

TITLE 5**MUNICIPAL FINANCE AND TAXATION**¹**CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES GENERALLY.
4. LOCAL SALES TAX.
5. WHOLESALE BEER TAX.
6. PURCHASING POLICY.
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CHAPTER 1**MISCELLANEOUS****SECTION**

- 5-101. Official depository for city funds.
5-102. Beginning of fiscal year.

5-101. Official depository for city funds.² The Erin Bank and Trust Company of Erin, Tennessee, is hereby designated as the official depository for all municipal funds. (1974 Code, § 6-501)

5-102. Beginning of fiscal year. Upon the expiration of the present fiscal year of June 30, 1975, the net fiscal year shall begin as of the first day of July 1975, and shall terminate or end on the thirtieth day of June, 1976. Each subsequent fiscal year shall begin on the first day of July and shall end on the thirtieth day of June of each following year. (1974 Code, § 6-502)

¹Charter reference: art. IV.

²Charter reference: § 4.09.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-203. Discounts for early payment.

5-204. Payment from escrow accounts.

5-201. When due and payable.¹ Taxes levied by the City of Erin against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1974 Code, § 6-101)

5-202. When delinquent--penalty and interest.² All real property taxes shall become delinquent sixty (60) days after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the basic charter act for such delinquent taxes. (1974 Code, § 6-102)

5-203. Discounts for early payment. There shall be a discount of two percent (2%) of the ad valorem real property tax currently due if such taxes are paid within thirty (30) days of the date on which such taxes are payable, and a discount of one percent (1%) if paid after more than thirty (30) days but less than sixty (60) days after the date such taxes are payable; provided, that such

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b), provides that if the county trustee collects the municipality's property taxes, a penalty of one-half (1/2) of one percent (1%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

discounts shall not apply when all or any part of the amount of tax due is paid under Tennessee Code Annotated, §§ 67-5-701 to 67-5-702. (1974 Code, § 6-104)

5-204. Payment from escrow accounts. All such taxes payable from or under an escrow account or similar arrangement shall be paid within thirty (30) days of the date on which such taxes are payable, unless the taxpayer requests a later payment from or under an escrow account or similar arrangement, so that taxpayers whose ad valorem real property taxes are paid from or under an escrow account or similar arrangement may receive the maximum benefit of such discount. (1974 Code, § 6-105)

CHAPTER 3

PRIVILEGE TAXES GENERALLY

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, §§ 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the City of Erin at the rates and in the manner prescribed. (1974 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the City of Erin without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1974 Code, § 6-302)

CHAPTER 4

LOCAL SALES TAX¹

SECTION

- 5-401. Local sales tax levied.
- 5-402. Approval of voters required.
- 5-403. Collection of tax.
- 5-404. Suits for recovery of illegally assessed or collected tax.
- 5-405. Notice of chapter.

5-401. Local sales tax levied. As authorized by Tennessee Code Annotated, § 67-6-701, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailer's Sales Tax Act under Tennessee Code Annotated, title 67, chapter 6, which are exercised in the City of Erin, Tennessee. The tax is levied on such privileges at a rate of one-seventh (1/7) of the rate levied in the Retailer's Sales Act codified in Tennessee Code Annotated, title 67, chapter 6, so long as the state continues at three and one-half percent (3.5%) and at one-sixth of the state rate if and when it is reduced to three percent (3%); provided the tax shall not exceed two dollars and fifty cents (\$2.50) on the sale or use of any single article of personal property, and there is excepted from the tax levied by this chapter the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil, so long as such exemption is required by state law. Penalties and interest for delinquencies shall be the same as provided in Tennessee Code Annotated, §§ 67-6-505, 67-6-506, and 67-6-516. (1974 Code, § 6-201)

5-402. Approval of voters required. If a majority of those voting in the election required by Pub. Acts 1963, ch. 329, § 5, vote for the ordinance,² collection of the tax levied herein shall begin on the first day of the month occurring thirty (30) or more days after the county election commissioners make their official canvass of the election returns. (1974 Code, § 6-202)

¹State law reference

Tennessee Code Annotated, §§ 67-6-701, et seq.

