

# CHATTANOOGA CITY CHARTER

## Title 14

### **PUBLIC UTILITIES<sup>1</sup>**

#### **Sec. 14.1. Definitions.**

The following terms whenever used or referred to in this Act [Title] shall have the following meaning, unless a different meaning appears from the context:

- (a) The term "city" shall mean the City of Chattanooga, Tennessee.
- (b) The term "board" shall mean the city council of the City of Chattanooga, Tennessee.
- (c) The term "federal agency" shall include the United States of America, the President of the United States of America, the Reconstruction Finance Corporation or any other agency, instrumentality or corporation of the United States of America which has heretofore been or may hereafter be designated, created or authorized by or pursuant to any Act or Acts of Congress of the United States of America to mane [make] loans or grants to municipalities.
- (d) The term "water system" includes all or any part of the following: Source of supply, pumping facilities, purification works, storage facilities, distribution facilities and mains, together with all necessary parts and appurtenances for the proper operation of a water distribution system.
- (e) The term "gas system" shall be construed to include all or any part of the following: Gas plant for the manufacture of gas, mains, pumping facilities, and complete system for the distribution of either natural, artificial or by-product gas, together with all parts and appurtenances necessary for the proper operation of a gas distribution system. (Priv. Acts 1949, Ch. 201, § 2; Ord. No. 11276, 05-02-02)

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<sup>1</sup>**Cross references**-Municipal electrical system, Title 10; authority to grant right-of-way for public utilities, § 2.1(39); removal, relocation and installation of utilities in connection with public improvements, § 15.44 et seq.; gas, water, sewer and other connections by the city, § 15.61 et seq.

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### **Sec. 14.2. Authority for city to acquire water and gas systems; sell water and gas; issue bonds, etc.**

The city, acting by and through its board, shall have power and is hereby authorized to:

(a) Acquire an existing water system or gas system, and to extend, enlarge, improve, equip, operate and maintain, within or partially within and partially without the corporate limits of the city a water system or a gas system, as the case may be, for the purpose of providing water and gas to the city and persons, firms and corporations which are situated or whose residence or places of business are within the city or without the corporate limits of the city but within Hamilton County, Tennessee, and within a radius of twenty (20) miles for the corporate limits of the city.

(b) Contract with persons, firms and corporations for the sale and distribution of water and gas to be used for domestic, commercial and industrial purposes.

(c) Accept from any federal agency grants for or in aid of the acquisition, extension, enlargement and improvement of a water system or a gas system.

(d) Contract debts for the acquisition of an existing water system or gas system, or extension, enlargement or improvement thereof, to borrow money, and to issue its bonds for such acquisition, extension, enlargement or improvement, and to provide for the rights of the holders of the bonds, and to secure the bonds as hereinafter provided.

(e) Fix, levy and collect fees, rents or other charges for water services or gas services furnished by the city.

(f) Acquire, by purchase or the exercise of eminent domain, an existing water system or gas system and property or easements or other right or interest in property necessary for the extension, enlargement or improvement of a water system or gas system whether such property be within or without the city or partially within and partially without the city.

(g) Make contracts and execute instruments containing such terms, provisions and conditions as in the discretion of the board may be necessary, proper or advisable for the purpose of obtaining a grant, loan or other financial assistance from any federal agency by virtue of any Act of Congress; to make all contracts and execute all other instruments necessary, proper and advisable in or for the furtherance of the acquisition of an existing water system or gas system, and for the extension, enlargement and improvement of same.

(h) Require the owner, tenant or occupant of each lot or parcel of land who is obligated to pay the charges made for water or gas services furnished to make a reasonable

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deposit in advance to insure the payment of such charges, and to discontinue service upon failure or refusal to do so.

(i) Employ engineers, superintendents and other employees for the operation and maintenance of a water system or gas system.

(j) Perform any and all acts authorized under this Act [Title] through or by its own officers, agents and employees or by contracts with private corporations, firms or individuals.

(k) Do all acts and things necessary or convenient to carry out the powers expressly given in this Act [Title]. (Priv. Acts 1949, Ch. 201, § 3)

**Sec. 14.3. Bonds-Election required prior to issuance.**

The bonds herein authorized shall not be issued nor sold unless there first shall have been held an election to ascertain the will of the voters of the city respecting the issuance of said bonds and a majority of the legal votes cast at such election shall be in favor of the issuance of the bonds proposed to be issued. The board may at any time after the passage of this Act [Title] adopt a resolution fixing the amount of bonds to be issued, the purposes for which they are issued and the date for such election, and on such date the election commissioners of Hamilton County shall hold an election at the regular voting precincts in the city, and shall name and designate the officials of said election, and shall call said election in the way and manner general municipal elections are called. All persons qualified to vote for mayor and city council of the city who are otherwise qualified may vote at said election. The election commissioners shall prepare ballots for each ward and precinct on which shall be printed the words:

"For the issuance of \$\_\_\_\_\_ of \_\_\_\_\_ Revenue Bonds."

