THE

ERIN

MUNICIPAL

CODE

Prepared by the

MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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Change 9
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CITY OF ERIN, TENNESSEE

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VICE MAYOR
Betsy Ligon

ALDERMEN
Cecil Baggett
Paul Gooden
Betsy Ligon
Wanda Lockhart
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Linda Owens

RECORDER
Angela Neilson

ATTORNEY
James Stevens

CITY JUDGE
Markley Gill

PREFACE

The Erin Municipal Code contains the codification and revision of the ordinances of the City of Erin, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the city's ordinance book or the city recorder for a comprehensive and up to date review of the city's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the city's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Sandy Selvage, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

Section 2.10. City legislation. Any action of the Board having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this Act, shall be done only by ordinance. Other actions may be accomplished by resolution or motions. Each motion, resolution and ordinance shall be in written form before being introduced. The affirmative vote of at least five members of the Board or the mayor and four members shall be required to pass any motion, resolution or ordinance, including two readings in the case of an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare require it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least four (4) members of the Board on two readings on successive days. No ordinance relating to a franchise, excluding contract, or other special privilege shall be passed as an emergency ordinance. Amendments or ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection or subsections in their amended form. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization, and the recorder shall file a copy of the code in his office.

Section 2.11. Codification of ordinances. After this Act becomes effective there may be prepared, under the direction of the mayor and with the advice of the city attorney, a codification of all ordinances and resolutions having a regulatory effect or of general application which are to be continued in force. Existing ordinances and resolutions may be revised, amended, and consolidated in making the codification, which shall then be adopted as a single ordinance to be known and cited as the Official Code of the City of Erin, and thereupon all ordinances and resolutions in conflict therewith shall be repealed.

Change 9
June 8, 2021

TABLE OF CONTENTS

PAGE

PAGE

PAGE

PAGE

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[2]

SECTION

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 7:30 P.M. on the first Monday of each month at the City Hall in Erin. (1974 Code, § 1-101)

1-102. Compensation. The mayor and aldermen shall receive compensation for services as follows:

(1) The sum of one hundred dollars ($100.00) for attendance to regular board meetings and specially called meetings of the board.

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[1]Charter references
See the charter index, the charter itself, and footnote references to the charter in the front of this code.
Municipal code references
Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

[2]Charter references
Composition: § 2.03.
Quorum: § 2.03.
Term of office: § 2.01.
Vacancy in office: § 2.06.

(2) Appointed committee members shall receive twenty-five dollars ($25.00) for the attendance to scheduled committee meetings for no more than two (2) committee meetings per month.

(3) The mayor of the city shall receive the sum of twenty-five dollars ($25.00) for attendance to schedule committee meetings for no more than four (4) meetings per month. (1974 Code, § 1-101A, as amended by Ord. #511, Aug. 1999)

1-103. Order of business. At each meeting of the board of mayor and aldermen the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

(1) Call to order by the mayor.

(2) Roll call by the recorder.

(3) Reading of minutes of the previous meeting by the recorder and approval or correction.

(4) Grievances from citizens.

(5) Communications from the mayor.

(6) Reports from committees, members of the governing body and other officers.

(7) Old business.

(8) New business.

(9) Adjournment. (1974 Code, § 1-102)

1-104. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1974 Code, § 1-103, modified)

1-105. Wards. The City of Erin is hereby divided into the following four (4) wards:

(1) Ward Number 1. Ward Number 1 shall include the following area of the city:

Beginning at a point on the present city limits, said point being the intersection of the present city limits and east side of Spring Street; thence, in a southerly direction along the east side of Spring Street to the northerly intersection of Spring Street and West Spring Street Loop, thence southwesterly along the east side of West Spring Street Loop to the southerly intersection of Spring Street; thence south on Spring Street on the east side of Spring Street to the intersection of Spring Street and West Walnut Street; thence, in a southwesterly direction along the south side of West Walnut Street; thence to the intersection of West Walnut Street and North Church Street; thence north along the west side of

North Church Street to the intersection of North Church Street and Chestnut Street; thence southwesterly on the south side of Chestnut Street to the intersection of Chestnut Street and Spencer Street; thence south on the east side of Spencer Street to the intersection of Spencer Street and West Walnut Street; thence southwesterly along the south side of West Walnut Street to a point, thence north along the alley on the west side of said alley to the intersection of said alley with Chestnut Street; thence southerly on the south side of Chestnut Street to the intersection with North Boone Street; thence southerly on the east side of North Boone Street to the intersection of North Boone Street and West Main Street; thence northeasterly along the north side of West Main Street to the intersection of West Main Street and South Church Street; thence southerly along the east side of South Church Street to the intersection of South Church Street and Tank Hill Road; thence southwesterly on the east side of the Tank Hill Road to the point where Erin Branch Creek flows under Tank Hill Road; thence easterly along Erin Branch Creek on the north side of the creek; to a point where said creek flows under East Maple Street; thence easterly on the north side of East Maple Street to the intersection of East Maple Street and Smith Drive; thence southerly on the east side of Smith Drive to the intersection of Smith Drive and Griffey Hill Drive; thence southwesterly on the southeast side of Griffey Hill Drive to the intersection of Griffey Hill Drive and Tank Hill Road; thence in a southerly direction along the east side of Tank Hill Road to the southern boundary of the city limit; thence, around the present city limits to the point of beginning.

(2) Ward Number 2. Ward Number 2 shall include the following area of the city:

Beginning at the intersection of West Main Street and South Church Street; thence, in a southerly direction along the west side of South Church Street to the intersection of South Church and Tank Hill Road; thence southwesterly to the point where Erin Branch Creek flows under Tank Hill Road; thence easterly along Erin Branch Creek on the south side of the creek; to a point where said creek flows under East Maple Street; thence easterly on the south side of East Maple Street to the intersection of East Maple Street and Smith Drive; thence southerly on the west side of Smith Drive to the intersection of Smith Drive and Griffey Hill Drive; thence southwesterly on the northeast side of Griffey Hill Drive to the intersection of Griffey Hill Drive and Tank Hill Road; thence in a southeasterly direction along the west side of Tank Hill Road to the intersection of the present city limits and Tank Hill Road; thence in a westerly direction along the city limit to the intersection of the city limits and Rocky Hollow Road; thence in a northerly direction along the east side of Rocky Hollow Road to the intersection of Rocky Hollow Road and Knight Street; then northerly on the east side of Knight Street to a

point where the northernmost property line of the Erin Housing Authority development meets Knight Street thence easterly along the south side of the property line to a point where the property line intersects with Rocky Hollow Road; thence in a northeasterly direction on the east side of Rocky Hollow Road; to the intersection of Rocky Hollow Road and Midway Drive; thence along the east side of Midway Drive to the intersection of Main Street and Midway Drive; thence, in an easterly direction along the south side of Main Street to the point of beginning.

(3) Ward Number 3. Ward Number 3 shall include the following area of the city:

Beginning at a point on the present city limits, said point being the intersection of the present city limits and the west side of Spring Street; thence, in a southerly direction along Spring Street to the intersection of Spring Street and West Spring Street Loop, thence southwesterly along the west side of West Spring Street Loop to the southerly intersection of Spring Street; thence south on Spring Street on the west side of Spring Street to the intersection of Spring Street and West Walnut Street; thence, in a westerly direction along the north side of Walnut Street to the intersection of West Walnut Street and North Church Street; thence north along the east side of North Church Street to the intersection of North Church Street and Chestnut Street; thence southwesterly on the north side of Chestnut Street, to the intersection of Chestnut Street and Spencer Street; thence south on the west side of Spencer Street to the intersection of Spencer Street and West Walnut Street; thence southwesterly along the north side of West Walnut Street to a point, thence north along the alley on the east side of said alley to the intersection of said alley with Chestnut Street; thence southerly on the north side of Chestnut Street to the intersection with North Boone Street; thence southerly on the west side of North Boone Street to the intersection of North Boone Street and West Main Street; thence, in a westerly direction along the north side of Main Street to intersection of Main Street and Midway Drive; thence, in a southerly direction along the west side of Midway Drive to the intersection of Rocky Hollow Road and Midway Drive, then southwesterly on the west side of Rocky Hollow Road to a point where the northernmost property line of the Erin Housing Authority development meets Rocky Hollow Road, thence westerly along the north side of the property line to a point where the property line intersects with Knight Street; thence in a northerly direction along the east side of Knight Street to the intersection of Knight Street and Roby Drive, thence, in a westerly direction along the north side of Roby Drive to the intersection of Arlington Street and Roby; thence in a northerly direction along the east side of Arlington Street to the intersection of Arlington and Front Street; thence in a easterly direction along the south side of Front Street to the intersection of Front Street and Roby Drive;

thence in a northerly direction along the east side of Roby Drive to the intersection of Roby Drive and West Main Street; thence westerly on the north side of West Main Street to the Intersection of West Main Street and Metcalf Drive; thence in a northerly direction along the east side of Metcalf Drive to the intersection of the present city limits and Metcalf Drive; thence along the city limits to the point of beginning.

(4) Ward Number 4. Ward Number 4 shall include the following area of the city:

Beginning at a point on the present city limits, said point being the intersection of the present city limits and Metcalf Drive; thence in a southerly direction along the west side of Metcalf Drive to the intersection of Main Street and Metcalf Drive; thus in an easterly direction along the south side of Main Street to the intersection of Main Street and Roby Drive; thence in a southerly direction on the west side of Roby Drive to the intersection of Roby Drive and West Front Street; thence in a westerly direction on the north side of West Front Street to the intersection of West Front Street and Arlington Street; thence in a southerly direction along the west side of Arlington Street to the intersection of Arlington Street and Roby Drive; thence in an easterly direction along the south side of Roby Drive to the intersection of Roby Drive and Knight Street; thence in a southerly direction along the west side of Knight Street and Rocky Hollow Road to the intersection of Rocky Hollow Road and the present city limits; thence around the present city limits to the point of beginning. (1974 Code, § 1-104, as replaced by Ord. #615, Jan. 2018)

CHAPTER 2

MAYOR[1]

SECTION

1-201. Generally supervises municipality's affairs. The mayor shall appoint all committees from members of board of aldermen, have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1974 Code, § 1-201)

1-202. Executes municipality's contracts. No purchase for the city shall be made without the mayor's prior approval. He shall execute all contracts as authorized by the board of mayor and aldermen. (1974 Code, § 1-202)

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[1]Charter references
Administrative duties: § 3.02.
Bond required: § 3.10.
Term of office: § 2.01.
Vacancy in office: § 2.06.

CHAPTER 3

RECORDER[1]

SECTION

1-301. To be bonded. The recorder shall be bonded in the sum of ten thousand dollars ($10,000.00), with surety acceptable to the board of mayor and aldermen, before assuming the duties of his office. (1974 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1974 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the mayor and board of aldermen and for the municipality which are not expressly assigned by the charter or this code to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1974 Code, § 1-303)

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[1]Charter references: §§ 2.08 and 3.06.

CHAPTER 4

CODE OF ETHICS[1]

SECTION

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[1]State statutes dictate many of the ethics provisions that apply to municipal officials and employees, For provisions relative to the following, see the Tennessee Code Annotated (T.C.A.) sections indicated:

Campaign finance - Tennessee Code Annotated, title 2, chapter 10.

Conflict of interests - Tennessee Code Annotated, §§ 6-54-107, 108; 12-4-101, 102.

Conflict of interests disclosure statements - Tennessee Code Annotated, § 8-50-501 and the following sections.

Consulting fee prohibition for elected municipal officials - Tennessee Code Annotated, §§ 2-10-122, 124.

Crimes involving public officials (bribery, soliciting unlawful compensation, buying and selling in regard to office) - Tennessee Code Annotated, § 39-16-101 and the following sections.

Crimes of official misconduct, official oppression, misuse of official information - Tennessee Code Annotated, § 39-16-401 and the following sections.

Ouster law - Tennessee Code Annotated, § 8-47-101 and the following sections.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #550, June 2007)

1-402. Definition of "personal interest." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

(a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests;

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).

(2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #550, June 2007)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself[1] from voting on the measure. (as added by Ord. #550, June 2007)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the

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[1]Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #550, June 2007)

1-405. Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #550, June 2007)

1-406. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #550, June 2007)

1-407. Use of municipal time, facilities, etc. (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #550, June 2007)

1-408. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #550, June 2007)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #550, June 2007)

1-410. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

(2) (a) Except as otherwise provided in this subsection (2), the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

(b) The city attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #550, June 2007)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law, and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #550, June 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

CHAPTER 1

TREE BOARD

SECTION

2-101. Purpose. The purpose of a tree ordinance is to provide a mechanism for the management of trees and woody vegetation in a city or town. Since establishment of an ordinance is one (1) of the requirements for Tree City USA recognition, the City of Erin hereby establishes this chapter. (1974 Code, § 1-1201)

2-102. Definitions. The following definitions are suggested for inclusion in a city tree ordinance.

(1) "Tree." A woody plant with a single trunk, or multiple trunk capable of growing to a height of fifteen feet (15') or more.

(2) "Shrub." A woody plant with a multiple stem capable of growing to a height of up to fifteen feet (15').

(3) "Public tree." A tree growing in an area owned by the community, including parks, public buildings, schools, hospitals, and other areas to which the public has free access.

(4) "Private tree." A tree growing in an area owned by a private individual, business or commercial establishment, company, or industry, private institution, or other area not owned by government entities.

(5) "Street tree." A tree growing within a public right-of-way along a street, in a median or in a similar area in which the public right-of-way borders areas owned by private individuals.

(6) "Public utility." That section of local government in charge of electrical distribution in the community and having responsibility for keeping distribution lines free of hazards, including trees.

(7) "City forester." A city employee responsible for the city's tree program. He/she may also be titled urban forester, city arborist, municipal forester, or tree warden.

(8) "Pruning." Selective removal and thinning of the upper portions of the tree, taking into account the shape and natural structure of the tree.

(9) "Topping." Arbitrary removal of various portions of the tree, thereby leaving stubs, with no regard for the natural structure of the tree.

(10) "Crownspread." The distance from the ends of branches on one (1) side of the tree, through the trunk, to the ends of the branches on the other side.

(11) "Line clearance." Removal of limbs and branches growing within a set distance of electrical distribution lines.

(12) "Tree density factor." A number derived from the combination of the density of trees remaining on a site and the density of additional trees to be planted.

Other definitions may be required by a particular city's unique situation. (1974 Code, § 1-1202)

2-103. Creation of a tree board. There is hereby created a tree board for this city, which shall consist of a park and recreation committee, plus four (4) citizens to include forestry representative. (1974 Code, § 1-1203)

2-104. Operation. The mayor will appoint a chairman. Copies of the minutes shall be available to the governing body after each tree board meeting. Meetings shall be held quarterly, or more often if called by the chairman of the board. A majority of the members shall constitute a quorum for transaction of business. (1974 Code, § 1-1204)

2-105. Duties and responsibilities. The duties of the tree board shall include, but not be limited to, the following:

(1) Prepare a tree plan for the community.
(2) Coordinate tree-related activities.
(3) Conduct an Arbor Day Ceremony.
(4) Provide tree information to the community.
(5) Maintain a recommended tree list for the community.
(6) Recognize groups and individuals completing tree projects.

(7) Coordinate publicity concerning trees and tree programs.

(8) Coordinate donations of trees or money to purchase trees.

(9) Adopt rules and regulations pertaining to the tree program.

(10) Perform other tree related duties and opportunities that arise from time to time. (1974 Code, § 1-1205)

2-106. Compensation. Members of the board shall serve without compensation. (NOTE: Most cities do not pay their tree board members.) (1974 Code, § 1-1206)

2-107. Tree planting--option 1. Ordinances generally contain guidelines governing tree planting. One (1) ordinance option is to broadly state planting requirements and leave details to the rules and regulations adopted by the tree board/city forester. In all options, it is recommended that lists of tree species not be incorporated into the chapter. Lists should be formulated by the tree board where flexibility for updating is greatest.

(1) Tree planting shall be undertaken by the city on all public areas in a systematic manner to assure diversity of age classes and species. Areas to be planted, density, appropriate species, and other aspects of the planting function shall be determined by the tree board/city forester.

(2) Planting of trees on private property is encouraged, especially in areas where the public may have an extraordinary interest. The tree board/city forester will provide information about species, planting techniques, and placement guidelines when requested by residents. (1974 Code, § 1-1207)

2-108. Tree planting--option 2. The following sections provide a detailed outline of planting requirements. If they are not included in the chapter, they should be adopted as rules and regulations of the tree board.

(1) Size. All trees in public areas capable of reaching a mature height greater than thirty feet (30') shall be at least one and one-fourth inches (1-1/4") diameter (at six inches (6") height) and eight to ten feet (8' to 10') tall at time of planting. Small maturing trees, between fifteen to thirty feet (15' to 30') at maturity, shall be five to six feet (5' to 6') tall at planting.

(2) Grade. Trees to be planted shall be free of insects and diseases, mechanical injuries, and have reasonably straight trunks with a strong leader branch. Balled and burlapped trees shall be required where bare root trees cannot be handled and stored properly prior to planting.

(3) Spacing. Large trees capable of achieving more than forty-five feet (45') in height should be spaced at least forty feet (40') apart. Medium trees capable of achieving thirty to forty-five feet (30' to 45') should be spaced thirty feet (30') apart. Small trees capable of achieving fifteen to thirty feet (15' to 30') of height should be spaced at twenty-feet (20') intervals. Exceptions may be granted by the tree board/city forester when a valid landscape plan is followed, or when greater or lesser spacings are needed to achieve a desired effect.

(4) Planting near existing objects. Only small trees are permitted to be planted within ten feet (10') of utility lines. In street plantings, no tree may be planted closer than ten feet (10') to a fire hydrant, or utility pole or street light, fifteen feet (15') to a driveway/street intersection, or thirty feet (30') from street/street intersections. When planting between sidewalks and curbs, six feet (6') between curb and sidewalk is the minimum distance required for small trees, eight feet (8') for medium trees, and ten feet (10') for large trees.

(5) Planting techniques. Holes shall be dug to give adequate room for the root system. The diameter of the hole should be at least twelve feet (12") larger than the diameter of the root ball or root system. The depth of planting should be at the same level as the tree had grown previously. Backfill should be the same material that was removed from the hole, with no additives except low nitrogen fertilizer which may be added if the tree board/city forester deems it necessary. Holes dug by power augers must have their sides chipped by a hand shovel to break glazing effected by the auger. Trees may be guyed in windy areas, or other areas where support is determined necessary by the tree board/city forester. All guy wires shall be removed within eighteen (18) months. (1974 Code, § 1-1208)

2-109. Replacing trees lost to development. In areas where land use is changing (zoning), such as in developments, the city may want to require private landowners to plant trees where large numbers of natural trees are lost. Since this activity is closely related to tree removal and is often controversial, it is dealt with in § 2-115. (1974 Code, § 1-1209)

2-110. Tree care--option 1. Ordinances generally have one (1) or more sections dealing with tree care and maintenance. As in §§ 2-107 and 2-108, there is the option of including a broad statement about tree care, or outlining detailed sections about maintenance.

(1) Tree maintenance may include pruning, fertilizing, watering, insect and diseases control or other tree care activities. The city shall take responsibility for those maintenance activities needed to keep the public trees reasonably healthy and minimize the risk of hazard trees could cause to residents and visitors of the city. Determination of maintenance needs will be made by the tree board/city forester. Tree care may be accomplished by city personnel or by contract with commercial tree care companies.

(2) Care and maintenance of private trees are encouraged to minimize safety hazards to people and the health risk to other trees in the community. The tree board/city forester will provide information in a timely manner to residents about all aspects of tree care including the latest techniques and procedures currently being practiced.