²This ordinance was adopted by the voters of the City of Erin subsequent to its passage. After its adoption, the County of Houston adopted a county wide sales tax in the maximum amount permitted under state law and thereby rendered Ord. #286 inoperative.

5-403. Collection of tax. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidenced by Local Option Sales and Use Tax Rules and Regulations heretofore promulgated by the Department of Revenue, the department shall collect such tax concurrently with the collection of the state's sales tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The mayor is hereby authorized to contract with the Department of Revenue for the collection of the tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1974 Code, § 6-203)

5-404. Suits for recovery of illegally assessed or collected tax. In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the mayor. (1974 Code, § 6-204)

5-405. Notice of chapter. A copy of this chapter shall be transmitted to the said Department of Revenue and shall be published one (1) time in a newspaper of general circulation in the city prior to the election called for in § 5-402. (1974 Code, § 6-205)

CHAPTER 5**WHOLESALE BEER TAX****SECTION**

5-501. To be collected.

5-501. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1974 Code, § 6-401)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of seventeen percent (17%) on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 6

PURCHASING POLICY

SECTION

- 5-601. Definitions.
- 5-602. Purchasing agent.
- 5-603. General procedures.
- 5-604. Rejection of bids.
- 5-605. Conflict of interest.
- 5-606. Purchasing from employee.
- 5-607. Sealed bid requirements \$5,000.00 or greater.
- 5-608. Competitive bidding - \$500.00 to \$5,000.00.
- 5-609. Purchases and contracts costing less than \$500.00.
- 5-610. Bid deposit.
- 5-611. Performance bond.
- 5-612. Record of bids.
- 5-613. Considerations in determining bid awards.
- 5-614. Award splitting.
- 5-615. Statement when award not given to low bidder.
- 5-616. Award in case of tie bids.
- 5-617. Back orders.
- 5-618. Emergency purchases.
- 5-619. Waiver of competitive bidding process.
- 5-620. Goods and services exempt from competitive bidding.
- 5-621. Procedures upon taking delivery of purchased items.
- 5-622. Property control.
- 5-623. Disposal of surplus property.
- 5-624. Employee participation in disposal of surplus property.
- 5-625. Surplus property: items consumed in the course of work thought to be worthless.
- 5-626. Surplus property: items estimated to have monetary value.
- 5-627. Surplus property: city identification removed prior to sale.
- 5-628. Liability for excess purchases.
- 5-629. Additional forms and procedures.

5-601. Definitions. For the purpose of implementing this chapter, the following definitions shall apply.

- (1) "Accept." To receive with approval or satisfaction.
- (2) "Acknowledgment." Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.
- (3) "Agreement." A coming together in opinion or determination; understanding and agreement between two (2) or more parties.

- (4) "All or none." In procurement, the city reserves the right to award each item individually or to award all items on an all or none basis.
- (5) "Annual." Recurring, done, or performed every year.
- (6) "Appropriations." Public funds set aside for a specific purpose or purposes.
- (7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to confirm or ratify.
- (8) "Approved equal." Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount or rights.
- (9) "Attest." To certify to the verity of a public document formally by signature; to affirm to be true or genuine.
- (10) "Award." The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.
- (11) "Awarded bidder." Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the city.
- (12) "Back order." The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.
- (13) "Bid." A vendor's response to an invitation for bids or request for proposal; the information concerning the price or cost of materials or services offered by a vendor.
- (14) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the city and offering to enter into contracts with the city.
- (15) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.
- (16) "Bid file." A folder containing all of the documentation concerning a particular bid. This documentation includes the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulation forms and any other information as may be necessary.
- (17) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.
- (18) "Bid solicitation." Invitations for bids.
- (19) "Blanket bid order." A type of bid used by buyers to purchase repetitive products. The city establishes its need for a product for a specified period of time. The vendor is then informed of the city's expected usage during the duration of the proposed contract. The city may then order small quantities of these items from the vendor, at the bid price, over the term of the contract.
- (20) "Business." Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.
- (21) "Cancel." To revoke a contract or bid.

