Section 1. Be it further enacted, That the Councilmen at the first regular meeting after the first and each biennial election, shall elect one of their number mayor for a term of two years, and thus organized, the body shall be known as the City Council.

Section 2. Be it further enacted, That any qualified voter of the city who resides in the city shall be eligible for election to the Office of Councilman, provided that a failure to continue to reside in the city shall vacate such person's office. [As amended by Priv. Acts 1992, ch. 215, § 2]

Section 3. Be it further enacted, That no person shall become a Councilman 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 3645 of the Code of Tennessee in reference to elections, and if any Councilman shall be so convicted, he shall forfeit his office.

Section 4. Be it further enacted, That the salary of the Mayor shall be two hundred fifty dollars (\$250) per month; and the salary of the councilmen shall be two hundred dollars (\$200.00) per month; and further that the monthly salaries may be adjusted annually at the same percentage rate as given to the

full-time employees of the city. [As replaced by Priv. Acts 1986, ch. 121, § 1; and further replaced by Priv. Acts 1998, ch. 164, § 3]

Section 5. Be it further enacted, That the legislative and all other powers except as otherwise provided by this charter are delegated to and vested in the City Council; and the City Council 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.

Section 6. Be it further enacted, That the City Council shall exercise its powers in session duly assembled, and no member or group of members thereof, shall exercise or attempt to exercise the powers conferred upon the City Council except through proceedings adopted at some regular or special session.

Section 7. Be it further enacted, That the City Council shall, by ordinance, fix the time and place at which the regular meetings of said board shall be held.

Section 8. Be it further enacted, That whenever, in the opinion of the Mayor or of any two Councilmen, the welfare of the city demands it, the Mayor shall call special meetings of the City Council upon at least twelve hours written notice served on each Councilman personally, or left at his usual place of residence. Each call for special meeting shall set forth the character of the business to be discussed at such meeting and no other business shall be considered at such meeting.

Section 9. Be it further enacted, That the Mayor shall preside at all meetings of the City Council.

Section 10. Be it further enacted, That when any vacancy in said council shall occur, such vacancy shall be filled by the Councilmen. The newly elected member shall serve until the third Tuesday in November following the next regular election or until his successor shall be elected and qualified for the unexpired term. [As amended by Priv. Acts 2000, ch. 83, § 2]

Section 11. Be it further enacted, That at the first meeting of the Council, and thereafter at the first meeting after a general city election, said Council shall choose from its membership a Vice-Mayor to act in the absence or disability of the Mayor.

Section 12. Be it further enacted, That such member shall act as Mayor during any temporary absence or disability of the Mayor, and whenever a

permanent vacancy occurs in the office of Mayor, such member shall become Mayor and hold office as such for the unexpired term, and the office of Councilman thus vacated, shall be filled as otherwise provided herein; and a new Vice-Mayor shall be chosen from the Councilmen at their next regular meeting.

Section 13. Be it further enacted, That a majority of all the members of said Council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time and may compel the attending of the absentees in such manner and under such penalties as the City Council may provide. Unless otherwise provided in this charter, a majority of all members of the Council shall be required to pass an ordinance, resolution or motion.

Section 14. Be it further enacted, That said City Council 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.

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 therein. [As amended by Priv. Acts 1994, ch. 180, § 3]

Section 15. Be it further enacted, That all sessions of the Council shall be public, and subject to change of time and/ or place in case of emergency.

Section 16. Be it further enacted, That prior to the end of each fiscal year the Council shall designate a certified public accountant who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Said report shall be entered and become a permanent part of the minutes of a regular meeting of the City Council. This Audit may be conducted on an annual, quarterly, or a continuous basis. Such accountants shall have no personal interest, directly or indirectly, in the fiscal affairs of the city government or any of its officers. The City Council shall cause to be published annually a notice to the general public that an audit opinion has been received and copies are available for review in the Department of Finance. This notice shall be published within 30 days of the deadline for filing such reports with the State Comptroller's office. [As amended by Priv. Acts 1990, ch. 213, § 9; and Priv. Acts 2004, ch. 92, § 1]

Section 17. Be it further enacted, That in the case of the death, resignation or removal of the City Manager, as soon as practicable thereafter, the City Council shall cause an audit to be made of the city books by a certified public accountant.

Section 18. Be it further enacted, That all powers of the city and the determination of all matters of policy shall be vested in the Council. Without limitation of the foregoing, the Council shall have power to:

- (1) Appoint and remove the City Manager;
- (2) Establish other administrative departments and distribute the work of the division;
- (3) Adopt the budget;
- (4) Inquire into the conduct of any office, department or agency of the city and make investigations as to municipal affairs;
- (5) Appoint the members of the Athens Utilities Board;
- (6) Appoint all other boards, except members of the Board of Education, that may now or hereafter be authorized by law;
- (7) Adopt plats;
- (8) Adopt and modify the official map of the city;
- (9) Regulate and restrict the height and number of stories of buildings and other structures, the size of yards and courts; the density of populations and the location and use of buildings for trade, industry, business, residence or other purposes;
- (10) Provide for safe and sanitary housing accommodations for families of low income;
- (11) Create a housing authority;
- (12) Adopt, modify and carry out plans proposed by the planning commission for the clearance of slum districts and rehabilitation of blighted areas;
- (13) Adopt, modify and carry out plans proposed by the planning commission for the re-planning, improvement and re-development of the neighborhoods and for the re-planning, reconstruction or re-development of any area or district which may have been destroyed in whole or in part by disaster.

Section 19. Be it further enacted, That neither the Council nor any of its members shall request, propose, direct or otherwise attempt to influence the City Manager, or any of his subordinates in the selection, promotion, or demotion, or removal of an employee in any administrative service or activity, or office of the city government. Neither the Council nor the members thereof, shall give any orders to any subordinate of the Manager, either publicly or privately, directly or indirectly.

## ARTICLE VI

Ordinances

Section 1. Be it further enacted, That ordinances shall begin, "Be it ordained by the City of Athens as follows:"

Section 2. Be it further enacted, That every ordinance enacted by the Council shall be presented to the Council and passed by a majority of the Council members present on two (2) separate days, the second presentation to be not less than fourteen (14) days following the first presentation unless a majority of the entire Council shall by recorded vote waive this time requirement. Upon each presentation the caption of the ordinance shall be read or its substance stated, and upon request of any member of the Council, or upon the request of any resident or taxpayer of the municipality an ordinance shall be read in full before final passage. Except in the ordinance adopting the budget, no material or substantial amendment may be made on second or final passage unless such amendment is passed in the same manner as an amendment to an existing ordinance. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred.

An emergency ordinance may become effective upon the day of its final passage, provided that it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.

No ordinance making a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as an emergency ordinance. No ordinance shall be amended except by a new ordinance. [As amended by Priv. Acts 1987, ch. 56, § 2; Priv. Acts 1990, ch. 213, § 1; and Priv. Acts 2000, ch. 83, § 3]

Section 3. Be it further enacted, That in all cases under the preceding section, the vote shall be determined by yeas and nays; the names of the members voting for or against an ordinance shall be entered upon the journal.

Section 4. Be it further enacted, That every ordinance shall be immediately taken charge of by the City Manager and by him numbered, copied in an ordinance book, filed and preserved in his office.

Section 5. Deleted. [As deleted by Priv. Acts 2004, ch. 92, § 2]

## ARTICLE VII

Mayor

Section 1. Be it further enacted, That the Mayor shall preside at all meetings of the City Council 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 Council and all ordinances on their final passage, execute all deeds, bonds, and contracts made in the name of the city, and he may introduce ordinances and resolutions and make motions in the City Council.

Section 2. Be it further enacted, That the Mayor shall have power and it is hereby made his duty to perform all acts that may be required of him by an ordinance duly enacted by the Council, not in conflict with any of the provisions of this charter.