(3) The practice of tree topping is prohibited on all public trees and is strongly discouraged as a tree care practice for private trees. Proper pruning

with branch removal at branch or trunk junctures is the best practice for limb removal. (1974 Code, § 1-1210)

2-111. Tree care and protection--option 2. A number of other options may also be included in a tree care section. For instance, certain specifications about pruning, fertilization, or specific insect or disease problems may be included. This section will apply to both public and private trees. The tree board will notify property owner of any offending trees.

(1) Trees growing along side streets and sidewalks must be pruned free of limbs to a height of eight feet (8') for sidewalks and twelve feet (12') for streets.

(2) The standard tree pruning method will be branch collar pruning as opposed to stubs or flush cuts. Large limbs and branches will be pre-cut to prevent excessive peeling of the bark, followed by cutting the remaining stub.

(3) Fertilization of trees will be accomplished when the tree board/city forester determines a tree is deficient in nutrients. Determination is made by leaf color or size, twig growth, soil test, or other diagnostic methods. Fertilizer will be applied on the soil surface at the appropriate time of year.

(4) Because of the special significance of the dogwood tree (this could also apply to oak, elm, crabapple or any species of tree) to the city, the tree board/city forester will inspect trees for dogwood borer (or other insect or disease problems) and effect treatment where infestation has occurred at the appropriate time of year. The tree board/city forester shall also give notice to owners of private infested trees and upon receiving such notice shall be required to effect treatment of affected trees growing on their property.

(5) Extensive root system damage to public trees is prohibited. Grade changes and trenching within the crown spread (ends of branches) is prohibited without permission of the tree board/city forester. Owners of private trees are encouraged to consult the tree board/city forester before proceeding with these activities. (1974 Code, § 1-1211)

2-112. Tree removal--option 1. Tree removal is the third component of a city tree program, and is as important for health and safety as it is for esthetics.

(1) Dead and dying trees that pose a safety or health risk to residents or the other trees shall be removed in a timely manner. This section will apply to both public and private trees. The tree board/city forester will serve notice of said risk, and give an allowed time for said removal.

(2) Upon receipt of notice to remove, the owner may appeal the decision within fifteen (15) days (or next meeting) to the board of aldermen.

(3) Stump removal to below ground level is considered part of the tree removal process. (1974 Code, § 1-1212)

2-113. Removal--option 2. (1) Dead trees, and dying trees on public property that pose a safety or health risk to residents or to other trees, will be removed. Upon inspection by the tree board/city forester, those trees on public property found to be dead, and those found to be dying that pose a safety or health risk to residents or other trees, shall be removed in a timely manner.

(2) The tree board/city forester will upon finding dead or dying trees on private property, notify the landowner of such tree and encourage the landowner to remove said tree. (1974 Code, § 1-1213)

2-114. Special considerations. (1) Tree topping of all public trees is prohibited, and topping of private trees is strongly discouraged. The tree board/city forester shall promote the use of proper pruning procedures.

(2) Tree pruning in the vicinity of power lines shall be undertaken by the public utility to assure the supply of electricity to its customers. Drop crotch pruning and pruning to laterals are the required methods. Where possible, the utility shall undertake a program of replacing large trees with small maturing ornamental trees of the kind recommended by the tree board/city forester. (1974 Code, § 1-1214)

2-115. Developments and land use changes--option 1. (1) As it pertains to commercial and residential development, the city maintains that it is in the best interest of all concerned to save as many existing trees as practical.

(2) Impact plans will include general locations of trees to be removed, and areas of trees that will be retained. Plans will also indicate the general layout of roads, utilities, parking areas for vehicles, storage areas for construction materials, and other items that disturb or compact the soil in tree root zones.

(3) To adequately protect trees to be preserved, the plan shall also include proposed grading work and subsequent erosion control measures to prevent siltation over the roots of trees that will remain.

(4) The plan will also outline additional landscape trees that need to be planted to bring the finished project up to the desired vegetation level. To allow the developer maximum flexibility, the tree board/city forester will apply a fixed formula that balances the number and size of trees replanted in order to retain a desired density factor.

(5) All trees on publicly owned property or private construction sites near any excavation or construction activity shall be guarded by a four-foot (4') high (minimum) fence at a distance from the trunk equal to the crown spread of the tree. The fence shall be identified as a tree protection zone and no building material, dirt, or other debris, or any vehicles shall be allowed inside the barrier. (1974 Code, § 1-1215)

2-116. <u>Appeal and penalties</u>. (1) Any person dissatisfied with the decisions, rules, regulations, and interpretations of the tree board/city forester shall have right to appeal to the board of aldermen. Appeal shall be within thirty (30) days and shall be made in writing.

(2) Any person violating this chapter shall be deemed guilty of a misdemeanor, and according to the laws of the State of Tennessee shall be fined a maximum of fifty dollars ($50.00). Each subsequent day that any violation continues unabated shall constitute a separate offense. (1974 Code, § 1-1216)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge. The officer designated by the board of mayor and aldermen to handle judicial matters within the municipality shall preside over the city court and shall be known as the city judge. (1974 Code, § 1-501)

[1]Charter reference: § 3.04.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1974 Code, § 1-502)

3-202. Imposition of fines and costs. All fines and costs shall be imposed and recorded by the city judge in open court in the city court docket. In all cases heard or determined by the city judge the bill of costs shall be for one hundred dollars ($100.00). (1974 Code, § 1-508, as replaced by Ord. #556, Feb. 2008, and Ord. #574, June 2011)

3-203. Disposition and report of fines and costs. All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1974 Code, § 1-511)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1974 Code, § 1-512)

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case; provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1974 Code, § 1-506)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.[1] The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1974 Code, § 1-503)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may, in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1974 Code, § 1-504)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1974 Code, § 1-505)

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[1]State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time; provided such alleged offender is not drunk or otherwise in need of protective custody. (1974 Code, § 1-507)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.[1] (1974 Code, § 1-509)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred fifty dollars ($250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee, or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1974 Code, § 1-510)

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[1]State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

CHAPTER 1

SOCIAL SECURITY FOR OFFICERS AND EMPLOYEES

SECTION

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Erin to provide for all eligible employees and officials of the municipality, whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance. In pursuance of said policy, and for that purpose, the City of Erin shall take such action as may be required by applicable state and federal laws or regulations. (1974 Code, § 1-701)

4-102. Necessary agreements to be executed.[1] The city attorney is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1974 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at

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[1]See Ord. #488 (June 1995) of record in the office of the recorder for amendments to the Social Security Agreement by and between the City of Erin, Tennessee, and the State Old Age and Survivors Insurance Agency.

such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1974 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1974 Code, § 1-704)

4-105. Records and reports to be made. The municipality shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1974 Code, § 1-705)

4-106. Exclusion of coverage due to another retirement. There is excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city. (1974 Code, § 1-706)

4-107. Benefits extended to other employees and officials.[1] The provisions of this chapter are extended to include all fee basis employees, part-time employees, and elective, legislative, executive and judicial officials. (1974 Code, § 1-707)

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[1]See Ord. #488 (June 1995) of record in the office of the recorder for amendments to the Social Security Agreement by and between the City of Erin, Tennessee, and the State Old Age and Survivors Insurance Agency.

CHAPTER 2

PERSONNEL SYSTEM

SECTION

4-201. Personnel policies. (1) Purpose and objectives. The purpose of these policies and procedures is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees which comes from a systematic application of good procedure in personnel administration, and to provide uniform policies for all employees, with all the benefits such a program ensures without regard to race, sex, age, national origin, creed, and handicapping condition.

The fundamental objectives of good personnel administration to be achieved by these policies and procedures are:

(a) To promote and increase efficiency and economy among employees of the City of Erin.

(b) To provide fair and equal opportunity to all qualified individuals on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection.

(c) To develop a program of recruitment, advancement and placement that will make employment with the city more attractive as a career and encourage each employee to render the best service.

(d) To establish and maintain a uniform plan of evaluation and compensation.

(e) To establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

(2) Personnel policy statement. It is the policy of the City of Erin to apply and foster a sound program of personnel management. The personnel policies of the municipal government are as follows:

(a) Employment and placement.

(i) To fill all positions, without undue delay, in accordance with job qualifications and requirements without discrimination as to race, color, creed, national origin, gender, ancestry, disability, or political affiliation.

(ii) To establish programs for the promotion, transfer, demotion, dismissal and reassignment of personnel.

(b) Position classification and pay administration.

(i) To establish and maintain job descriptions for every position with the descriptions maintained on file with the city recorder.

(ii) To review position descriptions periodically and systematically with incumbent employees to ensure they accurately reflect the current job requirements.

(iii) To establish appropriate position standards and to group positions in classes with similar standards.

(iv) To conduct area wage and salary surveys periodically in order to provide competitive wage and salary scales.

(c) Employee relations and services.

(i) To establish rules and standards governing employee conduct both on and off the job.

(ii) To administer a uniform leave program.

(iii) To provide employee grievance procedures.

(iv) To develop a handbook to inform employees of their responsibilities and privileges.

(d) Employee development and training.

(i) To establish training standards and requirements for all positions.

(ii) To motivate and stimulate employees to achieve their highest potential usefulness.

(e) Records. To establish and maintain comprehensive and uniform personnel records.

(3) Coverage. These policies and procedures shall cover all employees in the city service unless specifically exempt by this chapter, the city charter and/or the ordinances of the municipality without regard to race, religion, national origin, political affiliation, sex, age, or disability.

All offices and positions of the municipal government are categorized as either classified or exempt. Classified positions shall include all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the municipal government categorized as exempt are as follows:

(a) All elected officials.

(b) Members of appointed boards and commissions.

(c) Consultants, advisers, and legal counsel rendering temporary professional service.

(d) City attorney.

(e) Independent contractors.

(f) Persons employed by the municipality for not more than three (3) months during a fiscal year.

(g) Part-time employees paid by the hour or the day, and not considered regular.

(h) Volunteer personnel appointed without compensation.

(i) City judge.

(4) Administration. These policies and procedures shall be administered by the mayor under the direction of the board of mayor and aldermen in conformity with the ordinance establishing a personnel system. Amendments to the policies and procedures shall be made as indicated herein. The city reserves the right to alter or change any or all of its policies and procedures without prior notice to employees. Nothing in these personnel policies and procedures shall be deemed to give employees any additional property rights in their jobs than may already be given by the city charter. (1974 Code, § 1-801, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-202. Classification plan. (1) Purpose. The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the city service.

(2) Composition of the classification plan. The classification plan shall consist of:

(a) A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;

(b) Class titles descriptive of the work of the class which identifies the class;

(c) Written specifications for each class of performance; and

(d) Physical standards for performance of the duties of the position.

(3) Use of class titles. Class titles are to be used in all personnel, accounting, budget appropriation and financial records of the municipality. No person will be appointed or employed in a position in the city service under a title not included in the classification plan.

(4) Use of class specifications. Specifications are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are deemed to be descriptive and explanatory of the kind of work performed and not necessarily inclusive of all duties performed.

(5) Use of the classification plan. The classification plan is to be used:

(a) As a guide in recruiting and examining candidates for employment;

(b) In determining lines of promotion and in developing employee training programs;

(c) In determining salaries to be paid for various types of work;

(d) In determining personal service items in departmental budgets, i.e., training and travel; and

(e) In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

(6) Administration of the classification plan. The mayor is charged with maintaining the classification plan of the municipal government so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the mayor to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions and periodically to review the entire classification plan and recommend appropriated changes in allocations or in the classification plan to the board of mayor and aldermen. The board shall then approve or change such recommendations.

(7) Allocation of positions. Whenever a new position is established, or duties of an old position change, the supervisors shall submit in writing a comprehensive job description describing in detail the duties of such a position. The mayor shall investigate the actual or suggested duties and recommend to the board of mayor and aldermen the appropriate class allocation or the establishment of a new class. The board shall then approve or change such recommendations.

(8) Request for reclassification. Any employee who considers his/her position improperly classified shall first submit his/her request to their immediate supervisor who shall take the request into consideration. Nothing in these personnel policies and procedures shall be deemed to give employees any additional property rights in their jobs than may already be given by the city charter; If the department head/supervisor finds the request is not justified, he/she shall advise the employee of his/her decision and also the employee's right to appeal the decision under the grievance procedures. If the supervisor finds that there is merit in the request, he/she shall immediately transmit his/her recommendation to the mayor. The mayor shall investigate the actual or suggested duties and recommend to the board of mayor and aldermen the appropriate class allocation for the establishment of a new class. The board shall then approve or change such recommendations.

(9) Job descriptions. (See Appendix A.) (1974 Code, § 1-802, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-203. Compensation plan (1) Purpose. The pay plan is intended to provide fair compensation for all classes in the classification plan in consideration of the pay for other classes, general rates of pay for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

(2) Maintenance of the pay plan. The mayor will from time to time make comparative studies of all factors affecting the level of salaries and will recommend to the board of mayor and aldermen such changes in the salary schedule as appear to be in order.

(3) Pay for part-time work. When an employment decision is for a part-time position, only the proportioned part of the rate for the time actually employed will be paid.

(4) Hourly rates. In accordance with the Fair Labor Standards Act (FLSA), no employee, whether full-time, part-time or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked. (1974 Code, § 1-803, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-204. Employment. (1) Applications. All applications for employment are received at city hall, and given thorough consideration by the appropriate supervisor. The City of Erin exercises a policy of fairness to every person who applies for work. The mayor, in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments through the city. The mayor will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

Applications may be removed from consideration if:

(a) The applicant declines an appointment when offered.

(b) The applicant cannot be located by the postal authorities. It shall be deemed impossible to locate an applicant when a communication mailed at the last known address is returned unclaimed.

(c) The applicant is currently using narcotics, or his/her excessive use of intoxicating liquors will pose a direct threat to the health and safety of others.

(d) The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude, as the term is defined by law.

(e) The applicant has made false statement of material fact on the application.

(f) The application was not filed within the period specified in the examination announcement or was not filed on the prescribed form, or uses a different format than allowed as a reasonable accommodation.

(g) The applicant does not possess the minimum qualifications as indicated by the classification plan.

(h) Their application has been on file over six (6) months.

(2) Recruitment. The City of Erin shall make every effort to attract qualified applicants for various types of positions. In so doing, the city shall prepare and publish a public notice of a vacancy when they occur, and place such notices at designated sites in city hall and such other sites as may be designated. Individuals shall be recruited from a geographic area as wide as necessary to assure obtaining well qualified applicants for any open position.

(3) Physical examinations.

(a) Pre-employment. Following a conditional offer of employment, every prospective employee shall be given a physical examination by a licensed physician designated by the municipal government prior to the time he/she is hired, to determine if he/she can perform the essential functions of the position offered. The cost of this physical examination shall be borne by the city. Applicants who are unable to successfully perform the essential functions tested for the medical examination shall have their offer of employment by the city withdrawn only if they:

(i) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;

(ii) Pose a direct threat to themselves and/or others; or

(iii) Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

(b) Post-employment. All employees of the city may, during the period of their employment, be required by the superiors and with the approval of the mayor, to undergo periodic medical examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This periodic medical examination shall be at no expense to the employee. Determination of the physical or mental fitness will be by a physician designated by the city.

When an employee of the city is reported by examining physician to be physically or mentally unfit to perform the work of the position in which he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the mayor and his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the city.

An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in

accordance with these policies and procedures or separated from the municipal government service only after it has been determined that they:

(i) Cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or

(ii) Pose a direct threat to themselves and/or others.

(4) Minimum age. The Fair Labor Standards Act requires that employees of state and local governments be at least sixteen (16) years of age for most non-farm jobs and at least eighteen (18) to work in non-farm jobs declared hazardous by the Secretary of Labor. Minors fourteen (14) and fifteen (15) years of age may work outside school hours under certain conditions.

(5) Types of employees.

(a) Regular full-time employee (per hour or per month). A regular full-time employee is a employee who works a minimum of thirty-six (36) hours, and who is subject to all conditions of employment and receiving all benefits. Regular employees serve a twelve (12) month probationary period.

(b) Regular part-time employee. Regular part-time employees work on a regular basis, and their hours will not exceed twenty-six (26) hours per week unless approved by the mayor. These employees will not receive benefits except coverage under Worker's Compensation.

(c) Temporary employee and/or seasonal employee. A temporary employee is an employee who works full-time but not exceeding twelve (12) weeks per calendar year and who is paid on a per day or per hour basis. Temporary employees are not subject to all the conditions of employment but shall be fully capable of performing the assigned duties. These employees will not receive benefits except coverage under Worker's Compensation.

(6) Appointments, promotion, demotions, transfers and citizenship status verification. Pursuant to the city charter, the mayor has the authority to appoint, promote, demote, transfer, suspend and remove all officers and employees of the City of Erin. The city will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the city will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6,1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three (3) days of employment or the individual will be terminated.

(a) Appointments. Appointments to positions with the municipal government fall into four (4) categories. They are:

(i) Original appointment. When a non-employee passes all the requirements of employability and is offered employment.

(ii) Provisional appointment. When the municipality is unable to fill a vacancy because of an insufficient number of applicants, the mayor may authorize the supervisor to fill the vacancy by a provisional appointment. Provisional appointments require the prior approval of the board of mayor and aldermen and no payment shall be made for services rendered by the appointee prior to the appointment.

(iii) Emergency appointments. The mayor may authorize the appointment of any qualified person to a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed a total of ninety (90) days in any twelve (12) month period.

(iv) Student appointments. Students, majoring in a field of value to the municipal government from a qualified, cooperating educational institution, may be employed on an "internship" basis for a period not to exceed twelve (12) months. The appointment must be approved by the board of mayor and aldermen.

(b) Promotions. A promotion is an assignment of employee from one (1) position to another, which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practical by the promotion of current employees. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When an employee in one (1) classification is promoted to a position in another classification and the employee's current rate of pay is less than the minimum rate for the new position, the employee's salary shall be raised to that minimum rate. When the employee's salary falls above the new minimum rate, a percentage increase as determined by the board of mayor and aldermen shall be given.

(c) Transfers. When an employee desires to transfer from one (1) department to another, it must be agreeable to both supervisors involved and approved by the board of mayor and aldermen. The transfer of an employee from one (1) position to another without a significant change in responsibility or difficulty may be effective:

(i) When the employee meets the qualification requirements for the new position;

(ii) If it is in the best interest of the municipal government;

(iii) If it meets the personal needs of the employee as consistent with the other requirements of these policies and procedures; and

(iv) Are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA.

(d) Demotions. A demotion is an assignment of an employee from one (1) position to another which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

(i) Because his/her position is being abolished and he/she would otherwise be laid off;

(ii) Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job;

(iii) Because there is a lack of work;

(iv) Because there is a lack of funds;

(v) Because another employee, returning from authorized leave granted in accordance with the policies on leave, will occupy the position to which the employee is currently assigned;

(vi) Because the employee does not possess the necessary qualifications, or is physically or mentally unable to render satisfactory service in the position he/she holds;

(vii) Because the employee voluntarily requests such a demotion and it is available; and/or

(viii) As a form of disciplinary action.

When an employee on classification is demoted to a position in a lower classification and the employee's rate of pay is higher than the maximum rate for the new position, the employee's salary shall be reduced to the maximum rate of the new classification.

(e) Transfers. An employee who transfers from one (1) municipal government department to another will retain all benefits earned or accrued as of the date of transfer. As a general rule lateral transfers require no increase in compensation.