(22) "Capital items." Equipment which has a life expectancy of one (1) year or longer and a value in excess of one thousand dollars (\$1,000.00). Additionally, real estate shall be considered a capital item.

(23) "Cash discount." A discount from the purchase price allowed to the purchaser if payment is made within a specified period of time.

(24) "Caveat emptor." Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

(25) "Certify." To testify in writing; to make known or establish as a fact.

(26) "City." The City of Erin, Tennessee.

(27) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(28) "Conspicuously." To be prominent or obvious; located, positioned, or designed to be noticed.

(29) "Construction." The building, alteration, demolition, or repair of public buildings, structures, highways and other improvements or additions to real property.

(30) "Contract." An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

(31) "Date." Recorded information, regardless of form or characteristic.

(32) "Delivery schedule." The required or agreed upon rate of delivery of goods or services.

(33) "Discount for prompt payment." A predetermined discount offered by a vendor for prompt payment.

(34) "Encumber." To reserve funds against a budgeted line item; to charge against an account.

(35) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

(36) "Fiscal year." An accounting period of twelve (12) months, July 1 through June 30.

(37) "F.O.B. destination." An abbreviation for free on board that refers to the point of delivery of goods. The seller absorbs the transportation charges and retains title to and responsibility for the goods until the City of Erin, Tennessee has received and signed for the goods.

(38) "Goods." All materials, equipment, supplies, and printing.

(39) "Invitation for bid." All documents utilized for soliciting bids.

(40) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(41) "Lead time." The period of time from the date of ordering to the date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.

(42) "Life cycle costing." A procurement technique that considers the total cost of purchasing, maintaining, operating, and disposal of a piece of equipment when determining the low bid.

(43) "Local bidder." A bidder who has and maintains a business office located within the corporate city limits of Erin, Tennessee.

(44) "Material receiving report." A form used by the department head or supervisor to inform others of the receipt of goods purchased.

(45) "Performance bond." A bond given to the purchaser by a vendor or contractor guaranteeing the performance of certain services or delivery of goods within a specified period of time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

(46) "Pre-bid conference." A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

(47) "Procurement or purchasing." Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including descriptions of requirements, selection and solicitation of sources, preparation and award of contracts, contract administration, and all phases of warehousing and disposal.

(48) "Public." Open to all.

(49) "Public purchasing unit." Means the State of Tennessee, any county, city, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(50) "Purchasing order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(51) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(52) "Responsive bidder." One who has submitted a bid which conforms in all materials respects to the invitation for bids.

(53) "Sealed." Secured in any manner so as to be closed against the inspection of contents.

(54) "Sole source procurement." An award for a commodity which can only be purchased from one (1) supplier, usually because of its technological, specialized, or unique character.

(55) "Specifications." Any description of the physical or functional characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(56) "Standardization." The making, causing, or adapting of items to conform to recognized qualifications.

(57) "Telephone bids." Contacting at least two (2) vendors to obtain verbal quotes for items of a value of less than five hundred dollars (\$500.00).

(58) "Using department." The city department seeking to purchase goods and services or which will be the ultimate user of the purchased goods and services.

(59) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #498, June 1997, as replaced by Ord. #612, July 2017)

5-602. Purchasing agent. The city recorder shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be approved and acquired by the purchasing agent or his/her representative. (Ord. #498, June 1997, as replaced by Ord. #612, July 2017)

5-603. General procedures. The following procedures shall be followed by all city employees when purchasing goods or services on behalf of the city.

(1) Items expected to cost more than five thousand dollars (\$5,000.00).