## ARTICLE VIII

Officers and Employees

Section 1. Be it further enacted, That the City Council shall, as soon as practicable, elect or appoint a City Manager by a majority vote of its entire membership and fix his salary. Such salary shall be payable in equal biweekly installments. He shall be appointed solely on the basis of his executive qualifications and need not, when elected, be a resident of the city or the state. No member of the City Council shall, at any time, be chosen during the period for which elected, as City Manager, nor for two years thereafter. The City Manager shall be removable at any time, by the Council, upon a majority vote of its entire membership. [As amended by Priv. Acts 1990, ch. 213, § 4]

Section 2. Be it further enacted, That the said City Council shall fix the salaries of the employees hired by the City Manager, being guided in this action by the City Manager's recommendations. The City Council shall establish and make provisions in the appropriation ordinance for such other officers, agents and employees as may be necessary. All officers, agents and employees, except the city judge, city attorney or attorneys, and members of and employees under the supervision of the Board of Education and Utilities Board, shall be appointed by the City Manager and removed by him at any time. [As amended by Priv. Acts 1992, ch. 215, § 3; and Priv. Acts 2004, ch. 92, § 3]

Section 3. Be it further enacted, That every officer, agent, and employee holding a position upon an annual salary shall, before entering upon his duties, take and subscribe and file with the City Manager, an oath or affirmation that

he has all the qualifications named in this charter for the office or employment he is about to assume; that he will support the constitution of the United States and of this State and the charter and ordinances of the city and that he will faithfully discharge the duties of his office of employment. [As amended by Priv. Acts 1992, ch. 215, § 4]

Section 4. Be it further enacted, That the City Manager and every officer, agent, and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinances of the City Council, except where the amount is prescribed in this Charter. All such bonds and sureties thereto, shall be subject to the approval of the City Council. The cost of making said bonds shall be paid by the city.

Section 5. Be it further enacted, That if at any time, it appears to the Mayor or City Manager that the surety or sureties on any official bond are insufficient, the officer, or employee may be required by the City Council to give additional bond, and if such officer or employee fails to give additional bond within twenty days after he shall have been notified, his office shall be declared vacant.

## ARTICLE IX

### City Manager

Section 1. Be it further enacted, That, in addition to all other powers conferred upon the City Manager, he shall be administrative head of the municipal government under the supervision of the City Council. The City Manager shall be required to give his full time to the duties of his office.

During the absence or disability of the City Manager, the City Council may designate some properly qualified person to perform the functions of the City Manager.

Section 2. Be it further enacted, That the powers and duties of the City Manager shall be:

(a) Enforcement of ordinances: 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) Appointment and removal of officers and employees: Except as in this charter provided, to appoint and remove all heads of departments and all subordinate officers and employees, all appointments are to be made on the applicant's qualifications for the job without regard to race, color, religion, gender, national origin, political affiliation, marital status, disability or because

the applicant is forty (40) or more years of age; provided, however, that all such present officers and employees shall continue to serve until removed and/or their successors are so appointed.

(c) To supervise and control the work of all officers and employees, except the city judge and members of the Board of Education, and to so supervise and control the work of all departments and divisions other than the Department of Education, the City Attorney or Attorneys, City Judge, and the Athens Utilities Board, created by this Charter or which hereafter may be created by the City Council.

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

(e) Meetings of the City Council; discussion but no vote: To attend all meetings of the City Council, with the right to take part in the discussion, but not to vote.

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

(g) Budget officer; financial condition: To act as budget officer and to keep the City Council advised as to the financial condition and needs of the city.

(h) Purchasing Agent: 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, except the Athens Utilities Board and the Board of Education.

(i) Maximum expenditures by City Manager: The City Council shall prescribe by ordinance the maximum expenditure which the City Manager may make without specific authorization of the council, 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 ten thousand dollars (\$10,000) unless bids shall have been requested through public advertisement and award made on bids most advantageous to the city. Any exceptions to competitive bidding established by state law shall apply to purchases by the city including, but not limited to, those exceptions set forth in section 6-56-304. When any contract is not awarded to the lowest bidder, the reason for such action shall be given in writing to the City Council. [As amended by Priv. Acts 1976, ch. 260, § 1; Priv. Acts 1990, ch. 213, § 6; Priv. Acts 1992, ch. 215, §§ 5 and 6; Priv. Acts 2000, ch. 83, § 4; Priv. Acts 2004, ch. 92, § 4; and Priv. Acts 2005, ch. 23, § 1]

## ARTICLE X

City Attorney

Section 1. Be it further enacted, that the City Council shall employ or contract a City Attorney or Attorneys, prescribe his duties and fix his compensation or fee. [As replaced by Priv. Acts 2004, ch. 92, § 5]

## ARTICLE XI

Taxation

Section 1. Be it further enacted, That it shall be the duty of the City Manager, in each year, as soon as the assessment roll for the city is complete, to submit to the City Council a certified statement of the total amount of the valuation or assessment of the taxable property for the year within the city limits (including the assessment of all railroad, telephone, telegraph and other public utilities properties), together with a certified statement of the revenue derived by the city from privilege taxes and all other revenue. Upon the presentation of such statements by the City Manager, the City Council shall proceed by ordinance to make the proper levy to meet the expenses of the city for the current fiscal year.

Section 2. Be it further enacted, That it shall be the duty of the City Manager, immediately after the levy of taxes by the City Council, to cause the said levy to be extended upon a tax book in the same manner that extensions are made upon the tax book in the hands of the county trustee.

Section 3. Be it further enacted, That all taxes due the city, except privilege and merchants' ad valorem taxes, shall, until otherwise provided by ordinance, be due and payable on the first day of October of the year for which the taxes are assessed.

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

Distress warrants may be issued 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 execution of such process. [As amended by Priv. Acts 1992, ch. 215, §§ 7 and 8]

Section 4. Be it further enacted, That all municipal taxes on real estate in the city, and all penalties and costs incurred thereon are hereby declared to

be a lien on said realty from and after the first 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 McMinn 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 have been incorrectly described nor because the same had been assessed in the name of a person who did not own the same, nor because the same was assessed to unknown owners, nor on account of any objection or informality merely technical, but all such assessments shall be good and valid. The City Council shall have power to correct any errors in the tax assessments upon a certificate filed by the assessor or assessing body. [As amended by Priv. Acts 1992, ch. 215, § 9]

Section 5. Be it further enacted, That on the first day of March of the year following that for which the taxes are assessed, or other date provided by ordinance, penalty and interest in accordance with Tennessee Code Annotated, Section 67-5-2010 upon all taxes remaining unpaid, shall be imposed and collected by the city and paid into the city treasury. [As replaced by Priv. Acts 1991, ch. 79]

Section 6. Be it further enacted, That the City Manager shall, under the provisions of the State law for the collection of delinquent taxes, certify to the City Attorney, or Attorneys, a list of all real estate upon which municipal taxes remain due and unpaid, or which is liable for sale for other taxes, and the same shall be sold in like manner and upon the same terms and conditions as real estate is sold for delinquent State and County taxes.

Section 7. Be it further enacted, That the City Council 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 delinquent assessments or levies made for payment for improvements or services for which assessments or levies may be made, or have been made, under this charter, or by any other acts of the legislature, the cost of which is made a charge on the property; the suits commenced by said bills to be conducted as other suits in Chancery for the enforcement of like liens and under the rules of law and practice provided for the same; provided, that the bills shall not be objectionable because the owners of different parcels or tracts or lots of land are made parties thereto, it being the intention of this Act that all persons in the same assessment and levy for improving any portion of the city as aforesaid, and on whose property said assessment or levy is a lien, shall be made parties defendant to one bill.

Section 8. Be it further enacted, That the City Council shall have the power to, by ordinance, create a system of discounts to those property taxpayers

who shall desire to pay their taxes early. [As amended by Priv. Acts 1992, ch. 215, § 9]

## ARTICLE XII

### Department of Finance

Section 1. Be it further enacted, That the City Manager or such assistant appointed by him, shall be the head of the Department of Finance.

Section 2. Be it further enacted, That the head of the Department of Finance shall have custody of and preserve in his office, the city seal, the public records, original rolls of ordinances, ordinance books, certificates and papers, all official indemnity or surety bonds, and all other bonds, oaths and affirmations, and he shall register them by numbers, dates, and contents, and keep an accurate and modern index thereof. The head of the Department of Finance shall provide a bond of such surety and in such an amount as the Council may require by ordinance, said bond to be filed with the Mayor.

When required by an officer or citizen, the head of the Department of Finance shall provide certified 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; and he shall cause copies of ordinances to be duplicated as may be directed by the City Council and keep them in his office for distribution.