(7) Performance appraisal/evaluation. The performance of all employees will be appraised and reviewed annually by their immediate supervisors. Written appraisals will be discussed with the employee so that they will know how they are progressing and what they may do to improve their performance. By this means, it is intended that all employees will have adequate opportunity to correct any weakness that may interfere with their progress. Employees may appeal the results of the evaluation in accordance with the appeal process contained in these policies and procedures.

(8) Moonlighting/outside employment. No full-time employee of the municipality shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with satisfactory performance of the employee's duties, or is incompatible with his/her municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality.

(9) Work day/work week. Pursuant to the Fair Labor Standards Act, a workweek is a regular recurring period of one hundred sixty-eight (168) hours consisting of seven (7) consecutive twenty-four (24) hour periods. Except as provided in special contracts of employment, the number of days that shall constitute a workweek for regular employment shall be five (5) per week. Schedules will vary in departments as necessary for the smooth operation of the city. A standard workweek is scheduled between 12:01 A.M. on Sunday through 11:59 P.M. on the Saturday following.

(10) Attendance. Punctual and regular attendance is necessary for the efficient operation of the city. Employees unavoidably late or absent from work due to illness or other cause must notify their supervisor as early as possible, explaining the reason for the absence and, if possible, an anticipated return to work date. Failure to notify one's supervisor of an absence may result in disciplinary action. Employees found falsifying on their time sheets, or misusing the time clock will be subject to immediate dismissal. Excessive tardiness is regarded as sufficient reason for termination.

(11) Overtime pay. When it becomes necessary for an employee to work overtime hours, regular employees, part-time employees and temporary employees shall be paid according to the prevailing salary schedule. Overtime work will be compensated in accordance with the provisions of the Fair Labor Standards Act at a rate of one and one-half (1-1/2) the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one and one-half (1-1/2) times the hours worked in accordance with the Fair Labor Standards Act. Overtime work must be authorized by the department supervisor.

Personnel required to work on a "call-out" basis, outside the normal work hours, will be compensated at the rate of one and one-half (1-1/2) times the normal rate, not less than two (2) hours per occurrence.

(12) Nepotism. No person who is a member of the immediate family of the mayor or members of the board of mayor and aldermen shall be employed by the city. The immediate family is defined as the mayor's or alderman's spouse, children, father, mother, brother, or the spouse or children of the above. The immediate family is further defined to include all in-law relationships, nieces, nephews and first cousins. (1974 Code, § 1-804, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-205. Benefits. (1) Legal holidays. All offices and shops of the City of Erin, except emergency and necessary operations, will be closed and employees excused from work on the following legal holidays:

New Year's Day	January 1
Martin Luther King Jr. Day	Third Monday of January
President's Day	Third Monday of February
Good Friday	Friday before Easter

Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	December 24
Christmas Day	December 25

When a legal holiday fails on Saturday, offices will be closed the preceding Friday, When a holiday falls on Sunday, the following Monday shall be observed. (Holidays listed above will be the only paid holidays observed.)

(2) Holiday pay. All holiday pay will be computed on the basis of a regular work day and only those employees normally scheduled on a rotating shift will be eligible for such pay. Eligible employees will be compensated at a double time rate of pay. Any other employee required to work on a scheduled holiday will receive a double time rate of pay if called upon in an emergency situation. Employees eligible for holiday pay must be in a pay status his/her last regular shift scheduled before a holiday and his/her first regularly scheduled shift after a holiday in order to receive compensation for the holiday.

Holidays which occur during a vacation, sick or other leave period of any employee of the city shall not be considered as a vacation, sick or other leave.

Holiday pay will be paid to employees working on city observed holidays as mentioned in this policy.

(3) Annual vacation with pay. After one (1) year a regular full-time employee is granted forty (40) hours of annual leave. After twenty-four (24) months a full-time employee shall be given eighty (80) hours of annual leave per year. Employees with ten (10) years of service may earn eight (8) additional hours of annual leave for every year after ten (10) years of service up to a maximum of one hundred twenty (120) hours of annual leave.

Upon separation, employees are entitled to be reimbursed for up to a maximum of ten (10) hours of unused annual leave time. Employees may accumulate up to a maximum of eighty (80) hours of annual leave that may be rolled over from one (1) calendar year to the next calendar year. Payment may be made in lieu of vacation up to, but not exceeding, eighty (80) hours at the employee's regular rate of pay.

Vacations will be scheduled in advance for the mutual convenience of the employee and the city government so proper adjustments can be made in the work schedules. Supervisors preparing vacation schedules will give choice of dates based on seniority of the personnel in his/her department and no employee may begin his/her annual leave until his/her request has been approved by the supervisor.

An employee who is separated from the employment of the city shall be paid for his/her unused annual leave on a regular pay period basis. The

termination date shall coincide with last date of pay. In no event will an employee who has not completed at least one (1) year of satisfactory service receive an annual leave payment.

Legal holidays falling within a vacation period are not to be counted as a day of annual leave. When an employee is on "leave without pay" for fifteen (15) days during any calendar month, no leave will accumulate. Employees may not borrow against future annual leave nor transfer earned annual leave to another employee.

Service in the Tennessee National Guard, State Militia, or Military Reserves may be paid as annual leave at the option of the employee. Employees electing to coincide vacation with military leave shall receive full pay for the amount of specified annual leave taken.

(4) Sick leave. Generally, employees are permitted to use sick leave when:

(a) They are incapacitated by sickness or non-job related injury, for medical, dental, or optical diagnosis and treatment.

(b) Required for the necessary care and attendance to, or death of a member of the employee's immediate family when approved by their supervisor.

Immediate Family

Husband	Wife
Father	Mother
Brother	Sister
Son	Daughter
Father-in-law	Mother-in-law
Grandparent (including those of a spouse)	Legal foster parents and children

Immediate family shall also include sons-in law, daughters-in-law, grandchildren, step-parents and step-children.

(c) Exposure to a contagious disease, requiring notice from a qualified doctor, that the employee may jeopardize the health of others.

Each regular full-time employee will accrue sick leave at the rate of eight (8) hours per month. If accrued sick time is unused at the time an employee retires, accumulated sick leave shall be credited to the employee's retirement account as creditable service.

To prevent abuse of the sick leave privilege, the mayor and/or supervisors are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's

certificate to return to work, and any absence in excess of two (2) consecutive work days will require a doctor's certificate to return to work, if in the opinion of the mayor such action is deemed appropriate.

Any sick leave used to fill out a day must be approved by the mayor or the department head before leaving work that day. It will not be approved the next day. At no time can sick leave be used to "fill out" a week of less than forty (40) hours worked or as compensation for leaving work early. Anyone caught using sick leave for any purpose other than stated above will be in violation of these personnel policies and procedures.

Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days. Claiming sick leave while on annual leave must support their claim with a doctor's statement. When an employee is on "leave without pay" for fifteen (15) days during any calendar month no sick leave will accumulate.

Absence from work while sick will be computed on the basis of a regular work day for employees normally scheduled on a rotating shift. Regular scheduled employees will be charged eight (8) hours of sick leave for eight (8) hours of absence while sick.

Employees may not borrow against future sick leave. An employee upon exhausting all accumulated sick leave, may use accumulated annual leave or take leave without pay.

If an employee leaves the city service for any reason other than retirement, that employee shall forfeit all accumulated sick time.

(5) Special leave with or without pay. "Special leave" is defined as time off from regular work which can be granted with or without pay at the direction of the mayor. Special leave with pay may be used for occasions such as jury duty, military leave, death, natural catastrophe in an employee's family requiring the employee's presence, and time granted for attendance at the job related professional meetings.

Special leave without pay may be granted for a period not to exceed ninety (90) calendar days within a twelve (12) month period for temporary sickness, maternity, disability, or for other good and sufficient reason which are considered uncontrollable. Such leave shall require the prior approval of the mayor. An employee on special leave without pay shall not accrue sick leave or annual leave credit.

This provision shall not be construed to eliminate other possible needs for special leave. Special leave will not be chargeable to either sick leave or annual leave. Every application for special leave must be accompanied by a complete explanation of the reason for absence.

(6) Military leave. Any regular employee who has completed six (6) months of satisfactory employment, and who enters the Armed Forces of the United States will be placed on military leave. The mayor shall approve military

leave without pay when the employee presents his/her official orders. The employee must apply for reinstatement within ninety (90) days after release from active military duty.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or reemployment for the position to which he/she is assigned.

If no position is available at the time of the employee's return, the employee will be reinstated to the first available position. One (1) current full-time employee will be terminated or laid-off to allow for reinstatement.

(7) Military reserve duty leave. Any regular employee who is a member of the United States Army Reserve, Naval Reserve, Air Force Reserve, Marine Reserve or any of the Armed Forces of the United States will be granted military leave for any field training or active duty required (excluding extended active duty). Such compensation for such leave will be paid pursuant to Tennessee Code Annotated, § 9-33-109.

(8) Jury service leave. Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the city during jury service, and any money received by the employee for jury duty shall be given to the city recorder for deposit in the payroll account.

(9) Educational leave. An educational leave of absence with or without pay may be granted to an employee not to exceed twelve (12) consecutive months. This leave must be approved by the board of mayor and aldermen. A request shall be submitted in writing, stating the reason for the leave, the date the leave will begin, and the probable date of return.

(10) Maternity/paternity leave. An employee, who has been a full-time employee for at least twelve (12) months with the City of Erin and who gives at least three (3) months advance notice of their anticipated date of departure, length of maternity/paternity leave and intentions to return to full-time employment, may be granted maternity/paternity leave for a period not to exceed four (4) consecutive months for the purpose of pregnancy, childbirth, and/or the nursing of the infant. Accumulated sick leave may be used for maternity/paternity purposes; otherwise, the employee will be granted a leave of absence without pay. An employee desiring maternity/paternity leave shall notify their supervisor so a temporary replacement may be secured. Return to duty of an employee on maternity leave must be accompanied by a release statement from the employee's attending physician.

(11) Funeral leave. Full-time employees shall be allowed three (3) days of leave with pay for the death in an employee's immediate family (i.e. spouse,

parents, children, sisters, brothers, in-laws and grandparents). One (1) day of leave with pay will be allowed for the death of relatives not mentioned above.

(12) Family medical leave policy. The family and medical leave policy is applicable to both male and female employees who have worked at least twelve (12) months for the City of Erin and who have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve (12) month period.

An eligible employee may take up to twelve (12) weeks of leave, using a combination of paid and unpaid leave, in a twelve (12) month period for the birth and care of a child or the placement or care of a child for adoption or foster care. Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

An expectant mother may take unpaid family and medical leave upon the birth of the child, or prior to the child's birth, for necessary medical care and if her condition renders her unable to work. Similarly, adoption or foster care leave may be taken upon the placement of the child. Leave may begin prior to the placement if absence from work is required for the placement to proceed.

An employee may take leave, either paid or unpaid, to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety.

An eligible employee who is unable to perform the functions of his/her position because of a serious health condition may request up to twelve (12) weeks of paid or unpaid leave. The term "serious health condition" is intended to cover conditions or illnesses that affect the employee's health to the extent that he/she must be absent from work for treatment or recovery on a recurring basis or for more than a few days.

Eligible employees requesting medical leave due to their own illness or injury shall use any accumulated sick leave, annual leave, or holidays prior to beginning unpaid leave. The combination of annual leave, holidays, sick leave, and unpaid leave may not exceed twelve (12) weeks. During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits.

If spouses are both employed by the City of Erin and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks.

(a) Right to return to work. Leave under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, a qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. Upon the occurrence of such a COBRA

qualifying event the employee ceases to be entitled to leave under this policy.

(b) Reduced and intermittent leave. According to this policy, leave can be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. The schedule must be mutually agreed upon by the employee and the City of Erin.

(c) The twelve (12) month FMLA period. The twelve (12) month period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve (12) month period.

(d) Denial of FMLA leave. If an employee fails to give timely advance notice when the need for a FMLA leave is foreseeable, the city may delay the taking of an FMLA leave until thirty (30) days after the date the employee provides notice to the city of the need for such leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the continued need for a FMLA leave until an employee submits the certificate. If the employee does not produce the certification, the leave is not FMLA leave.

(13) Death of an employee. Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check, plus an additional two (2) weeks of full pay. Further, his/her beneficiary shall be given complete assistance by the city recorder in settling pension, life and hospital insurance benefits, and all other compensation due in accordance with these policies and procedures.

(14) Hospitalization and life insurance. The City of Erin through a cooperative agreement with its employees shall contract for health and life insurance coverage for the benefit of its employees and their families. The city shall pay for one hundred percent (100%) of the individual employee's cost for health and life insurance, up to an amount set by the board of mayor and aldermen annually per employee. The city shall pay up to seventy percent (70%) of the total cost for family coverage. The annual cost in excess of the seventy percent (70%) shall be deducted from an employee's income in twenty-six (26) bi-weekly installments.

Full-time employees are given the option to participate in the city's health insurance plan. Employees not wishing to subscribe to the health insurance coverage plan, are classified as full time and entitled to benefits as prescribed herein may choose to opt out of the health care plan and receive a supplement to that employee's annual income as follows:

An amount equal to ten thousand dollars ($10,000.00) for family coverage and five thousand dollars ($5,000.00) for single coverage shall be paid to employees hired on or before July 2011. A flat rate of three thousand dollars ($3,000.00) shall be paid to employees not subscribing to the health insurance plan that were hired after July 2011.

(15) Worker's Compensation. All injuries arising out of and in the course of an individual's employment with the City of Erin shall be governed by the Tennessee Worker's Compensation Law. Employees on occupational disability leave due to an on-the-job injury will not be charged sick leave or annual leave during the period of convalescence. The employee shall continue to accrue sick leave and annual leave at the employee's regular rate while he/she is on occupational disability or injury leave.

Employees shall report immediately any injury incurred in the course of their employment, however minor, to their supervisor and take such first aid or medical treatment as necessary. Any employee determined to have been able, but who fails, to make such a report shall not be eligible for occupational disability or injury leave.

When an employee is injured on the job, the city recorder shall immediately submit an accident report to the city's insurance carrier and retain a copy in the OSHA file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the city recorder.

(16) Retirement. After six (6) months employment with the City of Erin, full-time employees will be enrolled in the Tennessee Consolidated Retirement System. The program is designed to supplement social security upon retirement. The city provides a matching contribution of the employee's earnable compensation. (1974 Code, § 1-805, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-206. Miscellaneous policies. (1) Solicitation. The city believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore solicitation shall be limited to as few visits as necessary during the course of the year.

(2) Personal telephone calls. The use of the office telephone during regular work hour for local and/or long distance calls of a personal nature, except in emergency cases, is discouraged.

(3) Political activity. NOTE: Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in all elections.

(a) In elections for municipal offices. No municipal government employee, whether on or off duty, whether in or out of uniform, and whether on or off city property, shall at any time or any place:

- Become a candidate for or campaign for an elective office of the city;
- Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for a city office;
- Organize, sell tickets to, promote, or actively participate in a fund-raising activity of a candidate for a city office;

- Take an active part in managing the political campaign for a candidate for a city office;
- Solicit votes in support of or in opposition to a candidate for a city office;
- Act as a clerk, watcher, challenger, or similar officer at the polls on behalf of a candidate for a city office;
- Drive voters to the polls on behalf of a candidate for a city office;
- Endorse or oppose a candidate for a city office in a political advertisement, broadcast, campaign literature, or similar material;
- Address a rally or similar gathering of the supporters of opponents of a candidate for a city office;
- Initiate or circulate a nominating petition for a candidate for a city office; and/or
- Wear campaign buttons, pins, hats, or other similar attachment, or distribute campaign literature in supporting or opposing a candidate for a city office.

(b) In all other elections for public office. City employees are entitled to seek election to offices that are not a part of the City of Erin. Employees may not campaign in any way for candidates for any public office while on duty for The City of Erin. (NOTE: Tennessee Code Annotated, § 38-8-350, prohibits law enforcement officers from engaging in political activities, supporting or opposing any candidate, party, or measure in any election when on duty or acting in such officer's official capacity.)

(4) Personnel records. Personnel records for each employee are kept on file and maintained by the payroll clerk. Any change of address, telephone number, marital status, draft status, number of dependents, or education completed should be turned in to an employee's supervisor for transmittal to the payroll clerk.

The payroll clerk also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The payroll clerk will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available.

(5) Statement of understanding. Each employee shall sign a statement that he/she has read and understands the Personnel Policy of the City of Erin. Said statement is to be placed in the employee's personnel file.

(6) Morning and afternoon break. All employees shall have a fifteen (15) minute break in the morning and a fifteen (15) minute break in the afternoon. All outside employees shall take their morning break and their afternoon break at times scheduled by the department head.

If a break time occurs and the employee is on a job site, that break shall be taken at that job site. If an employee is involved with and/or working on an

emergency situation during the scheduled break time(s), then that break time(s) shall be rescheduled with the employee's supervisor.

(7) Fighting, horseplay, damaging municipal government property. Fighting, horseplay, and intentionally defacing or damaging city property is not permitted. Employees engaging in these activities will be subject to disciplinary action up to and including discharge.

(8) Garnishment. An employee who is garnished for more than one (1) indebtedness within a twelve (12) month period may be subject to disciplinary action in accordance with the following schedule:

First Offense	Oral reprimand.
Second Offense	Written reprimand.
Third Offense	May be discharged in accordance with the discipline and dismissal policy.

(9) Trip approval. All out of city meetings, in-service training, conventions and etc. which are to be attended by employees of the city shall give notification to the city recorder and receive prior written approval by the mayor. Failure to receive said prior written approval can result in loss of pay for that amount of time expended on the trip and/or loss of expense reimbursement.

(10) Trip reimbursement. All trips that involve reimbursement and/or municipal government expense shall not be undertaken without prior notification to the city recorder and prior written approval of the mayor. Mileage shall be reimbursed at the current "state rate" for mileage. Food reimbursement shall be at a rate set by the board of mayor and aldermen. Any additional expense shall be approved by the mayor.

(11) Use of city vehicles and equipment. All city vehicles and equipment are for official use only. Drivers and/or operators shall have a valid Tennessee Driver's License and be approved by their supervisor and the mayor.

(12) Sexual harassment policy. The definition of "sexual harassment" includes conduct by men toward women, conduct by men toward men, conduct by women toward men, and conduct by women toward women. Consequently, this policy applies to all officers and employees of the City of Erin, including, but not limited to, full- and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel policies and procedures or regulation of the municipal government, and employees working under contract for the municipality.

(a) Definition. Sexual harassment or un-welcomed sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, propositioning; making either explicit or implied job threats or promises in return for submission of sexual favors; making inappropriate sex-oriented stories; displaying sexually explicit pornographic material, no matter how it is displayed; or sexual assault on the job by supervisors,

fellow employees, or on occasion, non-employees when any of the foregoing unwelcome conduct affects employment decisions, makes the job environment hostile, distracts, or unreasonably interferes with work performance is an unlawful employment practice and is absolutely prohibited by the municipal government.

(b) Making sexual harassment complaints. The municipality may be held liable for the actions of all employees with regard to sexual harassment, and therefore will not tolerate the sexual harassment of, or by, any of its employees. The city will take immediate, positive steps to stop it when it occurs.

By law, the city is responsible for acts of sexual harassment in the work-place where the city (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be shown that the city took immediate and appropriated corrective action. The municipality may also be responsible for the acts of non-employees, with respect to the sexual harassment of employees in the work-place, where the municipal government (or its agents or supervisory employees) knows or should have known of the conduct and failed to take immediate and appropriate corrective action.

Prevention is the best tool for the elimination of sexual harassment. Therefore, the following rules shall be strictly enforced. An employee who feels he/she is being subjected to sexual harassment should immediately contact one (1) of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

(i) The employee's immediate supervisor.
(ii) The employee's department head.
(iii) The city's recorder.
(iv) The mayor.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless to which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

(i) Official's or employee's name, department, and position title.