(a) The department head of the using department shall deliver to the purchasing agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items, and shall indicate whether the item(s) have been approved in the annual budget.

(b) The purchasing agent shall review the purchase request for completeness and accuracy. The request shall then be forwarded to the board of mayor and aldermen for final review and approval. The board shall have the authority to adjust or eliminate various specifications for goods and services, or may disapprove the purchase request, to comply with city policy, the annual budget, or for any other reason it deems in the public interest.

(c) All approved purchase requests shall be signed by the mayor and returned to the purchasing agent who shall proceed with procurement in compliance with this chapter.

(2) Items expected to cost five hundred to five thousand dollars (\$500.00 to \$5,000.00). (a) The department head of the using department shall deliver to the purchasing agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item(s) being purchased, the estimated cost of the item(s), and shall indicate whether the item(s) have been approved in the annual budget.

(b) The purchasing agent shall review the purchase request for completeness and accuracy. The request shall then be forwarded to the mayor for final review and approval. The mayor shall not approve the purchase of any item not approved in the annual budget or for which there are not sufficient funds in the city treasury. The mayor shall have the authority to adjust or eliminate various specifications for goods or services to comply with city policy, the annual budget, or to avoid depletion of the city treasury.

(c) All approved purchase requests shall be signed by the mayor and returned to the purchasing agent who shall proceed with procurement in compliance with this chapter. (Ord. #498, June 1997, as replaced by Ord. #612, July 2017)

5-604. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the city by said vendor or contractor. (Ord. #498, June 1997, as replaced by Ord. #612, July 2017)

5-605. Conflict of interest. All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of the City of Erin and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest. (Ord. #498, June 1997, as replaced by Ord. #612, July 2017)

5-606. Purchasing from employee. It shall be the policy of the city not to purchase any goods or services from any employee or close relative of any city employee without the prior approval of the board of mayor and aldermen. (Ord. #498, June 1997, as replaced by Ord. #612, July 2017)

5-607. Sealed bid requirements \$5,000.00 or greater. (1) On all purchases and contracts estimated to be in excess of five thousand dollars (\$5,000.00), except as otherwise provided in this chapter, formal sealed bids shall be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit all such bids for award by the board of mayor and aldermen at the next regularly scheduled board meeting or special-called meeting together with the recommendation as to the lowest responsive bidder.

(2) Notice inviting bids shall be published at least once in a newspaper of general circulation in Houston County, and at least five (5) days preceding the last day to receive bids. The newspaper notice shall contain a general

description of the article(s) to be secured, and the date, time, and place for opening bids.

(3) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media. (as added by Ord. #612, July 2017)

5-608. Competitive bidding - \$500.00 to \$5,000.00. (1) All purchases of supplies, equipment, services, and contracts estimated to be in excess of five hundred dollars (\$500.00) but less than five thousand dollars (\$5,000.00), shall be by competitive bidding and may be awarded to the lowest responsive bidder.

(2) A written record shall be required and available for public inspection showing that competitive bids were obtained by one (1) of the following methods:

(a) Direct mail advertisement.

(b) Public notice.

(3) The purchasing agent shall verify account balances, prior to issuing approval to purchase, for all purchases over one thousand dollars (\$1,000.00).

(4) In the purchasing agent's absence, the mayor shall designate a suitable substitute to perform the purchasing agent's duties. (as added by Ord. #612, July 2017)

5-609. Purchases and contracts costing less than \$500.00. The purchasing agent is expected to obtain the best prices and services available for purchases and contracts estimated to be less than five hundred dollars (\$500.00), but are exempted from the formal bid requirements specified in §§ 5-607 and 5-608. (as added by Ord. #612, July 2017)

5-610. Bid deposit. When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award. (as added by Ord. #612, July 2017)

5-611. Performance bond. The purchasing agent may require a performance bond before entering into a contract, in such amount as he/she shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in the penalty of not less than the amount provided by Tennessee Code Annotated. (as added by Ord. #612, July 2017)