The head of the Department of Finance shall exercise 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 of the city; he shall have custody of all records, paper and vouchers relating to the fiscal affairs of the city, and the records in his office shall show the financial operations and condition, property, assets, claims and liabilities of the city, all expenditures authorized and all required proper fiscal accounts, records, settlements, and reports to be kept, made and rendered to him, by the several departments and officers of the city, including all deputies or employees of his department charged with the collection or expenditure of money, and shall control the same. He shall daily adjust the settlements of officers engaged in the collection of revenue.

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

The head of the Department of Finance shall also serve as treasurer of the city, and it shall be his duty to collect, receive and receipt for the taxes and all other revenue of the city, and all special assessments, the proceeds of its bond issues, and to disburse the same, under the supervision of the City Manager. [As amended by Priv. Acts 1990, ch. 213, § 5]

Section 3. Be it further enacted, That except as by this charter or by the law or ordinance otherwise provided, the head of the Department of Finance shall prescribe and regulate the manner of paying creditors, officers and employees of the city. He shall pre-audit all payrolls, accounts and claims against the city, but no payroll, account or claim, or any part thereof, shall be paid unless authorized by law or ordinance and approved and certified by the City Manager, and the amount required for payment of the same is appropriated for the purpose by ordinance and in the treasury. Whenever any claim shall be presented to the head of the Department of Finance, he shall have power to require that the amount claimed is justly due, and is in conformity to law and ordinance, and for that purpose he may summon before him any officer, agent or employee of any department of the municipality, or any other person, and examine him upon oath or affirmation relative thereto. The City Manager, the head of the Department of Finance, and the head of the department concerned, and their sureties, shall be liable to the municipality for all loss or damage sustained by the municipality by reason of the corrupt approval of any claim against the municipality.

Section 4. Be it further enacted, That subject to the provisions of the foregoing section, all checks in payment of all payrolls, accounts and claims against the city shall be signed by the head of the Department of Finance. Any officer or employee in the office of Department of Finance may be designated by the head of the Department of Finance to draw checks with the same effect as if signed by the head of the Department of Finance, such designation to be in writing, in duplicate, filed with the City Manager and approved by him. Any such designation may be revoked by the City Manager or head of the Department of Finance while acting as such, by filing the revocation in duplicate with the other executive at interest. All checks shall be countersigned by the Mayor, or, in the absence or disability of the Mayor, by the Vice-Mayor.

Section 5. Be it further enacted, That no contract, agreement or other obligation involving the expenditure of money shall be entered into, nor shall any ordinances, resolutions or order for the expenditure of money be passed by the City Council or be authorized by any officer of the city, unless the head of the Department of Finance shall first certify to the City Council 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 or obligation. No expenditure of money payable from the proceeds of bonds of the city shall be contracted for until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this charter in reference to city bonds.

Section 6. Be it further enacted, That no contract liability shall be incurred without previous authority of law or ordinance, but the City Council 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 year from the date it was incurred.

Section 7. Be it further enacted, That the head of the Department of Finance 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.

The head of the Department of Finance shall also perform any other duties imposed upon him by this charter, by ordinance, or by the City Manager.

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

## ARTICLE XIII

### Taxation and Revenue

Section 1. Be it further enacted, That the levy and collection of taxes and special assessments shall be in charge of the Department of Finance, subject to the limitations elsewhere found in this charter.

Section 2. Be it further enacted, That all property, real, personal and mixed, subject to state, county and city taxes and all privileges taxable by law, shall be taxed and taxes thereon collected by the city for municipal purposes as hereinafter provided.

Section 3. Be it further enacted, That the ad valorem tax upon merchants' stock accounts, and equipment, may be assessed and collected in like manner as state and county merchants' ad valorem tax is assessed upon the same property.

Section 4. Be it further enacted, That the City Council of the city shall have full power to levy and collect taxes as of January 10th of each and every year.

Section 5. Be it further enacted, That as soon as practicable in each year after the assessment books for the state and county are complete (which shall be after equalization boards provided for by general law shall have finished their work), it shall be the duty of the City Manager to prepare or cause to be

prepared from the said assessment books of the county and of the 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 City Manager, shall be the assessment for taxes in said city for all municipal purposes; provided, that there may be an assessment by the City Manager any time, of any property subject to taxation found to have been omitted, and such assessment shall be duly noted and entered on the assessment books of the city.

#### ARTICLE XIV

##### License Taxes

Section 1. Be it further enacted, That 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.

#### ARTICLE XV

##### City Bonds

Section 1. Be it further enacted, That some of the purposes hereby specifically authorized for which the bonds of the city may be issued and be given, sold, pledged, or disposed of on the credit of the city or solely upon the credit of specific property owned by the city, or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or upon any two or more credits, are the following:

For the acquiring of lands for the purchase, construction, re-construction, 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 institutions, public works, public parks, parkways, boulevards, grounds, squares, and any other public improvements which the city may be authorized or permitted to make; for the purchase of lands or other property, real or personal, for school purposes; the construction or purchase of playgrounds, either in connection with the schools or separate therefrom; and the acquiring of lands and/or construction of buildings to be rented or leased for industrial uses; and for paying, refunding, or removing any bonded in indebtedness of the City. The foregoing enumeration shall not be

construed to limit any general provisions of this charter authorizing the city to borrow money or issue and dispose of bonds, and such general provisions shall be construed according to the full force and effect of their language as if no specific purpose had been mentioned, and the authority to issue bonds for any of the purposes aforesaid, is cumulative and shall not be construed to impair any authority to make any public improvements.

Section 2. Be it further enacted, That bonds may be so issued as to be payable on a specified date or serially or subject to call and redemption.

Section 3. Be it further enacted, That the City Council 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.

Section 4. Be it further enacted, That in case of sinking funds bonds the amount of the annual installments to be paid into the sinking fund shall be fixed by the City Council for each bond issue.

Section 5. Be it further enacted, That all bonds of the city, except bonds for paying, refunding, or removing bonded indebtedness, and except bonds issued under the provisions of section 3408-3493, Code of Tennessee, except revenue bonds, shall be issued only with the assent of a majority of the qualified voters actually voting at an election held for the purpose, in the manner heretofore provided.

Section 6. Be it further enacted, That whenever any bonds, interest coupons, or other written evidence of the city's debt shall be paid and discharged, they shall be cancelled by the head of the Department of Finance.

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

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

## ARTICLE XVI

### Sinking Fund

Section 1. Be it further enacted, That all the sinking funds of the city may be invested by the City Manager by and with the consent of the City Council, in bonds of the United States, or the State of Tennessee, or of the City of Athens, at the best price obtainable.

Section 2. Be it further enacted, That the City Manager by and with the consent of the City Council, may sell the securities belonging to a sinking fund, or any part of them at any time, when the proceeds thereof may be needed for the payment of bonds, on the best obtainable terms.

Section 3. Be it further enacted, That the City Manager by and with the consent of the City Council, may exchange any bonds belonging to a sinking fund for bonds of the city whenever such exchange may be advantageous for the city.

Section 4. Be it further enacted, That 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 interest or depreciation of investments or other cause said fund shall not be sufficient, the levy shall be resumed.

Section 5. Be it further enacted, That any money remaining in a sinking fund, after payment of the entire bonded debt for which it was accumulated, shall be paid into the general fund.

## ARTICLE XVII

### Budget and Appropriations

Section 1. Be it further enacted, That the City Manager shall be budget officer. The fiscal year of the city shall begin the first of July or on such other date as the Council may designate by ordinance.

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

The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments and shall give in parallel columns the following information:

(a) An accurate statement of any operating deficit for the preceding fiscal year.

(b) A detailed estimate of the expense of conducting each department as submitted by the department.

(c) Expenditures, when possible, for corresponding items for the last two fiscal years, stated separately.

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

(e) Amount of supplies and materials on hand at the time of the preparation of the estimate.

(f) Increase or decrease of appropriations proposed by each department, compared with the corresponding appropriations for the current year.

(g) Such other information as is required by the City Council or that the City Manager may deem advisable to submit.

The recommendations of the City Manager as to the amounts to be appropriated with reasons therefor, in such detail as the City Council may direct, shall be submitted. Such estimates shall be on file in the office of the City Manager for inspection by the public.