(ii) The name of the person or persons committing the sexual harassment, including their titles, if known.

(iii) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.

(iv) Witnesses to the harassment.

(v) Whether the employee has previously reported the harassment and, if so, when and to whom.

(c) Reporting and investigating of sexual harassment complaints. The mayor is the person designated by the municipal government to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the mayor, the investigator shall be the city attorney.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the mayor, or to the board of mayor and aldermen in the case of a complaint against the mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contact in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings. The report shall include the written statement for the person complaining of sexual harassment, the written statement of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation.

(d) Action on complaints of sexual harassment. Based upon the report, the mayor or the board of mayor and aldermen, the case of the mayor shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, they shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the mayor, or the board of mayor and aldermen, determine that the complaint of harassment is founded, they shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with their authority under the municipal charter, ordinances or rules governing their authority to discipline employees. If the mayor feels that disciplinary action stronger than he/she is authorized to impose by the charter, ordinances, resolutions or rules governing employee discipline is warranted, he/she shall make that determination known to the Board of Mayor and Aldermen of the City of

Erin, together with the report of the investigation. If the board of mayor and aldermen determine that the complaint of sexual harassment was founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of employee, and any other factors the mayor or board of mayor and aldermen believes relate to fair and efficient administration of the municipal government, including, but not limited to, the effect of the offense not the employee morale and public perception of the offense, and the light in which it casts the municipality. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.

In cases where the sexual harassment is committed by a non-employee against a municipal government employee in the work-place, the mayor shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

(e) Obligation of employee. An employee is not only encouraged to report instances of sexual harassment; they are obligated to report them. Employees are also obligated to cooperate with every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

(13) Narcotics and intoxicating liquors. (a) Purpose of drug testing program - notice.

(i) The City of Erin has a legal responsibility and management obligation to ensure a safe work environment, as well as a paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to

perform their assigned duties. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(ii) The city and its employees may be subject to liabilities if the city fails to address and ensure that employees can perform their duties without endangering themselves or the public.

(iii) There is sufficient evidence to conclude that the use of illegal drugs/alcohol; drug/ alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the municipality is a crime in this jurisdiction and clearly unacceptable.

Therefore, the City of Erin has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and to notify employees that testing is a requirement of employment.

In order to educate employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The mayor has been designated as the municipal official responsible for answering questions regarding this policy and its implementations.

(b) General rules. (i) Municipal government employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. Employees who are required to take prescription medicine and/or over-the-counter medications shall notify his/her immediate supervisors of the medication prescribed and the nature of the illness of injury before the employee goes on duty.

(ii) Municipal government employees are prohibited from the use, manufacture, distribution, unauthorized possession, and sale of illegal drugs at any time, or any other controlled substance; and alcohol while on duty on municipal government property or in the city vehicles.

(iii) All property belonging to the municipality is subject to inspection at any time without notice as there is not expectation of privacy.

(A) Property includes, but is not limited to, vehicles desks, containers, files and storage lockers.

(B) Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the mayor) and in the presence of the employee.

(iv) Municipal government employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the supervisor.

(v) Any employee convicted of violating a criminal drug statute shall inform his/her department head of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to inform the city subjects the employee to disciplinary action up to and including termination for the first offense. Conviction could result in termination.

(vi) Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or an employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

(vii) Use of alcohol within eight (8) hours prior to reporting for duty on a scheduled work day or use of alcohol while on-call for duty subjects the employee to disciplinary action up to and including termination.

(viii) Use of alcohol or drugs within eight (8) hours following an accident/incident if the employee's involvement has not been discounted as a contributing factor in the accident/incident or until the employee has successfully completed drug and/or alcohol testing procedures subjects the employee to disciplinary action up to and including termination for the first offence.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties.

(c) Prior notice of testing policy. The municipal government shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

The need for drug and alcohol testing:

(i) The circumstances under which testing may be required;

(ii) The procedures for confirming an initial positive test result;

(iii) The consequences of a confirmed positive test result;

(iv) The consequences of refusing to undergo a drug and alcohol test;

(v) The right to explain a positive test result and the appeal procedures available; and

(vi) The availability of drug abuse counseling and referral services.

(d) Consent. Before a drug and/or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, Medical Review Officer (MRO), and the mayor or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

(i) The procedure for confirming an initial positive test result;

(ii) The consequences of a confirmed positive test result;

(iii) The right to explain a confirmed positive test result and the appeal procedures available; and

(iv) The consequences of refusing to undergo a drug and alcohol test.

The consent form also provides authorization for certified or licensed medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

(e) Drugs to be tested for. When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of drugs. The selection of drugs to be tested for will be based upon known abuse in the community and the ability of each drug to affect job performance. All drug results will be reported to the Medical Review Officer (MRO). If verified by the MRO, they will be reported to the mayor.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

(f) Job applicant testing: general standard. Applicants for all classes of employments with the city will be required to undergo a drug and alcohol test after a conditional offer of employment and prior to their final appointment.

(g) Current employee testing: general standard. All employees of the city shall have mandatory drug testing at least once every calendar year, all other employees involved with the public's safety are subject to random drug testing.

The municipal government may require a current city employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances that constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

(i) A pattern of abnormal or erratic behavior;

(ii) Information provided by a reliable and credible source;

(iii) A work-related accident;

(iv) Direct observation of drug or alcohol use; or

(v) Presence of the physical symptoms of drug or alcohol use (i.e. glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and or reflexes).

Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designated alternate.

(h) Refusal to consent: applicant. A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the city.

(i) Refusal to consent: employees. An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action. Refusing to submit to an alcohol or drug test means that an employee:

(i) Fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with the provisions of this policy;

(ii) Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with this policy; or

(iii) Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician

shall provide a written statement to the city indicating a refusal to test.

(j) Types of drug and alcohol tests. An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug and/or alcohol testing under six (6) separate conditions:

(i) Pre-employment. All applicants for employee status who have received a conditional offer of employment with the City of Erin must take a drug and alcohol test before receiving a final offer of employment.

(ii) Transfer. Employees transferring to a safety sensitive position or a position that requires a CDL license shall undergo drug and alcohol testing.

(iii) Post-accident/post-incident testing. Following any workplace accident/incident determined by supervisory personnel of the city to have resulted in significant property or environmental damage or in significant personal injury, including, but not limited to, a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonable suspected of possible drug or alcohol use as determined during a routine post-accident/post-incident investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident/incident drug and/or alcohol test.

Post-accident/post-incident testing shall be carried out within two (2) hours following the accident/incident.

(A) Post-accident/post-incident testing for ambulatory employees. Following all workplace accidents/incidents where drug or alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the city to the designated testing site for a breath alcohol test and/or a drug test within two (2) hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the designated test site within two (2) hours. No employee shall consume alcohol prior to completing the post-accident/post-incident testing procedures.

(B) Post-accident/post-incident testing for injured employees. An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care

following a significant accident/incident shall consent to the obtaining of specimens for drug and/or alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the Medical Review Officer (MRO) of the city appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol and/or drugs (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the city of upon hiring following the implementation date.

Post-accident/post-incident breath alcohol and/or urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take, and have analyzed, appropriated specimens to determine if alcohol and/or drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post incident testing within two (2) hours must be fully documented by the attending medical personnel.

(iv) Testing based on reasonable suspicion. Drug and/or alcohol testing is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol and/or drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol and/or drug use. One (1) supervisor who has received alcohol detection and/or drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the city making a determination to subject any employee to alcohol and/or drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the mayor within eight (8) hours of the decision to test and before the results of the tests are received by the department.

(v) Random testing. All employees of the city may be subject to random testing for controlled substances and alcohol. Random testing will be done on a percentage basis in a fair and

equitable manner. Selection of employees for random testing will be done by a computer based random generator that is matched with an employee's Social Security number.

A minimum of fifteen (15) minutes and a maximum of two (2) hours will be allowed between notification of an employee's selection for random testing and the actual presentation for testing. Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others might not be tested at all, depending on the random selection.

If an employee is unavailable (i.e. vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the city may omit that employee from that random testing or await the employee's return to work.

(vi) Return-to-duty and follow-up. Any employee of the city who has violated the prohibited drug and alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to sixty (60) months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

(k) Drug testing collection procedures. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the city to a drug test collection facility selected by the City of Erin, where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the city to perform the analysis on collected urine samples.

(l) Drug testing laboratory standards and procedures. All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).

As specified earlier, in the event of an accident/incident occurring after regular work hours, the supervisor or designated personnel shall

take the employee(s) to the specified testing site within twenty-four (24) hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the mayor.

(m) Alcohol testing procedures. All breath alcohol testing conducted for the city shall be performed using Evidential Breath Testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (NOTE: The city's own public safety department cannot do this testing unless the test is required because of a traffic accident/incident.)

Alcohol testing is to be performed by a qualified technician as follows:

(i) Step One: An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent the Breath Alcohol Level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

(ii) Step Two: Fifteen (15) minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall ensure that the evidential breath testing device registers 0.00 on an air blank, if the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be

considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the city up to, and including, termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of 0.00 percent before returning to duty with the city.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the city, when possible.

The completed breath alcohol test form shall be submitted to the mayor and city recorder.

(n) Education and training. Supervisory personnel who will determine reasonable suspicion testing. Supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will attend annual training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use.

(o) Consequences of a confirming positive test result.

(i) Applicants. If an applicant's positive test result has been confirmed, the applicant will be denied employment with the City of Erin.

(ii) Current employees. If a current employee's positive test result has been confirmed, the employee is subject to immediate removal from any safety sensitive function, and the employee is subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriated disciplinary response include the employee's work history, length of employment, current job performance, and existence of past disciplinary actions.

(p) The right to a hearing. If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the municipality. The employee must make a written request for a hearing to the appropriated department head or designated alternate within seven (7) days of receipt by the employee of the confirmation of the test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

(i) The employee's supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and

(ii) The employee's drug test results are accurate.

Within seven (7) days following the close of the hearing, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

(q) Voluntary disclosure of drug and/or alcohol use; employee assistance program referral. In the event that an employee of the City of Erin is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with their respective department head in private. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through a program sanctioned by the municipality, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Affected employees of the City of Erin may be allowed up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

(i) The employee must use all vacation, sick and compensatory time available.

(ii) In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP) of the City of Erin. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirement. The respective department head and the mayor will consider each case

individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Erin. Voluntary disclosure provisions do not apply to applicants.

(r) Reporting and reviewing. The city shall designate a Medical Review Officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

(i) The laboratory shall report test results only to the designated MRO, who will review them in accordance with the accepted guidelines and the procedures adopted by the city.

(ii) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

(iii) The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the mayor, and the employee.

(iv) Neither the City of Erin, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney. (1974 Code, § 1-806, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-207. <u>Separation and disciplinary actions</u>. (1) <u>Types of separations</u>. All separations of employees from positions with the municipal government shall be designated as one (1) of the following types and shall be accomplished in the manner indicated: resignation, lay-offs, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of city property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

(2) <u>Resignation</u>. In the event an employee decides to leave the municipal government's employ, a two (2) week written notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any or all municipal government

equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the department head as a resignation.

(3) Lay-off. The mayor may lay off an employee in the municipal government service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold a similar position in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of probationary or regularly employees. The order of layoff shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective.

(4) Disability. An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment that cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. A reasonable accommodation may include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the municipality, but in all cases, it must be supported by medical evidence acceptable to the council, and the disability must prevent the employee form performing the essential functions of the job. The city may require an examination at its expense to be performed by a licensed physician of its choice.

When a request for an accommodation is denied, a disabled employee may also file a grievance in accordance with this policy or the grievance procedures adopted pursuant to the ADA. Employees will be treated fairly in all respects. Those who feel they have been subjected to unfair treatment have the right to present their grievance to the proper person for prompt consideration and a fair decision. The employee may present his/her case or a representative of his /her choosing and expense may present it.

(5) Death. Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these policies and procedures shall be paid to the estate of the employee, except for such sums as by the law must be paid to the surviving beneficiary.

(6) Disciplinary action. Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instance, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends

on the seriousness of the incident and the whole pattern of the employee's past performances and conduct. The types of disciplinary action are:

(a) Oral warning.
(b) Written reprimand.
(c) Suspension.
(d) Dismissal.

(7) Oral warning. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating further disciplinary actions. Documentation regarding the issuance of an oral warning shall be placed in the employee's personnel file.

(8) Written reprimand. In situations where an oral reprimand has not resulted in the expected improvement or when more severe initial action is warranted, a written reprimand may be sent to the employee. The supervisor administering the written reprimand shall confer with and advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the corrective actions shall be taken. The employee shall be asked to sign.

(9) Suspension. An employee may be suspended with or without pay, or at a reduced pay rate by the mayor, until the next regular meeting of the board of mayor and aldermen, at which time it shall be the duty of the board to take all final action relative to any continued suspension or other disciplinary actions.

(10) Dismissal. The mayor may dismiss an employee. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the charter, ordinance, or these policies and procedures.

If the employee requests a hearing on the proposed action, the mayor shall promptly set a date and time for the hearing before the board of mayor and aldermen. The decision of the board of mayor and aldermen shall be final.

(11) At-will employment. The City of Erin is an "at will" employer. This means employees can be terminated at any time, with or without cause, for any reason, with or without advance notice. Tennessee is an at will employment state, therefore, employees of the City of Erin have no rights to continued employment with the city. Employees may be dismissed for cause, for no cause, for any cause as long as it does not violate federal and state law.

(12) Grievance procedures. A "grievance" is defined as an employee's feeling of dissatisfaction; any difference disagreements or dispute arising

between an employee and his/her supervisor and/or employer with regard to some aspect of his/her employment, application or interpretation of regulations and policies, or some management decision affecting the employee. A grievance can be something real, alleged, or a misunderstanding concerning policies and procedures or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall and any other related items.

Employee(s) who have a complaint or grievance may discuss the grievance with their immediate supervisor, a higher-level supervisor, and/or their department head. Every employee may present a grievance under the provisions of this procedure free from fear, interference, restraint, discrimination, coercion or reprisal.

Steps of the grievance procedure are as follows:

(a) Step One: The employee makes an oral or written presentation of the grievance to his/her immediate supervisor. It shall be the supervisor's responsibility to promptly consider the grievance and take appropriate action. The supervisor shall inform the employee of the decision and any action taken shall be within seventy-two (72) hours if appropriated and if the supervisor has the authority. The supervisor shall prepare a written report of the grievance and provide a copy of it to the department head. Any supervisor in the chain of command shall attach his/her recommendation regarding the un-resolved grievance if it proceeds to a higher level. No supervisor may hold a grievance longer than seventy-two (72) hours without forwarding it to the next supervisory level.

(b) Step Two: If the grievance cannot be resolved on an informal basis between the employee and supervisor, the employee may proceed to the second procedural step. Before proceeding an employee must put the grievance in writing and request that the written statement be delivered to the mayor. If an employee wishes a hearing, the mayor will accommodate the employee. Upon hearing the grievance the mayor must provide a written response to the employee within seventy-two (72) hours of the hearing.

(c) Step Three: If the grievance is not resolved with the mayor, the employee may request in writing a hearing with the board of mayor and aldermen. The board of mayor and aldermen shall have fourteen (14) calendar days to schedule the hearing after which, the board of mayor and aldermen shall provide a written response to the employee with copies to the mayor and the employee's immediate supervisor. Every attempt will be made to resolve the employee's grievance.

(13) Appeals process. Any city employee reprimanded, suspended, or dismissed may submit to the mayor a request to have the action reviewed by the board of mayor and council. An employee must submit the request for an appeal within ten (10) calendar days of receipt of notification of the disciplinary action

and must also state his/her intent to have representation and name the representatives. The board of mayor and aldermen shall schedule a hearing within fourteen (14) days of the receipt of the employee's request for appeal. The action of the board of mayor and aldermen shall be final and binding on all parties involved unless appealed to the chancery court by the employee. (1974 Code, § 1-807, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-208. Amendment of personnel rules. (1) Amendments. Amendments or revisions of these policies and procedures may be recommended for adoption by the mayor. Such amendments or revisions of these policies and procedures shall become effective after approval by ordinance of the board of mayor and aldermen.

(2) Severability. Each section, subsection, paragraph, sentence and clause of these policies and procedures document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these policies and procedures, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

(3) Special note. These personnel policies and procedures are believed to be written within the framework of the Charter of the City of Erin but in case of conflict, the charter takes precedence. (1974 Code, § 1-808, as replaced by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-209. Appendices. (1) Cell phone use policy. The purpose of this policy is to offer guidance in the use and application of the City of Erin owned phones.

(a) Authorization. Recommendations for the issuance of the City of Erin owned mobile phones should be approved by the mayor. The use of a City of Erin owned phone is considered a privilege and may be revoked. Regular landline phones may be provided to employees as is appropriate for their position.

Both landlines and mobile phones will be assigned by need and not every employee will have a unique landline and/or mobile phone assigned to them. Each case for a phone will be reviewed individually; the location, the business requirements, safety issues and appropriateness will all be taken into consideration when evaluating the need for a new phone.

(b) Use. (i) Business use. Any phone owned and issued by the City of Erin shall have, as its primary function, business related uses. When an employee is in travel status, they are encouraged to use their mobile phone, if service is available. Employees should cross-reference the phone use requirements referenced in the city travel policy.

(ii) Personal use. This policy acknowledges that, from time to time, a City of Erin issued phone may be used for personal

calls. As long as this use of phone is incidental to its primary business use personal calls are allowed.

If a situation occurs that warrants personal use of a City of Erin owned phone, beyond an incidental nature, the individual shall reimburse the city, as appropriate. Should it be determined that an individual is abusing the privilege of using a City of Erin owned phone, the phone may be taken from the employee and/or the employee disciplined. Depending on the severity of the abuse, the city's progressive discipline policy shall apply.

City employees are not allowed to use their personal phones during designated work hours unless specifically permitted by their department head. Personal calls during designated work hours may not be taken at any time when it may disrupt the employee's assignment task/work and/or may compromise the safety of the employee other employees, or the general public.

(iii) Prohibited use. Phones issued by the City of Erin shall not be used to harass or threaten any individual. Typically, city phones may not be used for personal long distance or fee services. However in an emergency situation, the expense for any such use shall be reimbursed to the city as soon as possible. When practical, the employee must seek approval from their supervisor.

(iv) Driving. The City of Erin encourages the safe use of phones when operating any vehicle or piece of machinery. Drivers using cell phones may pull off the road into a safe area until the call is terminated. If available, hands free devises may be used to conduct calls while driving.

(v) Meetings. Any individual using a City of Erin mobile phone shall use good judgment in how and where the phone is used. Phones taken into meetings shall be turned off or to vibrate. If a call is taken during a meeting, every effort should be made not to disrupt the meeting. Unless a call is specifically related to the topic of discussion, talking on the phone in a meeting is strongly discouraged.

(c) Phone records. Every individual City of Erin owned mobile phone user is responsible for checking the accuracy of their bill before it is processed for payment. Discrepancies in billing data shall be resolved in a timely manner. Landline calls incurring fees shall be assigned to the appropriated departmental budget code.

(i) If a city phone is used for personal long distance or fee services, the supervisor must be notified and the city reimbursed.

(ii) Other. The nature of the technology required to support the wireless mobile telephone is rapidly evolving. Phones may have additional features such as cameras, text messaging, Internet access, etc. The intent of this policy is to apply the

principles enumerated herein to any such add-on or accessory feature.

(d) Recordings. Employees that use devices to record telephone conversations shall do so only in a manner consistent with the status of such applicable local, state and federal laws.