"Against the issuance of \$\_\_\_\_\_ of \_\_\_\_\_ Revenue Bonds."

And voters shall indicate their desire by putting a cross (X) mark opposite their choice. The result of such election shall be certified by the officers thereof to the election commissioners of Hamilton County within five (5) days after such election is held, and the county election commissioners shall then canvass and declare and certify the result of such election to the board. The board may submit the question of the issuance of bonds for a water system and a gas system to the voters at the same election or the question may be submitted at a different time or times, it being the intent of this Act [Title] to authorize the city, acting through its board, to acquire an existing water system and issue its revenue bonds therefor or to acquire an existing gas system and issue its revenue bonds therefor, and it may acquire one system without acquiring the other. In the event at an election held a majority of the legal votes cast are against the issuance of revenue bonds for either of the systems the board may, after the expiration of one year, by resolution, call and have another election held for the purpose of submitting the question again to the voters of the city. (Priv. Acts 1949, Ch. 201, § 5)

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### **Sec. 14.4. Same-May be authorized by resolutions; interest; how payable; execution; signatures; negotiable; tax exempt.**

The revenue bonds provided for under the provisions of this Act [Title] may be authorized by resolution or resolutions of the board, which resolution or resolutions may be adopted at the same meeting at which they are introduced, and may be adopted by a majority vote of the members of said board, and shall take effect immediately upon adoption. Such bonds shall bear interest at such rate or rates, not to exceed five per cent (5%) per annum, payable semiannually, may be issued all at one time or from time to time, may be payable at such place or places, may carry such registration privileges, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall bear such date or dates, may mature at such time or times, not less than thirty (30) years from their respective dates, as the board may direct. Such bonds shall not be sold for less than par and accrued interest, and shall be signed by the mayor and countersigned by the city finance officer, and, if coupon bonds are issued, such coupons may bear the printed or lithographed facsimile signature of the mayor and finance officer. Unless the bonds are sold to a federal agency the bonds authorized to be issued by the provisions of this Act [title] shall be sold at public sale in accordance with the provisions of section 3707, Code of Tennessee of 1932 [T.C.A. § 6-57-209]. Bonds may be sold at private sale without any public advertisement to any federal agency. The bonds shall be fully negotiable for all purposes and said bonds and the income therefrom shall be exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes. (Priv. Acts 1949, Ch. 201, § 6; Ord. No. 10742, § 1(1), 8-18-98)

### **Sec. 14.5. Same-Debt limitations not applicable.**

Revenue bonds may be issued under the provisions of this Act [Title] notwithstanding, and without regard to any limit on indebtedness of the city provided by the provisions of the charter or other law. (Priv. Acts 1949, Ch. 201, § 7)

### **Sec. 14.6. Same-Valid when signed by offices holding office at time of signature; statement in resolution as to validity and regularity of issuance.**

Bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before delivery thereof and payment therefor any and all of the persons whose signatures appear thereon shall have ceased to be officers of the city. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceeding relating to the acquisition of a water system or gas system, or the extension, enlargement and improvement of a water system or gas system for which the bonds are issued. The resolution authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act [Title] which recital shall be conclusive evidence of their validity and of the regularity of their issuance. (Priv. Acts 1949, Ch. 201, § 8)

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**Sec. 14.7. Same-To have lien on revenue of systems.**

All bonds of the same issue shall, subject to the prior and superior rights of outstanding bonds, claims or obligations, have a prior and paramount lien on the revenue of the water system or gas system, as the case may be, over and ahead of all bonds of any issue payable from said revenue of the water system or gas system, as the case may be, which may be subsequently issued, and over and ahead of any claims or obligations of any nature against said revenue subsequently arising or subsequently incurred. All bonds of the same issue for either a water system or gas system shall be equally and ratably secured without priority by reason of number, date of bonds, of sale, of execution, or of delivery by a lien on such revenue in accordance with the provisions of this Act [Title] and the resolution or resolutions authorizing said bonds. (Priv. Acts 1949, Ch. 201, § 9)

**Sec. 14.8. Same-City authorized to do certain acts to secure bonds.**

In order to secure the payment of the bonds issued pursuant to this Act [Title] and interest thereon the city shall have power as to such bonds to:

(a) After the payment of operating expenses from the gross revenue of either a water system or gas system, as the case may be, pledge all or any part of the remaining revenue derived from the operation of the water system or gas system to secure the payment of the bonds and interest thereon, and to covenant against thereafter pledging any such rents, fees or other charges to any other bonds or any other obligations of the city for any other purpose.

(b) Provide for the term, form, registration, exchange and execution of such bonds.

(c) Provide for the replacement of lost, destroyed or mutilated bonds.