5-612. Record of bids. The purchasing agent shall keep a record of all open market orders and bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the city recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid advertisement.
- (3) A copy of the bid specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (as added by Ord. #612, July 2017)

5-613. Considerations in determining bid awards. The following criteria shall be considered in determining all bid awards:

- (1) The ability of the bidder to perform the contract or provide the material or service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgement, experience, and efficiency of the bidder.
- (4) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.
- (6) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.
- (7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.
- (8) Compliance with all specifications in the solicitation for bids.
- (9) The ability to deliver and maintain any requisite bid bonds or performance bonds.
- (10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance. (as added by Ord. #612, July 2017)

5-614. Award splitting. If total savings generated is less than two thousand dollars (\$2,000.00), bids awards shall not be split among two (2) or more bidders. (as added by Ord. #612, July 2017)

5-615. Statement when award not given to low bidder. When the award for purchases and contracts in excess of five hundred dollars (\$500.00) is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent or

department head and filed with all the other papers relating to the transaction. (as added by Ord. #612, July 2017)

5-616. Award in case of tie bids. When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

(1) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.

(2) If two (2) or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(3) If no local bids are received and two (2) or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses. (as added by Ord. #612, July 2017)

5-617. Back orders. All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items shall be cancelled from the purchase order and the check will be issued to the equal amount of the amended purchase order. (as added by Ord. #612, July 2017)

5-618. Emergency purchases. When in the judgment of the purchasing agent an emergency exists, the provisions of this chapter may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the board of mayor and aldermen at the next regular board meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (as added by Ord. #612, July 2017)

5-619. Waiver of the competitive bidding process. Upon the recommendation of the mayor, and the subsequent approval of the board of mayor and aldermen, that it is clearly to the advantage of the city not to contract by competitive bidding, the requirements of competitive bidding may be waived; provided that the following criteria are met and documented in a written report to the board of mayor and aldermen:

(1) Single source of supply. The availability of only one (1) vendor of a product or service within a reasonable distance of the city as determined after a complete and thorough search by the using department and the purchasing agent.

(2) State department of general services. A thorough effort was made to purchase the product or service through or in conjunction with the state

department of general services or via a state contract, such effort being unsuccessful.

(3) Purchase from other governmental entities. A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.

(4) Purchases from non-profit organizations. A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.

(5) Purchases from Tennessee state industries. A thorough effort was made to purchase the goods or services from Tennessee state industries (prison industries).

(6) Purchases from instrumentalities created by two (2) or more co-operating governments. An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for their members. (as added by Ord. #612, July 2017)

5-620. Goods and services exempt from competitive bidding. The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the purchasing agent and/or the department head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the city:

(1) Certain insurance. The city may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League or any other plan offered by a governmental entity representing cities and counties. All other insurance plans, however, are to be awarded on the basis of competitive bidding.

(2) Certain investments. The city may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105.

(3) Motor fuel, fuel products, or perishable commodities. Such commodities may be purchased without competitive bidding.

(4) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the city, whose fee is less than five hundred dollars (\$500.00), may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed five hundred dollars (\$500.00), a written contract shall be developed and approved by the board of mayor and aldermen prior to the provision of any goods or services. Contracts for professional services shall not be awarded on the basis of competitive bidding; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity. (as added by Ord. #612, July 2017)

5-621. Procedures upon taking delivery of purchased items.

Before accepting delivery of purchased equipment, supplies, materials and other tangible goods, the department head of the using department shall:

- (1) Inspect the goods to verify that they are in acceptable condition.
- (2) Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
- (3) Verify that the number of items purchased have been delivered, making special note when part or all of a particular purchase has been back ordered.
- (4) Record serial numbers for all capital items, notifying the city recorder of same.
- (5) Complete and return to the purchasing agent a material receiving report form. (as added by Ord. #612, July 2017)

5-622. Property control. A physical inventory of the city's fixed assets shall be taken annually. The goals of the annual inventory shall be as follows:

- (1) To identify unneeded and duplicate assets.
- (2) To provide a basis for insurance claims, if necessary.
- (3) To deter the incidence of theft and negligence.
- (4) To aid in the establishment of replacement schedules for equipment.
- (5) To note transfers of surplus property.