(2) Internet and electronic mail use policy. (a) It is the policy of the City of Erin that all employees having global Internet access and e-mail privileges shall use such access only for official work in full compliance with this policy and the policies of the city. Each user must be aware of the risks related to Internet access and e-mail which cannot be eliminated but may only be managed through the exercise of prudence and caution.

(b) No e-mail messages sent or received on city computers is personal or private; each is the property of the City of Erin. E-mail messages can be copied, distributed, discovered in litigation and used in disciplinary proceedings even if deleted by the recipient. Users have no expectation of privacy as to any e-mail message at any time.

(c) Principles of acceptable internet and computer system use.

(i) Use must be for legitimate work-related purposes only.

(ii) Users shall respect the legal protections afforded by copyright and license laws for programs and data.

(iii) Users shall identify themselves as employees of their department and the city when sending any e-mail message via the Internet.

(d) Unacceptable use of the Internet, e-mail, and the city's computer system.

(i) Users shall respect the integrity of the city's computing system and shall not use it for unacceptable purposes or in an unacceptable manner as described below. It is unacceptable for a user to use, submit, publish, display, or transmit on the Internet, or any part of the city's computer system, any information which:

(A) Uses the system for any illegal purpose;

(B) Contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually oriented, threatening, racially offensive, or otherwise biased, discriminatory, or illegal material, whether in the form of a "joke" or otherwise;

(C) Violates or infringes on the rights of any other person, including the right to privacy; or

(D) Modify files or data belonging to other users without explicit permission to do so.

(ii) No user, other than the mayor or the various department directors, shall have authority to subscribe to any service for which a fee is charged.

(iii) Users shall not use or develop programs that harass other supers or infiltrate a computer or computing system, or which seek to alter or damage the software components of a computer or computing system.

(e) Personal use. The provisions in this policy shall also not be construed to prohibit infrequent and brief use of the system for incidental personal matters by an employee during a meal or other personal break time. This is similar to an employee's limited ability to make a personal telephone call on personal time. For example, an employee may spend a minute or two (2) looking at the weather radar online; provided, however, in no event shall any such limited personal use include any activity otherwise prohibited by this policy, e.g., visiting a sexually explicit site.

(f) No right of privacy - monitoring.

(i) Pursuant to the Electronic Communications Act of 1986 U.S.C. §§ 2510 et seq., notice is hereby given that there are no facilities provided by the city and its system for sending or receiving private or confidential electronic communications.

(ii) Electronic mail, whether sent via the Internet or internally may be a public record subject to public disclosure under the Tennessee Public Records Law and may be inspected by the public (Tennessee Code Annotated, § 10-7-512). (as added by Ord. #618, June 2019 ***Ch9_6-8-21***)

4-210. Repeal of ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed. (as added by Ord. #618, June 2019 ***Ch9_6-8-21***)

CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM[1]

SECTION

4-301. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Erin. (1974 Code, § 1-1101, as replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

4-302. Purpose. The City of Erin in electing to update the established program plan will maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and

(d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

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[1]The Occupational Safety and Health Program Plan for the City of Erin, including all Appendices, is included in this municipal code as Appendix A.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1974 Code, § 1-1102, as replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

4-303. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Erin shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1974 Code, § 1-1103, as replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

4-304. Standards authorized. The occupational safety and health standards adopted by the City of Erin are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

4-305. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Variances from Occupational Safety and Health Standards, chapter 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

4-306. Administration. For the purposes of this chapter, the city recorder or designee is designated as the safety director of occupational safety

and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Safety and Health Provisions For the Public Sector, chapter 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

4-307. Funding the program. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Erin Board of Mayor and Aldermen. (as added by Ord. #540, Feb. 2004 and replaced by Ord. #630, Jan. 2021 ***Ch9_6-8-21***)

CHAPTER 4

COMPLIANCE MANUAL REGARDING TITLE IV OF THE CIVIL RIGHTS ACT OF 1962

4-401. The Civil Rights Act of 1962. The Compliance Manual Regarding Title VI of the Civil Rights Act of 1962 is adopted in its entirety by reference as if set out fully herein.[1] (as added by Ord. #545, Feb. 2006)

4-402. Policy statement. It is the policy of the City of Erin to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. (as added by Ord. #545, Feb. 2006)

[1]Ord. #545, Feb. 2006, of record in the office of the city recorder, contains the Compliance Manual Regarding Title VI of the Civil Rights Act of 1962.

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the city into compliance with Tennessee Code Annotated, § 6-54-901 to 6-54-907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law." To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (as added by Ord. #549, June 2007)

4-502. Enforcement. The mayor of the city or the treasurer shall be responsible for the enforcement of these travel regulations. (as added by Ord. #549, June 2007)

4-503. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the mayor.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses. Travel advance requests are not considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the mayor to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form and upon approval of the mayor or the treasurer. Meeting agenda is required.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be

(a) Directly related to the conduct of the city business for which travel was authorized; and

(b) Actual, reasonable, and necessary under the circumstances. The mayor may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (as added by Ord. #549, June 2007)

4-504. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the city travel regulation rates. The city's travel reimbursement rates will be established and changed as necessary.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (as added by Ord. #549, June 2007)

4-505. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the city recorder. (as added by Ord. #549, June 2007)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

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)

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[1]Charter reference: art. IV.

[2]Charter reference: § 4.09.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

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

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[1]State 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.

[2]Charter 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. 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 TAX[1]

SECTION

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)

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[1]State law reference
Tennessee Code Annotated, §§ 67-6-701, et seq.

[2]This 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. 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)

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[1]State 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. 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 POLICY[1]

SECTION

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

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[1]State 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 contest 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. <u>Professional services</u>. (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)

TITLE 6

LAW ENFORCEMENT

CHAPTER

CHAPTER 1

POLICE AND ARREST[1]

SECTION

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1974 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trail of cases. Policemen shall also promptly serve any legal process issued by the city court. (1974 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1974 Code, § 1-403)

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[1]Municipal code reference
Traffic citations, etc.: title 15, chapter 7.

6-104. When policemen to make arrests[1]. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1974 Code, § 1-404)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1974 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1974 Code, § 1-406)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1974 Code, § 1-407)

CHAPTER 2

WORKHOUSE[1]

SECTION

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1974 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1974 Code, § 1-602)

6-203. Compensation of inmates.[2] Each workhouse inmate shall be allowed five dollars ($5.00) per day as credit toward payment of the fines and costs assessed against him. (1974 Code, § 1-603)

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[1]Charter reference: § 1.04(p).

[2]See Pub. Acts 1972, ch. 729.

CHAPTER 3

USE OF FORCE POLICY

SECTION

6-301. Use of force policy. The Erin Police Department's use of force policy, and any amendments thereto, may be found in the recorder's office. (as added by Ord. #628, Nov. 2020 ***Ch9_6-8-21***)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described. The corporate fire limits shall be as follows:

> Beginning at Mitchum's corner on Spring Street and running with Railroad Street to and so as to include the Ross Tobacco Warehouse; and then running north with the line of said tobacco warehouse and on north with alley to Walnut Street; thence west with Walnut Street to Spring Street; thence south with the west side of Spring Street to the beginning, shall be and is hereby declared to be a fire district. (1974 Code, § 7-101)

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[1]Municipal code reference

Building, utility and residential codes: title 12.

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Fire Prevention Code (NFPA No. 1),[2] 1999 edition, as recommended by the National Fire Protection Association, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the Fire Prevention Code has been filed with the city recorder and is available for public use and inspection. The Fire Prevention Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1974 Code, § 7-201, modified, as amended by Ord. #517, Sept. 2000)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal. (1974 Code, § 7-202)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Erin, Tennessee. (1974 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. The limits referred to in § 12.5b of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

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[1]Municipal code reference
Building, utility and residential codes: title 12.

[2]Copies of this code are available from the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, MA 02269-9101.

The limits referred to in § 16.22a of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 16.51 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 21.6a of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. The construction and/or placement of flammable and combustible liquid storage tank within the corporate limits of the City of Erin shall be so placed and/or constructed as provided by the National Fire Prevention Code §§ 30 and 30A. (1974 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1974 Code, § 7-205)

7-206. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code; provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1974 Code, § 7-206)

7-207. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the Board of Mayor and Aldermen of the City of Erin or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (1974 Code, § 7-207)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Establishment and organization. There is hereby created a fire department in order to protect life, avoid injury and preserve property within the city limits from fire. The board of mayor and aldermen of the City of Erin, is empowered to organize a fire department which shall consist of such apparatus as the city now has and such as hereafter may be provided and of a personnel to be composed of a chief and assistant chief, and all other necessary personnel, as directed by the Tennessee Inspection Bureau and that upon organization the members of the fire department shall be subject to such rules and regulations as may be hereafter adopted and approved by the board of mayor and aldermen. (1974 Code, § 7-301)

7-302. Duties and term of fire chief. The chief of the fire department shall be a man especially qualified for the duties incumbent upon him and shall hold office for an indefinite term and only to be removed for cause. (1974 Code, § 7-302)

7-303. Assistant chief and officers. There shall be an assistant chief of the department and two (2) officers for each fire company, whose promotion shall be based on an efficient record as firefighter and properly certified by the chief to the board of mayor and aldermen for confirmation. (1974 Code, § 7-303)

7-304. Applicants for employment. The name of applicants for membership in the department are to be certified to the board by the chief for final confirmation. All applicants are to be mentally and physically sound, of satisfactory age, weight and height. Special training shall be required for such engineers and drivers as may be needed. (1974 Code, § 7-304)

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[1]Municipal code reference
Special privileges with respect to traffic: title 15, chapter 2.

7-305. Equipment, compensation of members, etc. Personal items of equipment such as suitable clothing, etc. shall be furnished members by the city with the approval of the mayor; provided further that such equipment shall remain the property of the city. Full-time and part-time personnel who shall conform to the rules and regulations governing working hours, attendance of drills, etc. shall be compensated in accordance to the wage scale established by resolution of the board of mayor and aldermen. (1974 Code, § 7-305)

7-306. Chief to possess police power in control and prevention of fires. The chief shall be authorized to exercise police powers at times of fire and summons to his assistance such additional help as he may deem necessary to control the fire. The chief shall and is authorized to enforce all fire prevention ordinances, and all state laws on the same matters. (1974 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1974 Code, § 7-307)

CHAPTER 4

FIREWORKS

SECTION

7-401. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Erin, or ship into the City of Erin, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States consumer product safety commission and permitted for use by the general public under its regulations. (Ord. #501, Aug. 1997)

7-402. Limits on fireworks discharge. The discharge of fireworks within the corporate limits of the City of Erin shall be limited to the hours between 9:00 A.M. and 10:00 P.M. and may discharge any time on July 4, December 24 and December 31. (Ord. #501, Aug. 1997)

7-403. Exception to limits on fireworks discharge. Section 7-402 shall not apply to toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five (25) one-hundredths (1/100) gains or less of explosive compounds are used, as described in Tennessee Code Annotated, § 68-104-110. (Ord. #501, Aug. 1997)

7-404. Public displays; permits; regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Erin shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not

include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the police chief and fire chief, or their designees, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public display shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possesion of special fireworks for re-sale to holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. (Ord. #501, Aug. 1997)

7-405. Exceptions to application. Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illumination devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural puposes shall be limited to those items that are legal for retail sale and use within the the Town of Kingston Springs. (Ord. #501, Aug. 1997)

7-406. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not more than fifty dollars ($50.00). (Ord. #501, Aug. 1997)

CHAPTER 5

OPEN BURNING REGULATIONS

SECTION

7-501. Open burning permitted. After the effective date of these regulations, no person shall cause, suffer, allow or permit open burning of any kind except as specifically permitted herein. (as added by Ord. #526, April 2002)

7-502. Exception. Open burning, as described in this chapter, may be conducted without permits; provided that no public nuisance is or will be created by such burning. Fires used for cooking food, fires for ceremonial or recreational purposes, including barbecues and outdoor fireplaces, and fires set for the training and instruction of firefighters, do not need a permit. This grant of exemption shall in no way relieve the person from the consequences, damages, or claims resulting for such burning. This exception does not relieve the person of the responsibility of using fire safe practices conform getting a permit form any other agency that may required such. (as added by Ord. #526, April 2002)

7-503. Inside corporate limits. Open burning shall be allowed inside the corporate limits of the city when a valid permit has been obtained from the fire department. Prior to the burning, the person requesting the permit shall be certain that no detriment to the public health or damage to the land, water or air will be caused. The following conditions shall always be met:

(1) Open burning shall be between the hours of 9:00 A.M. and 8:00 P.M.

(2) All fires shall be completely extinguished by 9:00 P.M.

(3) The fires may never be left unattended. (as added by Ord. #526, April 2002)

7-504. Permit obtained from the fire department. To obtain a permit required by this chapter, the applicant shall file an application to the fire department on the forms prescribed by the department. No fee shall be required to obtaining open burning permit. All permits issued shall be displayed while the open burning is in progress when the fire chief or the senior fire officer in charge has determined that conditions are unfavorable or hazardous for outdoor fires. (as added by Ord. #526, April 2002)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER

CHAPTER 1

INTOXICATING LIQUORS

SECTION

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[1]State law reference

Tennessee Code Annotated, title 57.

8-101. Sale, etc., of intoxicating liquor regulated. It shall be unlawful to purchase or possess alcoholic beverages or to engage in the business of selling, storing, transporting, or distributing alcoholic beverages within the corporate limits of the City of Erin except as provide by Tennessee Code Annotated, title 57, and by rules and regulations promulgated thereunder, and as provided in this chapter. (1974 Code, § 2-101, as replaced by Ord. #601, Jan. 2014)

8-102. Definitions. Whenever used herein, unless the context requires otherwise:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, and wine and capable of being consumed by a human being, other than patented medicine, beer, or wine where the latter two (2) contain alcohol of five percent (5%) by weight or less.

(2) "Federal license" shall not mean tax receipt or permit.

(3) "Gallon" or "gallons" shall be construed to mean a wine gallon or wine gallons, of one hundred twenty-eight (128) ounces. The word "quart" whenever used herein will be construed to mean one-fourth (1/4) of a wine gallon. The word "pint" wherever used shall be construed to mean one-eighth (1/8) of a wine gallon.

(4) "License" means the license issued herein and "licensee" means any person to whom such license has been issued.

(5) "Manufacturer" means and includes a distiller, vintner, and rectifier. "Manufacture" means and includes distilling and rectifying, and operating a winery.

(6) "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.

(7) "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions herein.

(8) "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.

(9) "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of Tennessee Code Annotated, title 57.

(10) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climate, saccharine, and seasonal conditions, including champagne, and sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product content shall be called "wine" unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine.

Words importing the masculine gender shall include the feminine and the neuter, and singular shall include the plural. (as added by Ord. #601, Jan. 2014)

8-103. Manufacture prohibited. The manufacture of alcoholic beverages is prohibited within the corporate limits. (as added by Ord. #601, Jan. 2014)

8-104. Wholesale selling prohibited. No person, firm, or corporation shall engage in the business of selling alcoholic beverages at wholesale within the corporate limits. (as added by Ord. #601, Jan. 2014)

8-105. License required. For the retail sale of alcoholic beverages a certificate of compliance may be issued as herein provided. Any person, firm, or corporation desiring to sell alcoholic beverages to patrons or customers, in sealed packages only, and not for consumption on the premises, shall make application to the City of Erin for a certificate of compliance, which application shall be in writing on forms prescribed and furnished by the city recorder subject to the issuance of a retail license by the Alcoholic Beverage Commission State of Tennessee, a majority of the board of mayor and aldermen may issue such certificate of compliance. Such certificate shall not be issued unless and until the applicant therefor shall pay to the city recorder a certification fee of two hundred fifty dollars ($250.00). (as added by Ord. #601, Jan. 2014)

8-106. Application for certificate. (1) Before any certificate, as required by Tennessee Code Annotated, § 57-3-208, or a renewal as required by an application in writing shall be filed with the city recorder on a form to be provided by the city, together with a non-refundable application fee of two hundred fifty dollars ($250.00), giving the following information:

(a) Name, age and address of the applicant.

(b) Number of years of residence in the State of Tennessee.

(c) Occupation or business and length of time engaged in such occupation or business.

(d) Whether or not the applicant or any owner of the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.

(e) If employed, the name and address of employer.

(f) If in business, the kind of business and location thereof.

(g) The location of the proposed store for the sale of alcoholic beverages.

(h) The name and address of all owners of the store.

(i) If the applicant is a partnership, the name, age and address of each partner, and his occupation, business or employer. If the applicant

is a corporation or limited liability company, the name, age and address of the stockholders or members and their percentage of ownership of the corporation or limited liability company.

(2) If the owners (individually, stockholders, partners, or members) exceed three (3) in number, the application fee shall be increased by fifty dollars ($50.00) for each owner in excess of three (3).

(3) If a new certificate of compliance is required by the State of Tennessee Alcoholic Beverage Commission after the initial issuance of a certificate of compliance but before a renewal certificate of compliance is issued, or between the time of the issuance of the renewal certificate of compliance is issued, or between the time of the issuance of the renewal certificate of compliance and subsequent renewals of compliance, an additional two hundred fifty dollars ($250.00) will become due and payable at time of request.

(4) At the time of a request for a renewal certificate of compliance there will be a two hundred fifty dollar ($250.00) application fee due; provided the number of owners (individually, stockholders, partners, or members) does not exceed three (3) in number. If the number of owners exceeds three (3) in number the application fee shall be increased by fifty dollars ($50.00) for each owner in excess of three (3).

(5) The information in any application shall be verified by the oath of the applicant. If the applicant is a partnership, a corporation or a limited liability company, the application shall be verified by the oath of each owner of the entity. (as added by Ord. #601, Jan. 2014)

8-107. Limitations on issuance of certificate of compliance. No certificate of compliance shall be granted for the operation of a retail store for the sale of alcoholic beverages when the carrying on of such business at the premises covered by the application for a license would be closer than two hundred feet (200') as measured from the main and principal front entrance of such business at such premises of licensee to the main and principal front entrance of a church or school. A certificate of compliance issued under this chapter shall not be valid except at the premises recited in the application, and any change of location of said business shall be cause for immediate revocation of said license by the mayor, unless the location is approved in writing by the mayor. Said approval by the mayor must be authorized by approval of majority of the board of mayor and aldermen. (as added by Ord. #601, Jan. 2014)

8-108. Number of certificates. There shall be no restriction on the number of stores for the sale of alcoholic beverages as herein defined. (as added by Ord. #601, Jan. 2014)

8-109. Bonds of licensees. Bonds required herein shall be executed by a surety company, duly authorized and qualified to do business in Tennessee. Bonds of retailers shall be five hundred dollars ($500.00). Said bond shall be

conditioned that the principal thereof shall pay any fine which may be assessed against such principal. (as added by Ord. #601, Jan. 2014)

8-110. Restrictions on license holders and employees. (1) The license fee for every license hereunder shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under sections herein. In addition to all other penalties, a violation of this section shall authorize and require the revocation of the license, the fee for which was paid by another, and also the revocation of the license, if any, of the person so paying for the license of another.

(2) No retailer's license shall be issued to a person who is a holder of a public office, either appointive or elective, or who is a public employee, either national, state, city, or county. It shall be unlawful for any such person to have any interest in such retail business, directly or indirectly, either proprietary or by means of any loan, mortgage, or lien, or to participate in the profits of any such business.

(3) No retailer shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time he or the concern with which he is connected shall receive a license; provided, however that this provision shall not apply to any person who has been so convicted but whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. In the case of any such conviction occurring after a license has been issued and received, the said license shall immediately be revoked if such convicted felon be an individual licensee, and if not, the partnership, corporation, or association with which he is connected shall immediately discharge him.