Upon receipt of such estimates, the City Council shall prepare a tentative appropriations ordinance covering revenue and appropriations which shall also be published in a newspaper of the city not less than one week before it is taken up for final consideration by the City Council, and, before acting upon such tentative budget ordinance, the City Council shall consider same at the next meeting and all voters and taxpayers may appear at said meeting and be heard in person or by attorney. The budget ordinance for each fiscal year shall be finally adopted before the first day of the fiscal year. [As amended by Priv. Acts 2004, ch. 92, § 6]

Section 2. Be it further enacted, that at the end of each year, all unencumbered balances or appropriations in the treasury shall revert to the ending fund balance in each corresponding fund and be subject to further appropriations unless specifically carried forward to the following year. [As replaced by Priv. Acts 2004, ch. 92, § 7]

Section 3. Be it further enacted, That in the event the budget for the preceding year should have been exceeded, contrary to the provisions of the charter, an appropriation for the resulting deficit shall be made in the appropriations ordinance for the year following that in which the deficit was created, and any such deficit so occurring shall be paid out of any and all revenues during that current fiscal year.

Section 4. Be it further enacted, That the City Manager shall be responsible for limiting expenditures and obligations to the amounts of appropriations for all departments and shall establish and maintain a system of allotments and require the installation and maintenance of such system of accounts and records and prescribe such purchasing procedure as may be necessary to that end. He shall present a monthly budget statement to the City Council, comparing amounts of receipts and of expense allotted to the elapsed

portion of the fiscal year with the receipts actually realized and the expense actually incurred, and in general disclosing the condition of the budget. If it appears that the revenue will not be sufficient to cover the appropriations authorized for the year, or if for other reasons it appears to be necessary to reduce or adjust the appropriations, he shall make recommendations to the City Council for such reductions or adjustments as may be required to maintain a balanced budget. The City Manager and the City Council shall do all other things not in conflict with this charter which may be necessary to maintain a balanced budget for the city government.

## ARTICLE XVIII

### Departments

Section 1. Be it further enacted, 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 Fire;
- (3) Department of Public Works;
- (4) Department of Education;
- (5) Department of Public Utilities;
- (6) Department of Police;
- (7) Department of Human Resources;
- (8) Department of Parks and Recreation;
- (9) Department of Community Development.

[As amended by Priv. Acts 2004, ch. 92, § 8]

Section 2. Be it further enacted, That the City Council shall fix all salaries, not fixed by this charter, in all departments except the Department of Education and the Athens Utilities Board; prescribe the duties and functions of all departments except as fixed by this charter, and may, by a majority vote of its entire membership, create new departments, combine or abolish existing departments, or establish temporary departments for special work. [As amended by Priv. Acts 1992, ch. 215, § 10]

Section 3. Be it further enacted, That the City Manager shall supervise and control all departments, other than the Department of Education and the Athens Utilities Board, now or hereafter created except as otherwise provided by this charter. [As amended by Priv. Acts 1992, ch. 215, § 11]

## ARTICLE XIX

Police and Fire Department

Section 1. Be it further enacted, That 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.

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 other 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 legal orders of the Mayor, City Manager, City Attorney or Attorneys, and the head of the Department of Finance, and all other processes, notices, and orders as in this charter, or by ordinances, may be provided.

Section 2. Be it further enacted, That in time of riot or other emergency the Mayor or the City Manager shall have power to summon any number of male inhabitants to assist the police force.

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

Section 3. Be it further enacted, That the City Manager shall appoint a chief of the fire department and such other members of said department as may be provided for by ordinance.

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

Section 4. Be it further enacted, That 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.

Section 5. Be it further enacted, That the City Manager may appoint a fire chief or designate a member of the fire department whose duty shall be, subject to the chief of the fire department, to investigate the cause, origin, and circumstances of fires and the loss occasioned thereby, and assist in the prevention of arson.

Section 6. Be it further enacted, That the City Council may by a majority vote of its entire membership combine the police and fire departments under one head or chief, and prescribe their duties and functions and establish the salaries of all personnel of said departments.

## ARTICLE XX

### Department of Education

Section 1. Be it further enacted, That the City of Athens is hereby created a separate school district, and there is hereby created a Board of Education of and for the City of Athens, which shall consist of six members, which board shall be a body corporate and may sue and be sued, contract and be contracted with, in its own name. The general school laws of the State in regard to common schools shall apply to the City of Athens so far as the same are not modified herein, and the said district shall be entitled to all sums of money from the public school fund that it would be entitled to receive if the district were organized under the general laws of the State.

Section 2. Be it further enacted, That except as herein otherwise provided, said Board of Education shall have full and exclusive power and authority as trustees or directors, to manage, control and regulate the public or city schools; to maintain and adequately insure all school property; to elect or employ competent and qualified teachers and a Superintendent of Schools; and prescribe all needful rules and regulations for the government, control and operation of said schools and the teachers and superintendent thereof. Said Board of Education shall also adopt and prescribe all necessary rules and regulations for its own conduct, and the dispatch of its business.

Section 3. Be it further enacted, That the qualifications of the members of the Board of Education shall be the same as the qualifications of City Councilmen as provided in Article V of this Act, and no person shall be eligible as a member of the Board of Education who is a candidate for or a member of the City Council of the City of Athens. The members of said Board shall be elected at the same time and in the same manner as members of the City Council.

Section 4. Be it further enacted, That there are hereby named as members of said Board of Education as follows:

Colmar Allen and Clyde Burns to serve until the first Monday in July, 1953;

Mrs. Henry Boyd and Rufus Houser to serve until the first Monday in July, 1955;

Emory Hamby and Reed Shell to serve until the first Monday in July, 1957.

Section 5. Be it further enacted, That at the regular election for the City Council for the City of Athens on the first Tuesday following the first Monday in November of each even-numbered year three (3) members of the Board of Education shall be elected for terms of four (4) years and until their successors are elected and qualified. The incumbent Board of Education members whose terms expire in July of 1999 shall have their terms extended to the third Tuesday in November of 2000. The incumbent Board of Education members whose terms expire in July of 2001 shall have their terms extended to the third Tuesday in November 2002. The newly elected Board of Education members shall be sworn in and assume their official duties at the first Board of Education meeting following the official certification of the election. [As replaced by Priv. Acts 1997, ch. 25, § 1; and Priv. Acts 1998, ch. 164, § 4; and amended by Priv. Acts 2001, ch. 16, § 1]

Section 6. Be it further enacted, That the Board of Education, in the event of a vacancy shall occur in the membership of said board, caused by death, resignation, removal from the city, or otherwise, shall have the power to provide an incumbent for said office until the next regular city election coming thereafter, at which time, the qualified voters of the City of Athens shall fill said office for the unexpired term.

Section 7. Be it further enacted, That said Board of Education shall, at its first meeting after the official certification of each general city election, elect from its number for a two-year term, a Chairman, a Vice-Chairman, Secretary and a Treasurer; provided, however, that the board in its discretion, may combine the latter two (2) officer and may appoint the Superintendent of Schools as its Secretary or Treasurer, either or both. Said Board of Education shall keep minutes of all its proceedings in a well bound book, signed by the Chairman and attested by the Secretary--said book to constitute a permanent and public record. The Treasurer shall receive and hold all school money for the City of Athens, from whatever source (until disbursed on checks signed by himself and countersigned by the Chairman); provided, that the Treasurer of said board shall, before entering upon the duties of his office, file a bond with the head of the Department of Finance of the City of Athens, in the minimum sum of five thousand dollars (\$5,000.00), or such other and additional amount as the board may require, endorsed by a responsible indemnity corporation, costs for which shall be paid by check issued by said board conditioned upon the faithful discharge of his duties, which bond shall be approved by the Board of Education.

Checks shall be issued only when adequate funds are available for the purpose and where the particular expenditure is authorized by the school budget

hereinafter referred to. (Said Treasurer shall submit a periodic financial statement to the City Council.) [As amended by Priv. Acts 2007, ch. 3, § 2]

Section 8. Be it further enacted, That the county trustee, the county court clerk of McMinn County, or any other tax collector shall pay over to the Treasurer of the Board of Education of the City of Athens out of all moneys collected by them for school purposes from any sources such portion as by law is applicable to the schools of the City of Athens.