(d) Covenant as to the use and disposition of the proceeds from the sale of such bonds, the use and disposition of the revenue of the water system or gas system.

(e) Covenant as to the fees, rents or charges in connection with the operation of the water system or gas system, as the case may be, for which such bonds are to be issued.

(f) The operation and maintenance of such water system or gas system, as the case may be.

(g) The insurance to be carried on the water system or gas system, as the case may be, and the use and distribution of insurance monies.

(h) Covenant to set aside or pay other reserves and sinking funds for such bonds and as to the disposition thereof, and provide for a working fund.

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(i) Redeem such bonds and to covenant for their redemption and to provide the terms and conditions thereof.

(j) Covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods.

(k) Covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(l) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(m) Vest in any trustee or trustees the right to receive all or any part of the income pledged and assigned to or for the benefit of the holder or holders of bonds issued hereunder for either a water system or gas system, and to hold, apply and dispose of the same, and the right to enforce any covenant made to secure or pay in relation to bonds, to execute and deliver a trust agreement or trust agreements which may set forth the powers and duties and remedies available to such trustee or trustees, and limiting the liabilities thereof, and prescribing what occurrences shall constitute default, and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage of such bonds may exercise such rights, and enforce any or all of such covenants and resort to such remedies as may be appropriate.

(n) Execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties. (Priv. Acts 1949, Ch. 201, § 11)

### **Sec. 14.9. Same-Rights of bondholders.**

Any holder or holders of the bonds, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all others, to:

(a) By mandamus, or other suit, action or proceeding, in a court of competent jurisdiction, to enforce his or their rights against the city or board and any officer, agent or employee of the city, including, but not limited to, the right to require the city and the board to fix and collect rents, fees or other charges for the furnishing of either water or gas adequate to carry out any agreement as to such fees, rents or other charges, and to require the city and board and any officer, agent and employee of the city to carry out any other covenant and agreement and to perform its and their duties under this Act [Title].

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(b) By action or suit in equity, to enjoin any acts or things which may be unlawful or a violation of the rights of such holder or holders of bonds.

(c) By suit, action or proceeding in the chancery court of Hamilton County, Tennessee, to require the board to account as if it were the trustee of any express trust. (Priv. Acts 1949, Ch. 201, § 12)

### **Sec. 14.10. Same-Bondholders may not compel city to use taxing power to pay bonds.**

No holder or holders of any bonds issued under this Act [Title] shall ever have the right to compel any exercise of taxing power of the city to pay said bonds or the interest thereon. Each bond issued under this Act [Title] shall recite, in substance, that said bond, including interest thereon, is payable from the revenue of the water system or gas system, as the case may be, pledged to the payment thereof, and that said bond does not constitute a debt of the municipality within the meaning of any statutory limitation. (Priv. Acts 1949, Ch. 201, § 10)

### **Sec. 14.11. Same-Proceeds to be used to acquire, expand, etc., systems.**

The proceeds derived from the sale of said bonds shall be used for the purpose of paying all the cost of the city in acquiring a water system or a gas system, as the case may be, the cost of constructing extensions, enlarging and improving a water system or gas system, the cost of appraisals, engineering, legal, and other expenses incurred in the acquisition of either a water system or a gas system prior to the issuance of bonds, the cost of acquiring any additional land, easements or other property necessary for the extension, enlargement or improvement of a water system or gas system acquired, the expense of issuing and selling bonds, and the interest on the outstanding bonds during the construction of any extension, enlargement or improvement of either a water system or gas system. (Priv. Acts 1949, Ch. 201, § 13)

### **Sec. 14.12. Bond proceeds, income from systems, etc., to be kept in separate account.**

All proceeds received from the sale of bonds issued under this Act [Title], and all fees, rents or other charges received by the city from the operation of a water system or a gas system, and all monies received from any federal agency shall be paid to the city treasurer, who shall not commingle any money so received with any other monies of the city, but the monies received shall be deposited in a separate bank account, or bank accounts, in the name of the city.

The funds derived for and from the water system or gas system shall be kept separate. (Priv. Acts 1949, Ch. 201, § 4)

### **Sec. 14.13. Action by board to be by resolution.**

Any and all action required or authorized to be taken under this Act [Title] by the board may be by resolution, which resolution may be adopted at the meeting of the board at which such resolution is introduced, and shall take effect immediately upon adoption. (Priv. Acts 1949, Ch. 201, § 14)

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### **Sec. 14.14. Act supplementary to prior Acts.**

Power to issue bonds and acquiring a water system or gas system under the provisions of this Act [Title] is hereby declared to be supplementary to and not in derogation of the right and power to issue bonds for and the acquisition of a water system or gas system, as the case may be, or the extension, enlargement or improvement of same under any existing law or laws. (Priv. Acts 1949, Ch. 201, § 15)