(4) No license shall under any condition be issued to any person who, within ten (10) years preceding application for such license or permit, shall have been convicted of any offense under the laws of the State of Tennessee or of any other state or of the United States prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling intoxicating liquors or who has, during said period, been engaged in business alone or with others in violation of any of said laws or rules and regulations promulgated pursuant thereto, or as they existed or may exist thereafter.

(5) No manufacturer, brewer, or wholesaler shall have any interest in the business or building containing licensed premises of any other person having a license hereunder, or in the fixtures of any such person.

(6) It shall be unlawful for any person to have ownership in, or participate, either directly or indirectly, in the profits of any retail business licensed, unless his interest in said business and the nature, extent, and character thereof shall appear on the application; or if the interest is acquired after the issuance of a license, unless it shall be fully disclosed to the City of Erin and approved by the board of mayor and aldermen. Where such interest is

owned by such person on or before the application for any license, the burden shall be upon such person to see that this section is fully complied with, whether he himself signs or prepares the application, or whether the same is prepared by another; or if said interest is acquired after the issuance of the license, the burden of said disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(7) No person shall be employed in the sale of alcoholic beverages except a citizen of the United States.

(8) No retailer, or any employee thereof, engaged in the sale of alcoholic beverages shall be a person under the age of eighteen (18) years, and it shall be unlawful for any retailer to employ any person under eighteen (18) years of age for the physical storage, sale, or distribution of alcoholic beverages, or to permit any such person under said age on its place of business to engage in the storage, sale, or distribution of alcoholic beverages.

(9) No retailer shall employ in the storage, sale, or distribution of alcoholic beverages, any person who, within then (10) years prior to the date of his employment, shall have been convicted of a felony involving moral turpitude, and in case an employee should be convicted he shall immediately be discharged; provided, however, that this provision shall not apply to any person who has been so convicted, but whose rights of citizenship have been restored, or judgment of infamy has been removed by a court of competent jurisdiction.

(10) The issuance of a license does not vest a property right in the licensee, but is a privilege subject to revocation or suspension under this chapter.

(11) Misrepresentation of a material fact, or concealment of a material fact required to be shown in application for license shall be a violation of this chapter.[1] (as added by Ord. #601, Jan. 2014)

8-111. <u>Display of license</u>. Persons granted a license to conduct business shall, before being qualified to do business, display and post, and keep displayed and posted, in the most conspicuous place in their premises, such license.[2] (as added by Ord. #601, Jan. 2014)

8-112. <u>Transfer of permits restricted</u>. The holder of a license may not sell, assign, or transfer such license to any other person, and said license shall be good and valid only for the calendar year in which the same was issued; provided, however, that licensees who are serving in the military forces of the

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[1]State law reference
<u>Tennessee Code Annotated</u>, § 57-3-210.

[2]State law reference
<u>Tennessee Code Annotated</u>, § 57-3-211.

United States in the time of war may appoint an agent to operate under the license during the absence of the licensee. In such instances, the license shall continue to be carried and renewed in the name of the owner. The agent of the licensee shall conform to all the requirements of the licensee. No person who is eligible to obtain a license shall be eligible to serve as the agent of a licensee under this section.[1] (as added by Ord. #601, Jan. 2014)

8-113. Expiration and renewal of license. Licenses issued under this chapter shall expire at the end of each calendar year and, subject to the provisions of this chapter, may be renewed each calendar year by payment of the above-mentioned license fee.[2] (as added by Ord. #601, Jan. 2014)

8-114. New license after revocation. Where a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the same premises until after the expiration of one (1) year from the date said revocation becomes final and effective.[3] (as added by Ord. #601, Jan. 2014)

8-115. Federal license, effect of. The possession of any federal license to sell alcoholic beverages without the corresponding requisite state license shall in all cases be prima facie evidence that the holder of such federal license is selling alcoholic beverages in violation of the terms of this chapter. (as added by Ord. #601, Jan. 2014)

8-116. Inspection fee. (1) The City of Erin imposes an inspection fee in the amount of eight percent (8%) of the wholesale price of alcoholic beverages supplied by a wholesaler pursuant to and allowed by Tennessee Code Annotated, § 57-3-501. Collection and remission of inspection fees shall be pursuant to Tennessee Code Annotated, §§ 57-3-502 and 57-3-503 as to all licensed retailers of alcoholic beverages located within the municipal limits.

(2) Collection. The inspection fee shall be collected by the wholesaler and transmitted to the city recorder not later than the twentieth day of each

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[1]State law reference
Tennessee Code Annotated, § 57-3-212.

[2]State law reference
Tennessee Code Annotated, § 57-3-213.

[3]State law reference
Tennessee Code Annotated, § 57-3-215.

month. (Tennessee Code Annotated, § 57-3-503.)[1] (as added by Ord. #601, Jan. 2014, and replaced by Ord. #627, Nov. 2020 ***Ch9_6-8-21***)

8-117. Regulations for purchase and sale of intoxicating liquors. The following regulations shall apply in the purchase and sale of intoxicating liquors:

(1) It shall be unlawful for any person in this city to buy any alcoholic beverages herein defined from any person who does not hold the appropriate license under this chapter authorizing the sale of said beverages to him.

(2) No retailer shall purchase any alcoholic beverages from anyone other than a licensed wholesaler, nor shall any wholesaler sell any alcoholic beverages to anyone other than a licensed retailer.

(3) No retail store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets, such retail store may maintain a door opening on each of the public streets; provided, however, that any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public; and provided, further, that every retail store shall be provided with whatever entrances and exits may be required by existing or future ordinances.

(4) No holder of a license for the sale of alcoholic beverages for retail shall sell, deliver, or cause, permit, or procure to be sold or delivered, any alcoholic beverages on credit.

(5) No alcoholic beverages shall be sold for consumption on the premises of the seller.

(6) The sale and delivery of alcoholic beverages shall be confined to the premises of the licensee, and curb service is not permitted.

(7) To the fullest extent, consistent with the nature of the establishment, full free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages there sold or dispensed.

(8) No form of entertainment, including pinball machines, music machines, or similar devices, shall be permitted to operate upon any premises from which alcoholic beverages are sold.

(9) No advertising by licensee, or signs, displays, posters, or designs intended to advertise any alcoholic beverage are permitted within the corporate limits of the City of Erin, except that a sign, subject to city zoning ordinance 412 4-1300.1, may be erected upon the face of the premises occupied by the licensee.

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[1]State law reference

Tennessee Code Annotated, § 57-3-503.

(10) No retail store shall be located except in a C-1 or C-2 zone. (as added by Ord. #601, Jan. 2014)

8-118. Canvassers and solicitors prohibited. No holder of a license issued shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or places of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed to prohibit the solicitation by a state licensed wholesaler of an order from any licensed retailer at the licensed premises. (as added by Ord. #601, Jan. 2014)

8-119. Regulation of retail sales. The following regulations shall apply to retail sales:

(1) No retailer shall directly or indirectly operate more than one (1) place of business for the sale of alcoholic beverages, and the word "indirectly" shall include and mean any kind of interest in another place of business, by way of stock ownership, loan, partner's interest, or otherwise.

(2) No retailer shall sell, lend, or give away any alcoholic beverages to any person who is visibly intoxicated, nor shall any retailer selling alcoholic beverages sell, lend, or give away to any person accompanied by a person who is visibly intoxicated.

(3) No retailer shall sell, lend, or give away any alcoholic beverages to a person under twenty-one (21) years of age.

(4) No retailer shall sell, lend, or give away any alcoholic beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday of each week, and between 11:00 P.M. and 8:00 A.M. Monday through Saturday.

(5) No retailer shall sell, lend, or give away any alcoholic beverages on the following holidays: Labor Day, New Year's Day, Fourth of July, Christmas or Thanksgiving.

(6) No retailer of alcoholic beverages shall keep or permit to be kept upon the licensed premises any alcoholic beverages in any unsealed bottles or other unsealed containers.[1] (as added by Ord. #601, Jan. 2014)

8-120. Failure to pay fees. Whenever any of the persons licensed hereunder fails to account for or pay over to the city recorder any license fee or inspection fee, or defaults in any of the conditions of his bond, the city recorder shall report the same to the city attorney who shall immediately institute the necessary action for the recovery of any such license or inspection fee. (as added by Ord. #601, Jan. 2014)

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[1]State law reference

Tennessee Code Annotated, § 57-3-406.

8-121. Inspections. The city mayor, or authorized representatives are authorized to examine the books, papers, and records of any licensee at any and all reasonable times for the purpose of determining whether the provisions of this chapter are being observed. The city mayor, the chief of police and any other police officer of the city is authorized to enter and inspect the premises of a liquor store at any time the liquor store is open for business. Any refusal to permit the examination of the books, papers and records of a licensee, or the inspection and examination of the premises of a liquor store shall be unlawful. The mayor shall forthwith report such violation to the state alcoholic beverage commission with the request that appropriate action be taken to revoke the license of the offending licensee. (as added by Ord. #601, Jan. 2014)

8-122. Suspension or revocation of license. In addition to any pecuniary penalty, any violation of the terms of this chapter shall make mandatory the suspension of said license by the city mayor for thirty (30) days and in the discretion of the board of mayor and aldermen may be cause for revocation of said license. (as added by Ord. #601, Jan. 2014)

8-123. Consumption of alcoholic beverages on premises. Restaurants or limited service restaurants may allow the consumption of alcoholic beverages as defined in this chapter on premises and under the terms and conditions within this title and as provided by Tennessee Code Annotated, title 57. Restaurants may furnish set-ups for use in consumption of alcoholic beverages as long as they comply with the setup tax provisions of Tennessee Code Annotated, § 57-4-301; provided, however, that nothing in this section permits the sale of liquor by the drink except where the establishment meets an exception under Tennessee Code Annotated, title 57, chapter 3. (as added by Ord. #629, Dec. 2020 ***Ch9_6-8-21***)

8-124. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by Tennessee Code Annotated, § 57-4-301), for the city's General Fund to be paid annually (as provided herein this chapter) upon any person, firm, corporation, joint stock company, syndicate or association engaging in the business of selling at retail in the city alcoholic beverages for consumption on the premises where sold. (as added by Ord. #629, Dec. 2020 ***Ch9_6-8-21***)

8-125. Annual privilege tax to be paid to the city clerk. Any person, firm corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the city shall remit annually to the city recorder the appropriate tax described in Tennessee Code Annotated, § 57-4-301, the payment shall be

remitted within thirty (30) days of expiration of such tax. Upon the transfer of ownership of the business or the discontinuance of the business, the tax shall be filed within thirty (30) days following the event. Any person, firm, corporation, joint stock company, syndicate or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (as added by Ord. #629, Dec. 2020 ***Ch9_6-8-21***)

CHAPTER 2

BEER[1]

SECTION

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen. (1974 Code, § 2-201, as replaced by Ord. #604, Aug. 2015)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The beer board shall hold regular meetings upon the first Tuesday of each month when there is business to come before the beer board. A special meeting may be called by the chairman; provided reasonable notice thereof to each member. The board may adjourn a meeting at any time

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[1]State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

to another time and place. (1974 Code, § 2-202, as replaced by Ord. #604, Aug. 2015)

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1974 Code, § 2-203, as replaced by Ord. #604, Aug. 2015)

8-204. Board board quorum and action. The attendance of at least a majority of the members of the beer board shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted. Any member present but not voting shall be deemed to have cast a "nay" vote. (1974 Code, § 2-204, as replaced by Ord. #604, Aug. 2015)

8-205. Powers and duties of the beer board. The beer board shall have the authority and is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within the municipality in accordance with the provisions of this chapter. (1974 Code, § 2-205, as replaced by Ord. #604, Aug. 2015)

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in Tennessee Code Annotated, § 57-5-101. (1974 Code, § 2-206, as replaced by Ord. #604, Aug. 2015, and Ord. #608, March 2017)

8-207. Permit required for engaging in beer business. (1) Permit required. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. Each applicant must be a person of good moral character and must certify that he has read and is familiar with the provisions of this chapter. Four (4) types of permits may be issued by the beer board.

(a) Class 1 on-premises permit shall be issued for the consumption of beer only on the premises of a restaurant.

(b) Class 2 on-Premises - tavern, where beer is sold for consumption at a tavern. "Tavern" shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises.

(c) Class 3 off-premises permit.

(d) Class 4 special occasion beer permit.

Permits shall at all times be subject to all of the limitations and restrictions provided under this code and the laws of the State of Tennessee.

(2) Permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate, or association.

(3) The applicant or a representative must appear in person before the board and subject himself to examination upon any and all questions appertaining to his qualifications under this chapter and amendments thereto. If the applicant fails to appear before the board the permit request will be postponed until the next regularly scheduled beer board meeting. (1974 Code, § 2-207, as replaced by Ord. #604, Aug. 2015)

8-208. Application fees and privilege tax. (1) Application fee. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars ($250.00), or such larger amount as may be authorized by the laws of the State of Tennessee.

(2) Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars ($100.00), or such larger amount as may be authorized by the laws of the State of Tennessee. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution storage or manufacture of beer shall remit the tax each successive January 1 to the City of Erin, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (1974 Code, § 2-208, as amended by Ord. #531, Sept. 2002, and Ord. #538, May 2004, and replaced by Ord. #604, Aug. 2015)

8-209. Public consumption of alcoholic beverages prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, public market not governed by an on-premises permit, alley, boulevard, bridge, nor upon the grounds of any cemetery or public school. (1974 Code, § 2-209, as replaced by Ord. #604, Aug. 2015)

8-210. Police record check. The city recorder shall submit all applications to the City of Erin Police Chief for a records check prior to time of the beer board meeting at which the application will be considered. (1974 Code, § 2-210, as replaced by Ord. #604, Aug. 2015)

8-211. Application–requirements and conditions. Each applicant for a beer permit shall be required to complete a formal, written application in a form approved by the beer board. Each applicant must explicitly and affirmatively state all of the following:

(1) The owner or owners of such premises.

(2) Name of the applicant's business and whether the applicant is a person, partnership, corporation, limited liability company or association.

(3) Location of premises of the business by street address and tax map and parcel.

(4) Telephone number at the location.

(5) If beer will be sold at two (2) or more restaurants or other businesses, within the same building as provided by Tennessee Code Annotated, § 57-5-103(a)(4), a description of all such businesses.

(6) Any firm, corporation, joint stock company, syndicate, partnership, limited liability company or association having at least a five percent (5%) ownership in the applicant must provide the names of all owners, stockholders, partners, and members, together with the addresses, telephone numbers, Social Security numbers and Federal Tax ID numbers of such individuals. If an owner, stockholder, partner or member of the applicant is also a legal entity other than a person. The same information for its owners is required.

(7) Identity, address, telephone number, and email address of a representative to receive annual tax notices and other communication from the city.

(8) Whether any person, firm, corporation, joint stock companies, syndicate or associations having at least a five percent (5%) ownership interest in the applicant or any person employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years.

(9) Whether the applicant is seeking a permit which would allow the sale of beer for on-premises consumption of beer or for off-premises consumption or both types of consumption.

(10) The name, address, and telephone number of the owner of the property where the applicant's business will be located and a copy of the lease governing the applicant's possession of the premises.

(11) The application shall authorize a police records check and shall waive any right the applicant may have to privacy concerning arrests reflecting on the moral character of the applicant.

(12) That the applicant will not engage in the sale of such beverages except at the place or places for which the beer board has issued a permit or permits to such applicant.

(13) That no sales of such beverages will be made except in accordance with the permit granted.

(14) The application shall be submitted to the city recorder at least fifteen (15) days prior to the beer board meeting at which it is to be considered.

(15) Applications shall at all times be kept on file by the city recorder and shall be open to inspection of the general public within the limits of federal, state and local law, and any person, firm, corporation or association knowingly

making any false statement in the application shall forfeit his permit or right to a permit and shall not be eligible to receive any permit for a period of one (1) year thereafter.

(16) No applicant for a beer permit for on-premises consumption shall be issued a permit unless the city recorder has on file a background report from the City of Erin Police Chief recommending approval.

(17) Any on-premises or off-premises license in existence at the time of the enactment of the provisions of this chapter to any individual shall be considered a nonconforming use. (1974 Code, § 2-211, as replaced by Ord. #604, Aug. 2015)

8-212. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for either off-premises or on-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for holder of a permit not to comply with any and all express restrictions or conditions in the permit.

Where an owner operates two (2) or more restaurants or other businesses within the same building, the owner may, in the owner's discretion, operate some or all such businesses pursuant to the same permit. (1974 Code, § 2-212, modified, and amended by Ord. #533, May 2003, and Ord. #568, Oct. 2010, and replaced by Ord. #604, Aug. 2015)

8-213. Permits not transferable; permitted locations for consumption. (1) The beer permit is only for the owner to whom the permit is issued and cannot be transferred to another owner. If the owner is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner.

(2) The beer permit is only for a single location, except as provided in § 8-212, and cannot be transferred to another location. A permit shall be valid for all decks, patio and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business.

(3) Notwithstanding any provision of this part to the contrary, when a permittee applies for a new permit based solely upon a change of the name under which the business operates with no change whatsoever in the ownership of the business or the location of its operation, upon completion of the appropriate application form and payment of any required fees, the city recorder shall be authorized to issue the new permit without further review by the beer board. (1974 Code, § 2-213, as replaced by Ord. #604, Aug. 2015)

8-214. Display of permit. The permit required by this chapter shall be posted in a conspicuous place on the premises. (1974 Code, § 2-214, as replaced by Ord. #604, Aug. 2015)

8-215. Interference with public health, safety, and morals prohibited. (1) No permit authorizing the sale of beer will be issued when, as determined in the discretion of the board, such business would cause congestion or traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals.

(2) No permit authorizing the sale of beer will be issued for any location except in a commercial or industrial zone.

(3) No permit authorizing the sale of beer shall be granted for the operation of a retail store for the sale of beer when the carrying on of such business at the premises covered by the application for a permit would be closer than two hundred feet (200') as measured from the main and principal front entrance of such business at such premises of the applicant to the main and principal front entrance of a church or school.

(4) No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, church, or other place of public gathering if a valid permit had been issued on that same location as of January 1, 1993, unless beer is not sold, distributed or manufactured at the location during any continuous six (6) month period. (1974 Code, § 2-214, as replaced by Ord. #604, Aug. 2015)

8-216. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person, firm, corporation, joint stock company, syndicate, or association, when any person having at least a five percent (5%) interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages, or of any felony, or of any crime involving moral turpitude, within the past ten (10) years. For purposes of this section, "moral turpitude" means an act of baseness, vileness, or depravity in private and social duties owed to someone or to society in general, contrary to accepted rule or right and duty between two (2) or more people. (as added by Ord. #604, Aug. 2015)

8-217. Classes of consumption permits. Permits issued by the beer board shall consist of four (4) classes. (1) Class 1 on-premises permit. A Class 1 on-premises permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 on-premises permit, an establishment must, in addition to meeting the other regulations and restrictions in the chapter:

(a) Be a restaurant or an eating place regulated, monitored and rated by the State of Tennessee;

(b) Provide adequate and sanitary kitchen and dining room equipment on the premises;

(c) The establishment for which a permit for on-premises consumption is sought must sell food prepared for on-premises consumption as a normal, regular and integral part of its everyday activities and such food is available for purchase during the same hours that beer is sold for on-premises consumption; and

(d) Be able to seat a minimum of fifteen (15) people, including children, in booths and at tables in addition to any other seating it may have; and

(e) Have all required seating in the interior of the building under a permanent roof.