Section 9. Be it further enacted, That salaries of superintendent, principals, teachers and others employed by the schools shall be fixed by the board before their election, and said salary schedule shall be written into the minutes of said Board of Education.

Section 10. Be it further enacted, That the Board of Education shall keep within and shall not at any time exceed the budget provided and authorized by the City Council of the city, with respect to the expense of operating the city school system. The Board of Education shall each year prepare and submit to the City Manager a proposed budget for the ensuing year. Said budget shall be prepared on forms as prescribed in Article XVII, and contain information consistent with that requirement by the State Department of Education, including a detailed estimate of incoming revenue and proposed expenditures. Whenever the funds required for the operation of schools shall exceed the estimated revenues from all other sources, such as State and Federal aid, then the City Council shall provide such funds by the tax levy; provided, however, that if the funds required by said budget from the city shall, in the judgment of the City Council, require a sum greater than can reasonably be furnished by the city, then said Council shall notify the Board of Education. Thereafter, and as soon as practicable, the Board of Education and the City Council shall confer together and, if possible, arrive at a figure to the mutual satisfaction of both. If no such satisfactory figure can be agreed upon, then the Council shall immediately call a referendum. Said referendum shall propose the question of whether the city shall provide the funds required by the proposed budget of the Board of Education or whether the city shall provide such amount as in its judgment can be practically and reasonably provided, such amount to be indicated on the ballot and the voters given a choice between the two amounts. If a majority of the qualified voters of the city voting on said question shall vote for the figure proposed by the Board of Education, then said figure shall be provided by the Council through tax levy; if such majority shall vote for the figures set by the Council, then this latter amount shall be furnished by the city and the Board of Education shall accordingly revise its budget.

Section 11. Be it further enacted, that whenever the Board of Education shall deem advisable the construction of new school buildings, the renovation of

existing buildings, or the purchase of real estate for school purposes, it shall present to the City Council the plans for said buildings and/or a description of said real estate, together with the estimated cost of the same. The City Council shall provide the necessary funds by the issuance of bonds as authorized in this Act or any subsequent enabling Act, or from other available funds; if in the judgment of said Council the necessary funds cannot be reasonably provided, then it shall, by ordinance, provide for submitting the question of whether such funds shall be raised by any authorized issuance of bonds or by other means, to the qualified voters of the city, and if a majority of said voters voting at said election shall vote for providing such sum, then the same shall be provided in the manner and on the conditions named and prescribed in the proposition voted upon. Provided, further, that in the event of construction of school buildings, it shall be the duty and responsibility of the Board of Education to secure plans and specifications and the duty of the Board of Education to let contracts for construction and supervise and carry out the same. [As amended by Priv. Acts 2004, ch. 92, § 9]

Section 12. Be it further enacted, That the Board of Education of the City of Athens, through its Chairman and Secretary-Treasurer, is authorized and empowered to borrow money to operate and maintain schools in said city and to issue interest bearing notes at the lowest interest rates available as an evidence of such moneys so borrowed, in anticipation of the collection of current school funds. [As amended by Priv. Acts 1977, ch. 60, § 3]

Section 13. Be it further enacted, That no purchase or contract involving over five thousand dollars (\$5,000.00) shall be made or entered into by the Board of Education or its duly authorized representatives without first having received competitive bids, but no purchase shall be made at any one time in an amount which in the aggregate will exceed five thousand dollars (\$5,000.00), unless bids have been requested and award made on bid most advantageous to the city. When the lowest bid is not awarded, the reason for such action shall be given in writing in the minutes of said board. [As amended by Priv. Acts 1986, ch. 121, § 2; Priv. Acts 1992, ch. 215, § 12; and Priv. Acts 2002, ch. 114, § 2]

Section 14. Be it further enacted, That prior to the end of each fiscal year the Board of Education shall designate a certified public accountant who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the City Board of Education and shall submit their report to the Board of Education and to the City Council. Said report shall be entered and become a permanent part of the minutes of a regular meeting of the Board of Education and of the City Council. This audit may be conducted on an annual, a quarterly, or continuous basis. Such certified public accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the Board of Education or any of its officers.

Section 15. Be it further enacted, That this Act shall in no wise relieve the governing body of said city of the responsibility of furnishing suitable school buildings, equipment and supplies for the operation of the schools.

## ARTICLE XXI

### Utilities Board

Section 1. Be it further enacted, That except as otherwise provided in this Act and in general law, the purchase, production and distribution of electricity, gas and water by the City of Athens, both within and without the limits of the city, and the agencies and facilities used for such purposes, shall be under the jurisdiction, control and management of a board to be known as the "Athens Utilities Board," to be constituted as hereinafter set forth. The collection, interceptor, and treatment systems for wastewater and any other facilities, equipment and appurtenances necessary or appropriate for the treating or disposal of sewerage shall be under the jurisdiction, control and management of the Athens Utilities Board. [As amended by Priv. Acts 1990, ch. 213, § 10]

### Definitions

Section 2. Be it further enacted, That the following terms, whenever used or referred to in this section, shall have the following respective meanings unless a different meaning clearly appears from the context:

(a) "Board" shall mean the Athens Utilities Board.  
(b) "Commissioner" shall mean an individual member of the Board.  
(c) "System" shall mean and shall include the water system, the sewerage system, the gas system, and the electric distribution system and any other revenue producing utility system which the City Council may place under the jurisdiction, control and management of the board pursuant to Section 16 of this Article.

(d) "Division" means the part of the system that includes all of one branch of the operation of the system, such as the branch having charge of the electric power operations or the branch having charge of the water operation or the branch having charge of the gas operation or the branch having charge of the sewerage operations.

(e) "Act" means the charter of the City of Athens. [As amended by Priv. Acts 1990, ch. 213, § 11]

Section 3. MEMBERS OF THE BOARD: Be it further enacted, That the Board shall consist of five Commissioners. No person shall be eligible to the office of Commissioner unless he shall have been for at least three years next

preceding his appointment, a citizen and a bona fide freeholder in Athens, Tennessee, and at least twenty-five years of age.

Section 4. Be it further enacted, That four of the first members of the Athens Utilities Board shall be appointed by the City Council and shall serve for the following terms, or until their successors are appointed and qualified:

One member to serve until the first Monday in July 1957; one member to serve until the first Monday in July 1956; one member to serve until the first Monday in July 1955; one member to be appointed by the Mayor from the City Council to serve until the first Monday in July 1954. Thereafter all appointments shall be for a period of four years with the exception of the person named from the City Council who shall serve for a period of two years.

All appointments, except the person named from the City Council, shall be confirmed by a majority vote of the City Council. Any Commissioner who shall cease to possess any of the qualifications herein enumerated shall forthwith forfeit his office. Failure of the City Council, either to approve or disapprove a nominee, for a period of thirty days following notice of such nomination to the Council, shall be deemed a confirmation. In case the nominee is disapproved by a majority vote of the City Council, a new nomination shall be made in accordance with the procedure provided herein for nominations.

The chairman shall receive a salary for his services of two hundred fifty dollars (\$250) per month; and the other commissioners shall receive a salary for their services of two hundred dollars (\$200) per month; and further that the salaries may be adjusted annually at the same percentage rate as received by the full-time employees of the Athens Utilities Board. [As amended by Priv. Acts 1971, ch. 136, § 3, and Priv. Acts 1987, ch. 56, sec. 1; and Priv. Acts 1998, ch. 164, § 5]

Section 5. DIVISIONS WITHIN SYSTEM: Be it further enacted, That the system shall be divided into a Division of Water, a Division of Power, a Division of Gas, and a Division of Accounts. In lieu of a separate Division of Sewers, the board may combine the sewerage system into the Division of Water; provided, however, that the Division of Accounts shall maintain the financial affairs of the water and sewers systems separately unless otherwise directed by the board. The Division of Water shall control the operation and management of the water properties of the system, except insofar as the financial affairs thereof shall be under the Division of Accounts. The Division of Power shall control the operation and management of the electric properties of the system, except insofar as the financial affairs thereof shall be under the Division of Accounts. The Division of Gas shall control the operation and management of the gas properties of the system, except insofar as the financial affairs thereof shall be under the Division of Accounts. The Division of Accounts shall control the collection of all accounts of the system, and the disbursement of all monies

of the system. The detailed division of duties between these respective divisions, the sub-divisions of divisions, and the creation of other staff positions and subordinate offices, shall be subject to the rules and regulations prescribed by the board. [As amended by Priv. Acts 1977, ch. 60, § 1, and Priv. Acts 1990, ch. 213, § 12]

Section 6. MEETINGS AND ORGANIZATIONS OF BOARD: Be it further enacted, That the board shall elect from among its members a Chairman who shall preside over the meetings of the board, and a Vice-Chairman who shall act for the Chairman during his absence or disability. The board shall also elect a Secretary who shall be either a Commissioner or a full time employee of the system. The Secretary shall keep the minutes of the meetings of the board and shall perform such other duties as the board may prescribe. Commissioners who are elected to the office provided for in this paragraph shall receive no additional salaries for their services. However, the board may provide for the payment of a reasonable salary to the Secretary if the Secretary is not a Commissioner.