To be classified as a fixed asset, an item must be tangible, have an expected life longer than the current fiscal year, and have a value of at least one hundred dollars (\$100.00). Any property or equipment that meets this criteria shall be assigned an asset number (affixed with a property sticker), have a completed property card, and be inventoried annually. Such records shall be controlled and maintained by the city recorder. (as added by Ord. #612, July 2017)

5-623. Disposal of surplus property. The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the board of mayor and aldermen after the items are disposed of. When a department head determines there is surplus equipment or materials within the department, he/she shall notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one (1) department to another. (as added by Ord. #612, July 2017)

5-624. Employee participation in disposal of surplus property. No city employee shall be permitted to bid on surplus property during on the clock hours; nor shall any surplus property be sold or given to a city employee by the board of mayor and aldermen, the purchasing agent or any city department head. For the purposes of this chapter, members of the board of mayor and aldermen shall be considered city employees. (as added by Ord. #612, July 2017)

5-625. Surplus property: items consumed in the course of work thought to be worthless. City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. For accounting purposes, such items shall be charged off as a routine cost of doing business. (as added by Ord. #612, July 2017)

5-626. Surplus property: items estimated to have monetary value. When disposing of surplus property estimated to have monetary value, the purchasing agent shall comply with the following procedures:

(1) Obtain from the board of mayor and aldermen a resolution declaring said items to be surplus property and fixing the date, time and location for the purchasing agent to receive bids.

(2) A copy of the resolution shall be posted in at least three (3) locations in the community.

(3) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within twenty-four (24) hours, the item shall be awarded to the second highest bidder.

(4) All pertinent information concerning the sale shall be noted in the fixed asset records of the city.

(5) The advertisement, bids, and property cards shall be retained for a minimum period of five (5) years. (as added by Ord. #612, July 2017)

5-627. Surplus property: city identification removed prior to sale. No surplus city property shall be sold unless and until all decals, emblems, lettering, or coloring which identifies the item as belonging to the City of Erin have been removed or repainted. (as added by Ord. #612, July 2017)

5-628. Liability for excess purchases. This chapter shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the board of mayor and aldermen. The city shall have no liability for any purchase made in violation of this chapter. (as added by Ord. #612, July 2017)

5-629. Additional forms and procedures. The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (as added by Ord. #612, July 2017)

CHAPTER 7

DEBT POLICY¹

SECTION

- 5-701. Purpose.
- 5-702. Definition of debt.
- 5-703. Approval of debt.
- 5-704. Transparency.
- 5-705. Roll of debt.
- 5-706. Types and limits of debt.
- 5-707. Use of variable rate debt.
- 5-708. Use of derivatives.
- 5-709. Costs of debt.
- 5-710. Refinancing outstanding debt.
- 5-711. Professional services.
- 5-712. Conflicts.
- 5-713. Review of policy.
- 5-714. Compliance.

5-701. Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the City of Erin, Tennessee. This policy reinforces the commitment of the city and its officials to manage the financial affairs of the city so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the city. A debt management policy signals to the public and the rating agencies that the city is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt. (as added by Ord. #578, Nov. 2011)

5-702. Definition of debt. All obligations of the city to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of city resources. This includes, but is not limited to, notes, bond issues, capital leases, and loans of any

¹State law reference

Contracts, leases, and lease purchase agreements: Tennessee Code Annotated, 7, part 9.

Local government public obligations law: Tennessee Code Annotated, 9, part 21.

type (whether from an outside source such as a bank or from another internal fund). (as added by Ord. #578, Nov. 2011)

5-703. Approval of debt. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the city council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the city council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #578, Nov. 2011)

5-704. Transparency. (1) The city shall comply with legal requirements for notice and for public meetings related to debt issuance.