(2) Class 2 on-premise-tavern. A Class 2 on-premises tavern shall be issued where beer is sold for consumption at a tavern. "Tavern" shall mean a business establishment whose primary business is or is to be the sale of beer to be consumed on the premises. Establishment must, in addition to meeting the other regulations and restrictions in this chapter:

(a) Be housed in building space and/or tenant space that does not exceed three thousand (3,000) gross square feet.

(b) Not make or allow the sale of beer on Sundays and between 12:00 A.M. and 8:00 A.M. on all other days of the week.

(3) Class 3 off-premises permit. A retailer's "off-premises permit" shall be issued to any person engaged in the sale of beer where the beer is not to be consumed by the purchaser or his guest upon or near the premises of the seller.

(4) Class 4 special occasion beer permit. The special occasion beer permit request shall be made on such form as the board shall prescribe and/or furnish and shall be accompanied by a non-refundable application fee of one hundred dollars ($100.00):

(a) The beer board is authorized to issue a special occasion beer permit to bona fide charitable or nonprofit organizations for special events.

(b) The special occasion beer permit shall not be issued for longer than one (1) forty-eight (48) hour period, unless otherwise specified by the beer board, subject to the limitations on the hours, imposed by law.

(c) The application for the special occasion beer permit shall state whether the applicant is a charitable or nonprofit organization, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose for the request of the license.

(d) For purposes of this section: "Bona fide charitable or nonprofit organization" means any corporation or other legal entity which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code.

(e) No charitable or nonprofit organization possessing a special occasion beer permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.

(f) Failure of the special occasion permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Erin will result in a denial of a special occasion beer permit for the sale of beer for a period of two (2) years. (as added by Ord. #604, Aug. 2015)

8-218. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. The following acts or conduct on licensed premises are deemed contrary to public policy, safety, health and morals and it shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

(1) Employ any person convicted of a crime related to the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow the sale of beer between the hours of 12:00 A.M. and noon on Sundays, and between 12:00 A.M. and 6:00 A.M. on all other days of the week.

(4) Allow any loud, unusual, or obnoxious noises to emanate from the premise of the beer permit holder.

(5) Make or allow the sale of beer to a minor under twenty-one (21) years of age. The burden of ascertaining the age of customers shall be upon the owner or operator of such place of business.

(6) Operate or permit any employee or any other person to operate any gambling device or game of chance whatsoever.

(7) Bring, cause or allow to be brought onto the premises of any permittee any prohibited drugs under the provisions and within the meaning of the Tennessee Code Annotated.

(8) Fail to provide and maintain separate sanitary toilet facilities for men and women or fail to comply with any state, county or local health laws and regulation.

(9) Exhibit any motion pictures for which a fee for entrance to the theater is charged.

(10) Allow the sale of beer in any establishment where adult entertainment occurs or adult materials, novelty or other adult items are sold or stored. (as added by Ord. #604, Aug. 2015)

8-219. Issuance. After all inspections have been made and the applicant for a beer permit has met all requirements of this chapter, after all necessary fees and charges have been paid by the applicant, and after the beer board has

determined the applicant has complied with all other requirements contained in this chapter, the board shall approve the application. Within a reasonable time following final approval of the application, a beer permit shall be issued to the applicant. The permittee shall retain such beer permit for as long as he shall wish to do business at the premises for which it was issued; provided that such permit is not revoked or suspended by the board. (as added by Ord. #604, Aug. 2015)

8-220. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application for failing to take actions required in this chapter or of violating any of the provisions of this chapter, including, but not limited to, the provisions of § 8-219. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the city mayor or member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (as added by Ord. #604, Aug. 2015)

8-221. Civil penalty in lieu of revocation or suspension.

(1) Responsible vendor. The beer board shall not, pursuant to Tennessee Code annotated, § 57-5-608, revoke or suspend the permit of a responsible vendor for a clerk's illegal sale of beer to a minor, if the vendor and the clerk making the sale have complied with the requirements of Tennessee Code Annotated, § 57-5-606, as a responsible vendor under that part, but may impose upon the responsible vendor a civil penalty not to exceed one thousand dollars ($1,000.00) for each offense of making or permitting to be made any sales to minors or for any violation of this chapter or state law. Permanent revocation of beer permits issued to responsible vendors may only be applied when a responsible vendor permittee commits at least two (2) violations within a twelve (12) month period and then only after the state alcoholic beverage commission revokes the permittee's status as a responsible vendor.

(2) Non-responsible vendor. The prohibition of subsection (1) above concerning the revocation or suspension of the vendor's permit shall not apply to any vendor who is not a responsible vendor under the Responsible Vendor Act, Tennessee Code Annotated, §§ 57-5-601, et. seq., or to a participating vendor, if the vendor or clerk making a sale to a minor fails to comply with the requirements of Tennessee Code Annotated, § 57-5-606. With respect to such permittee, the beer board may, at the time it imposes a revocation or

suspension, offer the permittee the alternative of paying a civil penalty not to exceed two thousand five hundred dollars ($2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense.

(3) If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is not received within seven (7) days the revocation or suspension shall begin eight (8) days after the beer board hearing. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #604, Aug. 2015)

8-222. <u>Violations</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (as added by Ord. #604, Aug. 2015)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

CHAPTER 1

GENERALLY

SECTION

9-101. Certain business prohibited on Sunday.[2] It shall be unlawful for any person, firm, corporation, or association operating a general merchandise store, department store, hardware, jewelry, furniture, or other similar establishments in the municipality, to open such place or business on Sunday; or to sell or offer for sale, give away, or deliver any hardware, jewelry, furniture, or other similar commodities or articles on Sunday. (1974 Code, § 5-101)

9-102. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale,"

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[1]Municipal code references
Building, plumbing, wiring and residential regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

[2]The constitutionality of an ordinance containing provisions identical to those in this section was upheld by the Tennessee Supreme Court in the 1957 Chattanooga case of J.W. Kirk et al. v. P.R. Oligati et al., 308 S.W.2d 471.

"bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1974 Code, § 5-102)

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1974 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1974 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

(1) Name and physical description of applicant.

(2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.

(3) A brief description of the nature of the business and the goods to be sold.

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[1]Municipal code reference
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars ($5.00) shall be paid to the City of Erin to cover the cost of investigating the facts stated therein. (1974 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within twenty-four (24) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1974 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be

delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1974 Code, § 5-205)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the City of Erin or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1974 Code, § 5-206)

9-207. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1974 Code, § 5-207)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any police officer or citizen. (1974 Code, § 5-208)

9-209. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1974 Code, § 5-209)

9-210. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing,

or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1974 Code, § 5-210)

9-211. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1974 Code, § 5-211)

9-212. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1974 Code, § 5-212)

9-213. Solicitation on public rights-of-way. (1) No person shall use any public right-of-way for the purpose of soliciting employment, business or contributions from the occupants of any vehicle, without first obtaining a permit from the Erin Police Chief or his designee.

(2) Any person or organization requesting permission to solicit from motorists must apply to the Erin Police Chief at least sixty (60) days prior to said solicitation. The permit will be granted only upon showing that proper precautions will be taken to prevent traffic congestion and to protect the health and safety of those participating.

(3) Solicitations will be allowed to take place only at the intersection of Main and Spring Street and Main and Court Square with the approved locations to be specified in the permit.

(4) Only one (1) permit per year will be issued to a local person or organization for the same solicitation, and this solicitation shall be for daylight hours only and only one (1) weekend in a calendar year; further, only one (1) permit can be issued for any given weekend.

(5) Solicitors shall be at least eighteen (18) years of age and must be citizens of Erin, Tennessee.

(6) The chief of police is authorized to promulgate rules for pedestrian solicitation.

(7) Only citizens of Erin acting on behalf of local organizations which are based and headquartered within this or adjacent counties shall be considered for a permit.

(8) All persons seeking a solicitation permit must be approved in accordance with chapter 3 of this title.

(9) Any person or organization seeking a solicitation permit must possess a federal tax identification number, and are duly filed with the I.R.S. as subchapter 501(c)3 or 501(c)4 organizations. (as added by Ord. #590, May 2013)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation; provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1974 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1974 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1974 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1974 Code, § 5-304)

9-305. Prohibited days and times. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose on the streets, roadways, alleyways, or intersections within the City or Erin, Tennessee on any Monday, Tuesday, Wednesday, Thursday, or Friday or on any day after sunset. This section may be enforced by any authorized constable or law enforcement officer. Upon conviction of a violation of this section, the penalty shall be a fine of fifty dollars ($50.00). This shall have no affect on any municipality-sanctioned activities and approved parades or celebrations. (as added by Ord. #544, Feb. 2006)

CHAPTER 4

TAXICABS[1]

SECTION

9-401. Taxicab franchise and privilege license required. It shall be unlawful for any person to engage in the taxicab business unless he has first obtained a taxicab franchise from the City of Erin and has a currently effective privilege license. (1974 Code, § 5-401)

9-402. Requirements as to application and hearing. No person shall be eligible to apply for a taxicab franchise if he has a bad character or has been convicted of a felony within the last ten (10) years. Applications for taxicab franchises shall be made under oath and in writing to the chief of police. The application shall state the name and address of the applicant, the name and address of the proposed place of business, the number of cabs the applicant desires to operate, the makes and models of said cabs, and such other pertinent information as the chief of police may require. The application shall be accompanied by at least two (2) affidavits of reputable local citizens attesting to the good character and reputation of the applicant. Within ten (10) days after receipt of an application the chief of police shall make a thorough investigation of the applicant; determine if there is a public need for additional taxicab

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[1]Municipal code reference
Privilege taxes: title 5.

service; present the application to the board of mayor and aldermen; and make a recommendation to either grant or refuse a franchise to the applicant. The board of mayor and aldermen shall thereupon hold a public hearing at which time witnesses for and against the granting of the franchise shall be heard. In deciding whether or not to grant the franchise the board of mayor and aldermen shall consider the public need for additional service, the increased traffic congestion, parking space requirements, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such an additional franchise. Those persons already operating taxicabs when this code is adopted shall not be required to make applications under this section but shall be required to comply with all of the other provisions hereof. (1974 Code, § 5-402)

9-403. Liability insurance required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy for each vehicle authorized in the amount of ten thousand dollars ($10,000.00) for bodily injury or death to any one (1) person, twenty thousand dollars ($20,000.00) for bodily injuries or death to more than one (1) person which are sustained in the same accident, and five thousand dollars ($5,000.00) for property damage resulting from any one (1) accident. The insurance policy required by this section shall contain a provision that it shall not be cancelled except after at least twenty (20) days' written notice is given by the insuror to both the insured and the Recorder of the City of Erin. (1974 Code, § 5-403)

9-404. Revocation or suspension of franchise. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab franchise for misrepresentations or false statements made in the application therefor or for traffic violations or violations of this chapter by the taxicab owner or any driver. (1974 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the municipality unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear vision mirror, all of which shall conform to the requirements of state motor vehicle law. Each taxicab shall be equipped with a handle or latch or other opening device attached to each door of the passenger compartment so that such doors may be operated by the passenger from the inside of the taxicab without the intervention or assistance of the driver. The motor and all mechanical parts shall be kept in such condition or repair as may be reasonably necessary to provide for the safety of the public and the continuous satisfactory operation of the taxicab. (1974 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the City of Erin shall, at all times, be kept in a reasonably clean and sanitary condition. They shall be thoroughly swept and dusted at least once each day. At least once every week they shall be thoroughly washed and the interior cleaned with a suitable antiseptic solution. (1974 Code, § 5-406)

9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to ensure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1974 Code, § 5-407)

9-408. License and permit required for drivers. No person shall drive a taxicab unless he is in possession of a state special chauffeur's license and a taxicab driver's permit issued by the chief of police. (1974 Code, § 5-408)

9-409. Qualifications for driver's permit. No person shall be issued a taxicab driver's permit unless he complies with the following to the satisfaction of the chief of police:

(1) Makes written application to the chief of police.

(2) Is at least eighteen (18) years of age and holds a state special chauffeur's license.

(3) Undergoes an examination by a physician and is found to be of sound physique, with good eyesight and hearing and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.

(4) Is clean in dress and person and is not addicted to the use of intoxicating liquor or drugs.

(5) Produces affidavits of good character from two (2) reputable citizens of the municipality who have known him personally and have observed his conduct for at least two (2) years next preceding the date of his application.

(6) Has not been convicted of a felony, drunk driving, driving under the influence of an intoxicant or drug, or of frequent minor traffic offenses.

(7) Is familiar with the state and local traffic laws. (1974 Code, § 5-409)

9-410. Revocation or suspension of driver's permit. The board of mayor and aldermen, after a public hearing, may revoke or suspend any taxicab driver's permit for violation of traffic regulations, for violation of this chapter, or when the driver ceases to possess the qualifications as prescribed in § 9-409. (1974 Code, § 5-410)

9-411. Drivers not to solicit business. All taxicab drivers are expressly prohibited from indiscriminately soliciting passengers or from cruising

upon the streets of the municipality for the purpose of obtaining patronage for their cabs. (1974 Code, § 5-411)

9-412. Parking restricted. It shall be unlawful to park any taxicab on any street except in such places as have been specifically designated and marked by the municipality for the use of taxicabs. It is provided, however, that taxicabs may stop upon any street for the purpose of picking up or discharging passengers if such stops are made in such manner as not to unreasonably interfere with or obstruct other traffic and provided the passenger loading or discharging is promptly accomplished. (1974 Code, § 5-412)

9-413. Drivers to use direct routes. Taxicab drivers shall always deliver their passengers to their destinations by the most direct available route. (1974 Code, § 5-413)

9-414. Taxicabs not to be used for illegal purposes. No taxicab shall be used for or in the commission of any illegal act, business, or purpose. (1974 Code, § 5-414)

9-415. Miscellaneous prohibited conduct by drivers. It shall be unlawful for any taxicab driver, while on duty, to be under the influence of, or to drink any intoxicating beverage or beer; to use profane or obscene language; to shout or call to prospective passengers; to unnecessarily blow the automobile horn; or to otherwise disturb the peace, quiet and tranquility of the City of Erin in any way. (1974 Code, § 5-415)

9-416. Transportation of more than one passenger at the same time. No person shall be admitted to a taxicab already occupied by a passenger without the consent of such other passenger. (1974 Code, § 5-416)

9-417. Fares. Taxicab fares within this municipality shall be regulated and fixed by the board of mayor and aldermen by resolution from time to time as need may arise. No passenger fares shall be made for baggage or parcels belonging to passengers. (1974 Code, § 5-417)

CHAPTER 5

POOL ROOMS[1]

SECTION

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1974 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1974 Code, § 5-502)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1974 Code, § 5-503)

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[1]Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

GAME ROOMS

SECTION

9-601. Hours of operation regulated. It shall be unlawful for any person to conduct a business commonly known as a "game room" business, and businesses incidently thereto later than 12:00 A.M., prevailing time. (1974 Code, § 5-601)

CHAPTER 7

YARD SALES

SECTION

9-701. Limitation on number of yard sales. Holders of yard sales and/or garage sales shall be limited to holding two (2) sales per year within the City of Erin, each sale not to exceed three (3) consecutive days in length. The office of the city recorder is charged with the responsibility of keeping a record of when and where sales are held. Any person or persons holding more than two (2) sales annually shall be subject to application for a license under the Business Tax Act, shall be subject to sales tax, and may be required to keep an inventory of items on hand for the sale for inspection by the city. (1974 Code, § 5-701)

CHAPTER 8

CABLE TELEVISION

SECTION

9-801. To be furnished under franchise. Cable television service shall be furnished to the City of Erin and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Erin and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1]

[1]For complete details relating to the cable television franchise agreement see Ord. #360 in the office of the city recorder.

TITLE 10

ANIMAL CONTROL

CHAPTER

CHAPTER 1

IN GENERAL

SECTION

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, to knowingly or negligently permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1974 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1974 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1974 Code, § 3-103)

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1974 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1974 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1974 Code, § 3-106)

10-107. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the governing body.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl a reasonable fee to cover the costs of impoundment and maintenance. (1974 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to ensure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1974 Code, § 3-108)

10-109. Keeping of hogs. Hogs may be kept within the corporate limits; provided that they are confined in well kept sanitary lots sufficiently large to allow as much as two thousand five hundred (2,500) square feet of space for each hog confined therein; provided that from the first day of October to the first of May of each year hogs may be kept in well cared for sanitary barns and

not more than one (1) car load in one 1) barn, and no hog or hogs shall be kept longer than four (4) consecutive weeks. This section shall not apply to pigs or young hogs under two (2) months old and shall not apply to hogs being carried to market when not kept over more than forty-eight (48) hours. Any violation of this section shall be unlawful and shall be punished in accordance with the general penalty clause of this code. (1974 Code, § 3-109)

CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 to 68-8-114) or other applicable law. (1974 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1974 Code, § 3-202)

10-203. Running at large prohibited.[1] It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1974 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to reasonably provide for the protection of other animals and persons. (1974 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1974 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of

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[1]State law reference
Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

police may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1974 Code, § 3-206)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said dog is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, to be fixed by the pound keeper, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and had a tag placed on its collar.

When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman.[1] (1974 Code, § 3-207)

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[1]State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

CHAPTER 3

BIRD SANCTUARY

SECTION

10-301. Killing of birds prohibited, generally. The entire area embraced within the corporate limits of the City of Erin be and the same is hereby designated as a bird sanctuary.

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests; provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property in the opinion of the proper health authorities of the City of Erin, then in such event said health authorities shall meet with representatives of the Audubon Society, bird club, garden club or humane society, or as many of said clubs as are found to exist in the City of Erin, after having given at least three days (3) actual notice of the time and place of said meeting to the representatives of said clubs.

If as a result of said meeting no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under the supervision of the Chief of Police of the City of Erin. (1974 Code, § 3-301)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Drinking beer, etc., on streets, etc. (1) It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on-premises consumption.