An annual election of officers shall be held at the regularly scheduled meeting of the board held in the first month of the fiscal year. If the Secretary is not a Commissioner, he shall hold office at the will of the board. The board shall have the right to adopt by-laws, not inconsistent with the provisions of this Act. These by-laws may provide the time, place and manner of holding both regular and special meetings of the Board. All such meetings shall be public and no action shall be taken by the board except by the affirmative vote of at least three Commissioners. Three Commissioners shall constitute a quorum of the board, but a smaller number may adjourn from day to day. The General Manager and the Division Superintendents hereinafter provided for, shall attend all meetings of the board, and shall have a seat and voice but no vote in such meetings. Except as otherwise expressly provided herein, action by the board may be by motion or by resolution passed on a single reading and may be made effective immediately upon passage. [As amended by Priv. Acts 2005, ch. 23, § 2]

Section 7. POWERS OF BOARD: Be it further enacted, That

(a) Independent Control -- Except as expressly provided in this section, the board shall have and exercise and is hereby granted all the powers and duties possessed by the City of Athens to construct, acquire, expand or operate the system. The board, either by itself or by its duly authorized officers and employees, shall have and maintain full control and complete jurisdiction over the management and operation of the system and may make all contracts and do any and all acts and things that are necessary, convenient or desirable in order to operate, maintain, enlarge, extend, preserve and promote an orderly, economic and businesslike administration of the system. Except as expressly

provided in this section, the system shall be free from the jurisdiction, direction or control of other city officers and employees and of the City Council.

(b) Surety Bonds -- The board shall require corporate surety bonds from such of the system's officers and employees and in such amounts as the board shall deem necessary. Premiums for such bonds shall be paid out of the funds of the system.

(c) Fix Rates -- The board shall fix rates to be charged for services rendered by the system. Such rates shall be fair, reasonable and uniform for all customers in the same class, but different rate schedules may be applied to different classes of customers, as determined by the board. Rates within the city may be less but not greater than rates for the same class of service outside the city. The rates for the electric service shall be fixed in conformity with the resale rates that the city is required to charge by the city's contractual obligations with the Tennessee Valley Authority.

(d) Contract, Leases and Agreements -- The board may, in the operation of the system, either by itself or by its duly authorized officers and employees, execute deeds and enter into leases, contracts, and agreements, provided the term of such leases, contracts and agreements shall be limited to not more than twenty years from the date of performance thereunder is to begin, and not more than twenty-two years from the date of the execution thereof. All contracts whereby the system agrees to supply electric service or gas service, or water service, or two or more of the foregoing services, for a longer period than one year from the time of the execution of such contracts, shall be subject to the condition that the rates at which such service is to be provided after the expiration of one year from the date of the contract, shall conform to the rates being charged other customers for similar service. The time limit prescribed in this paragraph for the duration of contracts and agreements shall not apply to bond issues. The authority given the board by this section shall not be construed to give the board authority to sell or lease all or a major portion of any division of the system, unless such transaction is approved by the City Council by an ordinance, which ordinance, shall not be passed as an emergency ordinance.

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

(f) Short Term Loans -- The board is hereby authorized to borrow money for periods of not to exceed one year and to issue negotiable notes, payable from the revenues of the system or a part thereof, as evidence of such loans; but the making of such loans must be approved by the City Council when the total amount of such outstanding short term loans, including any loan being made, exceeds Five Hundred Thousand Dollars (\$500,000.00). Such short term notes shall bear interest at not exceeding six per centum (6%) per annum and the action of the board may be by a resolution or resolutions which may be adopted at the same meeting at which introduced and shall take effect immediately upon adoption.

(g) Personal Improvement Bonds -- The Board is hereby authorized to issue bonds of the city for additions, extensions or other permanent improvements to any one or more of the systems under the jurisdiction and control of the Board, but such bonds shall be payable exclusively from the revenues of the system or systems so improved. The issuance of such bonds may be authorized by a resolution of the Board without submitting to the City Council, electors or taxpayers of the city the question of the issuance of such bonds or the resolution authorizing the same. The provisions of this paragraph shall be effective without regard to other provisions of this charter governing bonds and are not subject to the limitations and restrictions imposed as to any other bonds authorized to be issued by this charter. The bonds shall be issued in such amount, shall mature, bear interest, be of such form and denomination, be executed, be subject to such terms of redemption with or without premium, and may be sold publicly or privately, all in the manner and method prescribed by the resolution of the Board authorizing such bonds. Such bonds shall be fully negotiable, and the bonds and the income therefrom shall be exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes. The provisions of Sections 6-1622 to 6-1625, inclusive, of Tennessee Code Annotated shall be applicable with respect to the security of such bonds and the remedies of the holders of such bonds as if the provisions of said sections were herein set out in full.

(h) Other Bonds and Notes -- The authority given the City of Athens to issue bonds or notes may be exercised for the benefit of the system or a part thereof in accordance with the provisions of this charter or in accordance with other statutory authority. However, no bonds or notes payable out of the revenues of the system or a part thereof shall be issued without the consent and approval of the board, which consent and approval may be given by a resolution or resolutions of the board which may be adopted at the same meeting at which introduced and shall take effect immediately upon adoption. Where such bonds or notes are payable only out of the revenues of the system or a part thereof and are not general obligation bonds or general obligation notes of the city, the City Council and the board shall have full authority to provide for the issuance of such bonds or notes, without submitting to electors or taxpayers the question of

issuing such bonds or notes, or the ordinance or resolution authorizing the same. Bonds authorized by this subsection may be made callable.

(i) Rules and Regulations -- The board shall have authority to make and enforce all necessary and desirable rules and regulations for the efficient use, operation and management of the system.

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

(k) Eminent Domain -- The board is hereby given the same power and authority to exercise the right of eminent domain on behalf of the system which power and authority is now possessed by, or may hereafter be given the City Council.

(l) Investment of Surplus Funds -- The board shall have power to invest its surplus funds only in securities in which the Sinking Fund Board is authorized to invest its funds.

(m) To Employ Attorney -- The board shall have the power to appoint an attorney or attorneys, to prescribe his duties and fix his compensation.

(n) Salaries -- The board shall have the power to fix the salaries of all officers and employees of the system. This power may be delegated by the board to the General Manager.

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

(p) Promotion Expenditures -- The board shall have the power to authorize reasonable expenditures for advertising and otherwise promoting the increased use of the services of the system. [As amended by Priv. Acts 1955, ch. 269; replaced by Priv. Acts 1957, ch. 273, § 1; and amended by Priv. Acts 2004, ch. 92, § 10]

Section 8. DUTIES OF THE BOARD: Be it further enacted, That

(a) Separate Accounts for Separate Divisions of the System -- The board shall require that separate books and accounts be kept on the electric, the gas, and the water operations, so that said books and accounts will reflect the financial condition of each division to be placed in separate funds to the end that each division shall be self-sustaining.

Each of said divisions shall be operated independent of the others, except as herein otherwise provided and except insofar as the board may be of the opinion that joint operations shall be advisable and economical, in which event the expense incurred, including the compensation of said Commissioners, and

other executive and attorneys, in such joint operation, shall be prorated between the three divisions in such manner as the board determines to be equitable.