(2) All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.

(3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, city council, and other stakeholders in a timely manner.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, city council, and other stakeholders in a timely manner.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, city council, and other stakeholders in a timely manner. (as added by Ord. #578, Nov. 2011)

5-705. Roll of debt. (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the city will minimize the use of short-term cash flow borrowing by maintaining adequate working capital and close budget management.

(2) In accordance with generally accepted accounting principles and state law:

(a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans; provided such an exception is consistent with law and accepted practices.

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #578, Nov. 2011)

5-706. Types and limits of debt. (1) The city will seek to limit total outstanding debt obligations to the government-wide net assets of the city.

(2) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(3) The city's total outstanding debt obligation will be monitored and reported to the city council by the city recorder annually. The city recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The city recorder shall also report to the city council any matter that adversely affects the credit or financial integrity of the city.

(4) The city is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

(5) The city will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(6) As a rule, the city will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the city may utilize not-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the city.

(7) The city may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the city. The city council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the city's general fund. (as added by Ord. #578, Nov. 2011)

5-707. Use of variable rate debt. (1) The city recognizes the value of the variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) However, the city also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:

(a) The city will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the city council shall be informed of the potential effect on rates as well as any additional costs that might be incurred should the insurance fail.

(c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the city council shall be informed

of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.

(d) Prior to entering into any variable rate debt obligation, the city council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (as added by Ord. #578, Nov. 2011)

5-708. Use of derivatives. (1) The city chooses not to use derivative or other exotic financial structures in the management of the city's debt portfolio.

(2) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the city council; and

(b) The city council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (as added by Ord. #578, Nov. 2011)

5-709. Costs of debt. (1) All costs associated with the initial issuance or issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the city council in accordance with the notice requirements stated above.

(2) In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (as added by Ord. #578, Nov. 2011)

5-710. Refinancing outstanding debt. (1) The city will refund debt when it is in the best financial interest of the city to do so, and the chief financial officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

(a) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(b) Restructuring for economic purposes. The city will refund debt when it is in the best financial interest of the city to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the chief financial officer if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(c) Term of refunding issues . The city will refund bonds within the term of the originally issued debt. However, the chief financial officer may consider maturity extension, when necessary to achieve a desired outcome; provided such extension is legally permissible. The chief financial officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(d) Escrow structuring. The city shall utilize the least costly securities available in structuring the refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the city from its own account.

(e) Arbitrage. The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #578, Nov. 2011)

5-711. Professional services. (1) The city shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the city and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(2) (a) Counsel. The city shall enter into an engagement letter agreement with each lawyer or law firm representing the city in a debt transaction. (No engagement letter is required for any lawyer who is an employee of the city or lawyer or law firm which is under a general appointment or contract to serve as counsel to the city. The city does not need an engagement letter with counsel not representing the city, such as underwriters' counsel.)

(b) Financial advisor (if the city chooses to hire financial advisors).

(i) The city shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.

(ii) Whether in a competitive sale or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance or broker any other debt transactions for the city.

(c) Underwriter (if there is an underwriter). The city shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the city with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's length commercial transaction and that it has financial and other interests that differ from those of the entity. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body in advance of the pricing of the debt. (as added by Ord. #578, Nov. 2011)

5-712. Conflicts. (1) Professionals who become involved in a debt transaction hired or compensated by the city shall be required to disclose to the city existing client and business relationships between and among the professionals to a transaction (including, but not limited to, financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the city to appreciate the significance of the relationships.

(2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #578, Nov. 2011)

5-713. Review of policy. This policy shall be reviewed at least annually by the city council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #578, Nov. 2011)

5-714. Compliance. The city recorder is responsible for ensuring compliance with this policy. (as added by Ord. #578, Nov. 2011)