(b) Auditing -- An independent certified public accountant, not an employee of the city or the system, shall be employed by the board to make such audits and reports as the board may deem necessary. Before any independent accountant shall be employed by the board in accordance with the provisions of this paragraph, the accountant to be employed shall be approved by the City Council.

(c) Reports to City Council -- It shall be the duty of the board to furnish to the City Council, through the City Manager (or if no City Manager, the Mayor) an annual report of the operation of the system, which report shall be kept on file in the City Manager's office and open to public inspection during regular office hours.

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

(e) Payments in Lieu of Taxes on Electric, Water and Gas Properties -- From the separate revenues of the respective electric, water and gas divisions, the board may pay in to the general funds of the city respective sums equal in amount to that which would be the separate respective city real and personal property taxes on the respective electric, water and gas properties within the city limits of the City of Athens, if such properties were privately owned. The separate valuation of the respective electric, water, and gas properties for determining the amounts of the respective payments required by this paragraph shall be made by the Director of Finance at the same time tax assessments are made, but the board shall have the right to appeal from the decision of the Director of Finance in the same manner as any taxpayer who considers a tax assessment excessive. Payments to the city in accordance with the provisions of this paragraph shall be made in equal monthly payments or in any manner mutually agreed upon by the governing bodies.

From the respective separate revenues of the electric, water and gas properties, the Board may pay an amount or amounts equivalent to the respective amounts that would be payable for State and County real and personal property taxes in each county in which there are electric, water or gas properties, if said properties were privately owned. The valuation thus fixed by the board shall be final. In order to assist counties in estimating their budget

requirements, the board shall fix the valuations upon which any amount or amounts to be paid by the State and County is based, not later than the time county budgets are adopted. Payments provided for in this paragraph shall be made annually before the date upon which State and County taxes become delinquent.

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

(f) Participation in City Employees' Pension Fund -- From the revenues of the water division, from the revenues of the electric division, and from the revenues of the gas division, the board may pay into the City Employees' Pension Fund the amount that the city is required to contribute thereto by reason of participation therein of the employees of those respective divisions in the event such pension funds are hereafter established. [As amended by Priv. Acts 1957, ch. 273, § 2; and Priv. Acts 2004, ch. 92, § 11]

Section 9. GENERAL OBLIGATIONS OF CITY AND EXISTING CONTRACTS: Be it further enacted, That the board shall cause to be paid all obligations for which the city may now be or may hereafter become liable because of the ownership and operation of the system. All such obligations shall be paid as they fall due. All such obligations, including bonds and notes, which are general obligations of the city, may be paid either directly to those to whom the obligations are owed or to the Treasurer of the city for payment over to those entitled to such payments. This Act shall not in any way impair any obligations heretofore entered into by the city and shall not change or alter the obligations of any existing contracts, all of which insofar as they apply to the system, shall be binding on the board.

Section 10. CHANGE OF RATES: Be it further enacted, That the board shall make no change in the rates to be charged consumers of electric power, gas or water services unless the resolution providing for such change has been read and passed at two regular meetings not less than two weeks apart. [As amended by Priv. Acts 2007, ch. 3, § 2]

Section 11. OBLIGATIONS OF SYSTEM: Be it further enacted, That the board or its authorized representative, may sue and be sued in the name of the City of Athens and may make contracts and incur liabilities in the name of the board, but any obligation thus created shall be payable only out of the revenues of the water division if incurred solely on account of such division, or out of the revenues of the electric division if incurred solely on account of such division, or out of the revenues of the gas division if incurred solely on account of such division, or out of the revenues of the system if incurred jointly on account of the water and of the gas and of the electric division. All contracts and agreements

made by the board or its authorized representatives shall contain a provision stating the revenues from which the obligations incurred thereunder are payable, but the failure to include such a provision in any contract shall not prevent the application of the limitation on the city's liability imposed by this paragraph.

Section 12. EXPENDITURES AND CREATION OF OBLIGATIONS: Be it further enacted, That no money shall be drawn from the treasury of the system nor shall any obligation for the expenditure of money be incurred except in pursuance of appropriations made by the board. No claim against the system shall be paid unless evidenced by a voucher approved by the Superintendent of the division for which the indebtedness was incurred, or by some other employee to be designated by such superintendent. All checks drawn on the funds of the system shall be signed by the Superintendent of the Division of Accounts, or his deputy, or countersigned by some other employee to be designated by the board.

Section 13. GENERAL MANAGER: Be it further enacted, That the board shall appoint a General Manager of the system who shall have executive ability and experience sufficient to qualify him for the management of the system, who shall be responsible to the board and who shall serve at the pleasure of the board.

Section 14. SUPERINTENDENT OF DIVISIONS: Be it further enacted, That the General Manager is hereby empowered to appoint Superintendents for each of the four divisions heretofore established and directors of other staff positions as may be established. Such superintendents and directors shall have the executive ability and experience sufficient to qualify them for the management of their respective divisions. The superintendents and directors, subject to the supervision of the General Manager, shall have direct supervision and control of the work of their respective divisions. The superintendents and directors shall be immediately responsible to the General Manager and shall be removable by him at any time. The superintendents and directors, subject to the approval of the General Manager, shall appoint, promote, demote, transfer and remove all employees of their respective divisions. [As amended by Priv. Acts 1977, ch. 60, § 2]

Section 15. REMOVAL OF COMMISSIONERS: Be it further enacted, That any Commissioner may be removed for the causes and in the manner provided by the general ouster law of the State, the provisions of which are now found in Section 1877 to 1902, inclusive, of the Code of Tennessee.

The board may by an affirmative vote of four-fifths of its members, remove any Commissioner for misconduct, malfeasance, or for any other just and sufficient cause, after due trial before the board, following ten days' notice in writing of the specific charges against him.

Section 16. Be it further enacted, That it is the intent and purpose of this Act to create the board as a separate unit of city government insofar as control, management and operation of the electric power, gas and water properties are concerned, but nothing in this Act shall be construed to release or relieve the board, its officers or employees from the provisions of the city charter, except as herein provided. This Act shall be liberally construed to accomplish the purpose and intent expressed herein.

When the City Council shall act pursuant to this section on any other revenue producing utility, the board shall control and manage such utility in the same manner as the other systems. The board may combine such other utilities into a division but shall maintain separate financial records of the revenue and expenditures for each system unless otherwise directed by the City Council. [As amended by Priv. Acts 1990, ch. 213, § 13]

Section 17. Be it further enacted, That upon a majority vote of the City Council any other revenue producing utility hereafter created, including the operation of sewerage system and/or a sewerage disposal system, may be combined with and made a part of the Athens Utilities Board as herein pertaining the electric, gas and water systems.

Section 18. Be it further enacted, that the Athens Utilities Board shall prescribe by resolution the maximum expenditures which the general manager may make without specific authorization of the board and shall prescribe rules for competitive bidding. The limit for competitive bidding shall be consistent with the amount specified in Article IX, Section 2(i) entitled "Maximum Expenditures by City Manager". Any exceptions to competitive bidding established by state law shall apply to purchases by the Athens Utilities Board including, but not limited to, those exceptions set forth in section 6-56-304. When any contract is not awarded to the lowest bidder, the reason for such action shall be given in writing to the Athens Utilities Board of Directors. [As amended by Priv. Acts 1976, ch. 260, § 2; Priv. Acts 1990, ch. 213, § 7; Priv. Acts 1992, ch. 215, § 13; Priv. Acts 2001, ch. 16, § 2; and Priv. Acts 2005, ch. 23, § 3]

## ARTICLE XXII

### City Court

Section 1. Be it further enacted, that the City Council shall appoint a City Judge who shall be an attorney at law entitled to practice in the courts of the state and who shall serve at the will of the City Council. The City Judge shall have jurisdiction in and over all cases arising under the laws and ordinances of the City. The compensation of the City Judge shall be fixed by the City Council. In the event the City Judge shall be absent or unable to attend any session of City Court, he is empowered to designate a qualified person to

hold session of the Court in his stead; provided, however, that the person so designated shall not be a member of the City Council. [As amended by Priv. Acts 1967, ch. 390, § 1; and replaced by Priv. Acts 2004, ch. 92, § 12]

Section 2. Be it further enacted, That the City Judge shall have power and authority to impose civil penalties, costs, and forfeitures, and to punish by civil penalty for violation of city ordinances; to preserve and enforce order in his court; to enforce the collection of all such civil penalties, costs, and forfeitures imposed by him; provided that no civil penalty shall exceed five hundred dollars (\$500) or the maximum allowable under general state law, and that civil penalties may be paid in installments in such manner as may be provided by ordinance. The City Judge may remit with or without condition, civil penalties and costs imposed for violation of any ordinance or charter provision. [As amended by Priv. Acts 1967, ch. 390, § 2; Priv. Acts 1994, ch. 180, §§ 4 and 5; and replaced by Priv. Acts 2002, ch. 114, § 3]

Section 3. Be it further enacted, That any person dissatisfied with the judgment of the City Judge in any case or cases heard and determined by the City Judge, may, within ten (10) days thereafter, Sundays exclusive, appeal to the next Circuit Court of the county, upon giving bond with good and sufficient security and approved by the City Judge for the person's appearance or the faithful prosecution of the appeal, provided, however, that in prosecutions for violations of the city ordinances the bond shall not exceed five hundred dollars (\$500). [As replaced by Priv. Acts 2002, ch. 114, § 3]

Section 4. Be it further enacted, That only one 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 with 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.

Section 5. Be it further enacted, That all civil penalties imposed by the City Judge for violations of the city ordinances shall belong to and be paid into the treasury of the city. [As amended by Priv. Acts 1994, ch. 180, § 6; and replaced by Priv. Acts 2002, ch. 114, § 3]

Section 6. Be it further enacted, That the City Judge 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. He shall certify to the chief of police for collection, all civil penalties, 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; and it shall be the duty of the City Judge to collect and receipt of all civil penalties imposed by him, and he shall render a monthly report to the Council of all costs and civil penalties collected by him, and of all assessed and uncollected. [As amended by Priv. Acts 1994, ch. 180, § 6]

Section 7. Be it further enacted, That the City Judge shall keep or cause to be kept a court docket or dockets embodying completed detailed records of all cases handled by him.

## ARTICLE XXIII

### Advertisement of Public Works

Section 1. Be it further enacted, That any public work or improvement, costing more than ten thousand dollars (\$10,000.00), shall be executed by contract, except when specific work or improvement is authorized by the City Council and approved by the City Manager, to be done by the city's own employees.

All contracts for more than ten thousand dollars (\$10,000.00) shall be awarded to the lowest responsible bidder, after such 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 give bond with some bonding company authorized to transact business in the State of Tennessee as surety, in a sum equal to at least fifty percent 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 with the city's own forces subject to the approval of the City Council and all advertisements shall contain a reservation of this right. [As amended by Priv. Acts 1990, ch. 213, § 8; Priv. Acts 1992, ch. 215, § 14; and Priv. Acts 2000, ch. 83, § 5]

## ARTICLE XXIV

### Construction of this Act

Section 1. Be it further enacted, That this Act shall be construed to cover the entire field of the chartered powers, limitations and restrictions of said city.

Section 2. Be it further enacted, That if any section, sub-section, sentence, clause or phrase of this Act is for any reason found and held to be invalid or unconstitutional, that fact shall not impair the validity or constitutionality of the remaining portions of this Act, it being hereby expressly declared by the General Assembly that this Act and each section, sub-section,

sentence, clause and phrase would have been enacted irrespective of any other portion thereof being declared invalid or unconstitutional. Each separate power created by any section, sub-section, sentence, clause or phrase of this Act is declared to be separable, and invalidity or unconstitutionality of any such part shall not affect any other portion of this Act.

## ARTICLE XXV

### Effective Dates of this Act

Section 1. Be it further enacted, That Article IV of this Act and all sections thereof, being Sections 1 to 6, inclusive, which said Article and Sections deal with the subject of elections, shall be effective from and after the passage of this Act, and that all other Articles and Sections of this Act and provisions thereof, shall become and be effective on and after the first Monday in July 1953, the public welfare requiring it.

Passed: April 8, 1953.

Jared Maddux,  
Speaker of the Senate.

James L. Bomar,  
Speaker of the House of Representatives.

Approved: April 10, 1953.

Frank G. Clement,  
Governor.

ACTS COMPRISING THE CHARTER OF THE CITY OF  
ATHENS, TENNESSEE

YEAR	CHAPTER	SUBJECT
1953	455	Basic charter act.
1955	269	Amends subsection (g) of section 7 of article XXI in the basic charter act relative to permanent improvement bonds.
1957	273	Amends subsection (g) of section 7 and subsection (e) of section 8, of article XXI in the basic charter act relative to permanent improvement bonds and payments in lieu of taxes on electric, water and gas properties.
1959	105	Amends subsection 1 of section 7 of article IV in the basic charter act relative to elections.
1967	390	Amends sections 1 and 2 of article XXII in the basic charter act relative to city court.
1971	136	Amends section 1 of article III, section 4 of article V, and section 4 of article XXI in the basic charter act relative to corporate powers, salaries of the mayor and councilmen, and the utilities board.
1976	260	Amends section 2 of article IX and section 18 of article XXI in the basic charter act relative to the city manager and the utilities board.

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YEAR	CHAPTER	SUBJECT
1977	60	Amends section 12 of article XX and sections 5 and 14 of article XXI in the basic charter act relative to the department of education and the utilities board.
1986	121	Amends section 4 of article V and section 13 of article XXI in the basic charter act relative to the city council and the department of education.
1987	56	Amends section 2 of article VI and section 4 of article XXI in the basic charter act relative to ordinances and the utilities board.
1990	213	Amends subsections (32) and (33) of section 1 of article III; section 16 of article V; section 2 of article VI; section 1 of article VIII; section 2 of article IX; section 2 of article XII; sections 1, 2, 5, 16 and 18 of article XXI; and section 1 of article XXIII; all in the basic charter act relative to corporate powers, city council, ordinances, officers and employees, city manager, department of finance, utilities board, and advertisement for public works.
1991	79	Amends section 5 of article XI in the basic charter act relative to taxation.

YEAR	CHAPTER	SUBJECT
1992	215	Amends section 3 of article IV; replaces section 2 of article V; amends sections 2 and 3 of article VIII; replaces subsection (c) of section 2 of article IX; amends subsection (i) of section 2 of article IX; amends sections 3 and 4 of article XI; adds section 8 to article XI; amends sections 2 and 3 of article XVIII; amends section 13 of article XX; amends section 18 of article XXI, and amends section 1 of article XXIII relative to elections, city council, officers and employees, city manager, taxation, departments, department of education, utilities board, and advertisement for public works.
1994	180	Amends subsections (29) and (32) of section 1 of article III; amends section 14 of article V; amends sections (2), (5), and (6) of article XXII relative to corporate powers, city council, and city court.
1995	6	Amends subsection (32) of section 1 of article III; and amends chapter 180 of the Private Acts of 1994 by deleting section 2 in its entirety.
1997	25	Replaces section 5 of article XX.
1998	164	Replaces sections 4 and 5, and amends section 7 of article IV; replaces section 4 of article V; replaces section 5 of article XX; and amends section 4 of article XXI

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YEAR	CHAPTER	SUBJECT
2000	83	Amends section 3 of article IV; and section 10 of article V; replaces section 2 of article VI; amends subsection (i) of section 2 of article IX; and section 1 of article XXIII.
2001	16	Amends section 5 of article XX; and section 18 of article XXI.
2002	95	Disapproved.
2002	114	Amends section 3 of article IV; and section 13 of article XX; and replaces sections 2, 3, and 5 of article XXII.
2004	92	Amends section 16 of article V; deletes section 5 of article VI; amends section 2 of article VIII; and section 2 of article IX; replaces section 1 of article X; amends section 1(g) of article XVII; replaces section 2 of article XVII; amends section 1 of article XVIII; section 11 of XX; and sections 7(h) and 8(c) and (e) of article XXI; and replaces section 1 of article XXII.
2005	23	Amends section 2(i) of article IX; and section 6 of article XXI; and replaces section 18 of article XXI.
2007	3	Amends article XX section 7 and article XXI section 10.