(2) It shall be unlawful for any person to drink or consume or have an open can or bottle of beer or other intoxicating beverage while in an automobile

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[1]Municipal code references
Animals and fowls: title 10.
Fireworks and explosives: title 7.
Residential and utilities: title 12.
Streets and sidewalks (non-traffic): title 16.
Traffic offenses: title 15.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.
State law reference
See Tennessee Code Annotated, § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

or other motor vehicle while traveling or standing in or on any public street, alley, avenue, highway, sidewalk, public place, park, public school ground or other public place unless the place has a beer permit for on the premises consumption. (1974 Code, § 10-229)

11-102. Minors in beer places. No minor shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1974 Code, § 10-222)

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc. It shall be unlawful for any person to hold himself forth to the public as a fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1974 Code, § 10-235)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1974 Code, § 10-201)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1974 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including, but not limited to, loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, at any time, as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, hooting, etc. Yelling, shouting, hooting, whistling, or the making of any other loud or unnecessary noise, at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, streetcar, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the municipality while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the City of Erin, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1974 Code, § 10-234)

CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the City of Erin to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1974 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the City of Erin shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the City of Erin. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1974 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person to intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1974 Code, § 10-217)

11-504. Resisting or interfering with an officer. It shall be unlawful for any person to knowingly resist or in any way interfere with or attempt to interfere with any officer or employee of the City of Erin while such officer or employee is performing or attempting to perform his municipal duties. (1974 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1974 Code, § 10-231)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1974 Code, § 10-213)

11-602. Throwing missiles. It shall be unlawful for any person to maliciously throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1974 Code, § 10-214)

11-603. Weapons and firearms generally. It shall be unlawful for any person to carry in any manner whatever, with the intent to go armed, any razor, dirk, knife, blackjack, brass knucks, pistol, revolver, or any other dangerous weapon or instrument except the army or navy pistol which shall be carried openly in the hand. However, the foregoing prohibition shall not apply to members of the United States Armed Forces carrying such weapons as are prescribed by applicable regulations nor to any officer or policeman engaged in his official duties, in the execution of process, or while searching for or engaged in arresting persons suspected of having committed crimes. Furthermore, the prohibition shall not apply to persons who may have been summoned by such officer or policeman to assist in the discharge of his said duties, nor to any conductor of any passenger or freight train of any steam railroad while he is on duty. It shall also be unlawful for any unauthorized person to discharge a firearm within the City of Erin. (1974 Code, § 10-212)

11-604. Possession of weapons in city buildings prohibited. In accordance with Tennessee Code Annotated, § 39-17-1359, the possession of weapons inside any city owned building by any person other than law enforcement officers, be and is hereby prohibited. (as added by Ord. #521, Aug. 2001)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave. (1974 Code, § 10-226)

11-702. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1974 Code, § 10-221)

11-703. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1974 Code, § 10-225)

11-704. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1974 Code, § 10-233)

CHAPTER 8

MISCELLANEOUS

SECTION

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1974 Code, § 10-223)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1974 Code, § 10-232)

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless he has the legal authority. (1974 Code, § 10-227)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night between 11:00 P.M. and 4:00 A.M. unless upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1974 Code, § 10-224)

11-805. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1974 Code, § 10-236)

11-806. Loitering in public park. It shall be unlawful for any person to loiter on the public park premises of the city before or after the time established for public use of such parks. (1974 Code, § 10-237)

11-807. Bicycles, etc., in certain areas of park premises. It shall be unlawful to operate or have in one's possession any bicycle, motorcycle, or any other motor vehicle within the fenced areas of city park premises. (1974 Code, § 10-238)

11-808. Paint guns. (1) Definition. For the purpose of this municipal code, the term "paint gun" shall mean any device designed and used to propel a paint ball or bomb on public or private property.

(2) Prohibition. Except as hereinafter provided, it is unlawful

(a) For any person under 18 years of age to carry or shoot a paint gun within the City of Erin when not in the presence of his parent and under the direction and control of such adult; and

(b) For any person to point or shoot a paint gun at any person or property of another, or to aim or discharge such paint gun in the direction of the person or residence of another while within such range as to cause or inflict injury to the person or damage the property of another. (Ord. #507, May 1999)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

CHAPTER 1

[this chapter was deleted by Ord. #610, June 2017]

CHAPTER 2

[this chapter was deleted by Ord. #610, June 2017]

CHAPTER 3

ELECTRICAL CODE[1]

SECTION

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for other purposes, the National Electrical Code,[2] 1999 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code. (1974 Code, § 4-301, modified)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1974 Code, § 4-302, modified)

12-303. Permit required for doing electrical work. No electrical work shall be done within this city until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician. (1974 Code, § 4-303)

12-304. Enforcement. The electrical inspector shall be such person as the board of mayor and aldermen shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of

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[1]Municipal code references
Fire protection, fireworks and explosives: title 7.

[2]Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

electrical equipment and wiring, etc., as are necessary to ensure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1974 Code, § 4-305)

12-305. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated, § 68-102-143, for electrical inspections by deputy inspectors of the state fire marshal. (1974 Code, § 4-306)

12-306. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1974 Code, § 4-304)

CHAPTER 4

GAS CODE[1]

SECTION

12-401. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the City of Erin and may be cited as such.

The following definitions are provided for the purpose of interpretation and administration of the gas code.

(1) "Inspector" means the person appointed as inspector, and shall include each assistant inspector, if any, from time to time acting as such under this chapter by appointment of the board of mayor and aldermen.

(2) "Person" means any individual, partnership, firm, corporation, or any other organized group of individuals.

(3) "Gas company" means any person distributing gas within the corporate limits or authorized and proposing to so engage.

(4) "Certificate of approval" means a document or tag issued and/or attached by the inspector to the inspected material, piping, or appliance installation, filled out, together with date, address of the premises, and signed by the inspector.

(5) "Certain appliances" means conversion burners, floor furnaces, central heating plants, vented wall furnaces, water heaters, and boilers. (1974 Code, § 4-401)

12-402. Purpose and scope. The purpose of the gas code is to provide minimum standards, provisions, and requirements for safe installation of the

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[1]Municipal code reference

Gas system administration: title 19, chapter 2.

consumer's gas piping and gas appliances. All gas piping and gas appliances installed, replaced, maintained, or repaired within the corporate limits shall conform to the requirements of this chapter and to the Standard Gas Code,[1] 1999 edition, also Appendix "B" permit fees to be one-half (1/2) of fees stated which are hereby incorporated herein by reference and made a part of this chapter as if fully set forth herein. One (1) copy of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. (1974 Code, § 4-402, modified, as amended by Ord. #517, § 1, Sept. 2000)

12-403. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of the gas code. (1974 Code, § 4-403)

12-404. Bond and license. (1) No person shall engage in or work at the installation, extension, or alteration of consumer's gas piping or certain gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the city recorder a good and sufficient bond in the penal sum of five thousand dollars ($5,000.00), with corporate surety, conditioned for the faithful performance of all such work, entered upon or contracted for, in strict accordance and compliance with the provisions of the gas code. The bond herein required shall expire on the first day of January next following its approval by the city recorder, and thereafter on the first day of January of each year a new bond, in form and substance as herein required, shall be given by such person to cover all such work as shall be done during such year.

(2) Upon approval of said bond, the person desiring to do such work shall secure from the city recorder a nontransferable license which shall run until the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay an annual license fee of ten dollars ($10.00) to the city clerk; provided, however, any license obtained after the first day of July of any year shall be computed at the rate of one-half (1/2) of the annual fee.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing,

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[1]Copies of this code (and any amendments) may be purchased from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

extending, replacing, altering, or repairing consumer's piping on his own premises, or as requiring a license or a bond from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of the gas code, including those relating to permits, inspections, and fees. (1974 Code, § 4-404)

12-405. Gas inspector and assistants. To provide for the administration and enforcement of the gas code, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be appointed or designated by the board of mayor and aldermen and the compensation for such office shall be determined at the time of appointment. (1974 Code, § 4-405)

12-406. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of the gas code.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, presenting same to the appropriate officials from time to time for their consideration. (1974 Code, § 4-406)

12-407. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler, consumer's gas piping, or convert existing piping to utilize natural gas without first obtaining a permit to do such work from the city clerk; however, permits will not be required for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the inspector may issue a permit for such use, for a period of not to exceed sixty (60) days; provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) The gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other

facilities, or for work having to do with its own gas system. (1974 Code, § 4-407)

12-408. Inspections. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test, at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six inches (6") in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1974 Code, § 4-408)

12-409. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of the gas code. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1974 Code, § 4-409)

12-410. Fees. (1) The total fees for inspection of the consumer's gas piping at one (1) location (including both rough and final piping inspection) shall be one dollar and fifty cents ($1.50) for one to five (1 to 5) outlets, inclusive, and fifty cents ($0.50) for each outlet above five (5).

(2) The fees for inspecting conversion burners, floor furnaces, boilers, or central heating plants shall be one dollar and fifty cents ($1.50) for each unit.

(3) The fees for inspecting vented wall furnaces and water heaters shall be one dollar ($1.00) for each unit.

(4) If the inspector is called back, after correction of defects noted, an additional fee of one dollar ($1.00) shall be made for each such return inspection.

(5) Any and all fees shall be paid by the person to whom the permit is issued. (1974 Code, § 4-410)

12-411. Violations and penalty. Any person who shall violate or fail to comply with any of the provisions of the gas code shall be guilty of a misdemeanor, and upon conviction thereof shall be fined under the general penalty clause for this code of ordinances, or the license of such person may be revoked, or both fine and revocation of license may be imposed. (1974 Code, § 4-411)

12-412. Nonliability. This chapter shall not be construed as imposing upon the City of Erin any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the municipality, or any official or employee thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder or the certificate of approval issued by the inspector. (1974 Code, § 4-412)

CHAPTER 5

[this chapter was deleted by Ord. #610, June 2017]

CHAPTER 6

[this chapter was deleted by Ord. #610, June 2017]

CHAPTER 7

CODE FOR ELIMINATION OF UNSAFE BUILDINGS

SECTION

12-701. Title. The provisions included within the following chapters and sections shall constitute and be known and may be cited as "The Standard Code for the Elimination of Unsafe Buildings," hereinafter referred to as the code. (1974 Code, § 4-901)

12-702. Code remedial. This code is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof–which are public safety, health, and general welfare–through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use, and occupancy of buildings, structures, or premises. (1974 Code, § 4-902)

12-703. Scope. The provisions of this code shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions. (1974 Code, § 4-903)

12-704. Alterations, additions, and repairs. All buildings or structures which are required to be repaired under the provision of this code shall comply with the following requirements:

(1) If, within any twelve (12) month period, alterations or repairs costing in excess of fifty percent (50%) of the then physical value of the building are made to an existing building, such building shall be made to conform to the requirements of the Standard Building Code for new buildings.

(2) If an existing building is damaged by fire or otherwise in excess of fifty percent (50%) of its then physical value before such damage is repaired, it shall be made to conform to the requirements of the standard code for new buildings.

(3) If the cost of such alterations or repairs within any twelve (12) month period or the amount of such damage as referred to in subsection (2) is more than twenty-five percent (25%) but not more than fifty percent (50%) of the then physical value of the building, the portions to be altered or repaired shall

be made to conform to the requirements of the Standard Building Code for new buildings to such extent as the building official may determine.

(4) For the purpose of this section, physical value of the building shall be determined by the building official.

(5) Repairs and alterations not covered by the preceding subsections of this section, restoring a building to its condition previous to damage or deterioration or altering it in conformity with the provisions of this code or in such manner as will not extend or increase an existing non-conformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than twenty-five percent (25%) of the roof covering of a building shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of the Standard Building Code for new buildings. (1974 Code, § 4-904)

12-705. Maintenance. All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the Standard Building Code in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings and structures. (1974 Code, § 4-905)

CHAPTER 8

AMUSEMENT DEVICE CODE[1]

SECTION

12-801. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating the installation, construction, alteration, repair, removal, operation and use of amusement rides and devices. The Standard Amusement Device Code,[2] 1997 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the amusement device code. (Ord. #517, § 1, Sept. 2000)

12-802. Modifications. Definitions. Whenever within the amusement device code reference is made to the duties of a certain official named therein, that designated official of City of Erin, Houston County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #517, § 2, Sept. 2000, modified)

12-803. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the amusement device code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-804. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the amusement device code as herein adopted by reference and modified.

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 9

EXISTING BUILDINGS CODE[1]

SECTION

12-901. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of providing a concise set of regulations and procedures to effect safety in occupancy, the Standard Existing Buildings Code,[2] 1997 edition, as prepared by the International Code Council, is adopted and the same is incorporated herein by reference, subject to modifications as hereinafter provided, and shall be known and referred to as the standard existing buildings code. (Ord. #517, § 1, Sept. 2000)

12-902. Modifications. Whenever within the standard existing buildings code reference is made to the duties of a certain official named therein, that designated official of City of Erin, Houston County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #517, § 2, Sept. 2000)

12-903. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the standard existing buildings code shall be placed on file in the office of the recorder and the same shall be kept there for the use and inspection of the public.

12-904. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the standard existing buildings code or any final order made pursuant thereto. Such violation is declared an offense against the

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

city and for which punishment shall be a fine of not more than fifty dollars ($50.00) for each such violation. Each day that a violation occurs shall be deemed a separate offense. The building official or his or her deputy or assistant is empowered to issue citations to answer in the municipal court of the city by any person, firm or corporation found to be in such violation.

CHAPTER 10

[this chapter was deleted by Ord. #610, June 2017]

CHAPTER 11

SWIMMING POOL CODE[1]

SECTION

12-1101. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of setting standards for the design, construction, or installation, alteration, repair or alterations of swimming pools, public or private and equipment related thereto. The Standard Swimming Pool Code,[2] 1999 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the swimming pool code. (Ord. #517, § 1, Sept. 2000, modified)

12-1102. Modifications. Definitions. Whenever within the swimming pool code reference is made to the duties of a certain official named therein, that designated official of City of Erin, Houston County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #517, § 2, Sept. 2000, modified)

12-1103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-1104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool code as herein adopted by reference and modified.

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[1]Municipal code references
Fire protection, fireworks, and explosives: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: titles 18 and 19.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 12

UNSAFE BUILDING ABATEMENT CODE

SECTION

12-1201. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of regulating buildings and structures to insure structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises, within or without the city, the Standard Unsafe Building Abatement Code,[1] 1985 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the unsafe building abatement code. (Ord. #517, § 1, Sept. 2000)

12-1202. Modifications. Definitions. Whenever within the unsafe building abatement code reference is made to the duties of a certain official named therein, that designated official of City of Erin, Houston County, Tennessee who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned. (Ord. #517, § 2, Sept. 2000)

12-1203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the unsafe building abatement code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-1204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the unsafe building abatement code as herein adopted by reference and modified.

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[1]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 13

CODES ADOPTED BY REFERENCE[1]

SECTION

12-1301. Codes adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 to 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment, the International Building Code, 2015 edition; the International Residential Code, 2015 edition; the International Property Maintenance Code, 2015 edition; the International Plumbing Code, 2015 edition; the International Mechanical Code, 2015 edition; and the Model Energy Code, 2015 edition, as prepared and maintained by the International Code Council are hereby adopted and incorporated by reference as a part of this code, and are hereafter referred to as the International Building Codes. (as added by Ord. #610, June 2017)

12-1302. Definitions. Whenever in the International Building Codes reference is made to the duties of a certain official named therein, that designated official of the City of Erin who has duties corresponding to those of the named official in said codes shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Codes. (as added by Ord. #610, June 2017)

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[1]Copies of these codes (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-1303. Schedule of residential and commercial construction fees.

Total Valuation	Fee
$1,000.00 and less	No fee, unless inspection is required, in which case a $15.00 fee for each inspection shall be charged.
$1,000.00 to $50,000.00	$15.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00.
$50,000.00 to $100,000.00	$260.00 for the first $50,000.00 plus $4.00 for each additional thousand or fraction thereof, to and including $100,000.00.
$100,000.00 to $500,000.00	$460.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00.
$500,000.00 and up	$1,660.00 for the first $500,000.00 plus $2.00 for each additional thousand or fraction thereof.

(2) Plan-check fees. When the valuation of the proposed construction exceeds one thousand dollars ($1,000.00) and a plan is required to be submitted, a plan-checking fee shall be paid to the building official at the time of submitting plans and specifications for checking. Said plan-checking fee shall be equal to one-half (1/2) of the building permit fee as set forth. Such plan-checking fee is in addition to the building permit fee.

(3) Moving fee. For the moving of any building or structure, the fee shall be one hundred dollars ($100.00).

(4) Demolition fee. For demolition of any building or structure, the fee shall be fifty dollars ($50.00). (as added by Ord. #610, June 2017)

12-1304. International Plumbing Codes - plumbing permit fees.

Permits	Fee
Residential Plumbing Permit Fee (If not included with a building permit fee)	$ 25.00
Commercial Plumbing Permit Fee (If not included with a building permit fee)	$ 50.00

(as added by Ord. #610, June 2017)

12-1305. International Mechanical - permit fees.

Permits	**Fee**
Residential	$ 25.00
Commercial	$ 50.00

Penalties. Where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein. (as added by Ord. #610, June 2017)

12-1306. International Residential Code chapters adopted. Chapters 34 through 43 of the International Residential Codes are excluded. No appendices are to be adopted under the International Building Code or the International Residential Code. (as added by Ord. #610, June 2017)

12-1307. Provisions revised. The following provisions are hereby revised:

International Residential Code, 2015 edition;

Chapter 3, Section R313. Automatic Fire Sprinkler Systems:

a. Fire sprinkler systems are not required in one (1) and two (2) family dwellings or three (3) unit town houses that are less than 5000 square feet; three (3) stories or less; and separated by two (2) firewalls.

b. In the event the automatic sprinkler system is requested, the system shall be designed and installed in accordance with NFPA 13D or Dwelling Unit Fire Sprinkler System.

International Property Maintenance Code, 2015 edition;

Chapter 3, Section 303. Exterior Property Area

a. All premises and exterior property shall be maintained free from weeds or weeds or plant growth in excess of twelve inches (12"). Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided, however, this term shall not include cultivated flowers and gardens.

b. Grasslands are exempt from any height limitation where property is zoned agricultural that are used for pasture and/or garden purposes. (as added by Ord. #610, June 2017)

12-1308. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of each of the International Building Codes have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #610, June 2017)

12-1309. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Building Codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars ($50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #610, June 2017)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the City of Erin. (1974 Code, § 8-701)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1974 Code, § 8-705)

13-103. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1974 Code, § 8-706)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.
Toilet facilities in beer places: § 8-212(9).

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police to cut such vegetation when it has reached a height of over one foot (1'). (1974 Code, § 8-707)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1974 Code, § 8-708)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1974 Code, § 8-709)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefor shall have been first duly issued by the building inspector, as provided for in the building code. (1974 Code, § 8-704)

13-108. Milk ordinance adopted by reference.[1] (1) The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for ultimate consumption within the City of Erin, Tennessee or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; and the issuance and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of Part I of the Grade A Pasteurized Milk Ordinance--1965 Recommendations of the United States Public Health Service,[2] three (3) copies

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[1]The provisions in this section are taken substantially from the model ordinance prepared and distributed by the Tennessee Department of Health.

[2]This ordinance is Public Health Service Publication No. 229 and is for sale by the Superintendent of Documents, U. S. Government Printing Office,

(continued...)

of which shall be filed in the office of the city recorder; provided, that in Section 1, "Definitions," A, "Milk" - Milk shall be understood to contain not less than 8 1/2 per cent milk solids-not-fat and not less than 3 1/2 per cent milkfat and that "not less than 8 1/4 per cent milk solids-not-fat and not less than 3 1/4 per cent milkfat" shall be deleted; D - "Reconstituted or Recombined Milk and Milk Products" and, I - "Fortified Milk and Milk Products" shall be deleted; O -"Milk Products"--It shall be understood that "cottage cheese" and "creamed cottage cheese" have been added to this definition as defined in footnote No. four and that "modified skim milk," "modified flavored skim milk drink," and "modified cultured buttermilk" as defined in the Tennessee Dairy Laws are included in this definition; provided further, that in Section 3, the paragraph beginning with the words, "Upon written application of any person whose permit has been suspended, " shall be deleted in its entirety, and any reference elsewhere in this ordinance dealing with hearings before a permit can be suspended is also deleted; provided further, that the last sentence in the first paragraph of Section 5 shall read "Any violation of the same requirement of Section 7 on such reinspection shall call for permit suspension in accordance with Section 3 as amended, and/or court action."; provided further, that Sections 9, 16, and 17 of said unabridged ordinance shall be replaced respectively by Sections 2, 3, and 4 below.

(2) From and after the date on which this ordinance is adopted, only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; provided, that in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the health authority, in which case, such milk and milk products shall be labeled "ungraded."

(3) Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $50.00, and/or such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

(4) All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, and this ordinance shall be in full force and effect upon its adoption as provided for by law. (1974 Code, § 8-711)

(...continued)
Washington, D. C., 20402.

CHAPTER 2

JUNKYARDS

SECTION

13-201. Junkyards.[1] All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six feet (6') in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1974 Code, § 8-710)

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[1]State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

SLUM CLEARANCE[1]

SECTION

13-301. "Public officer" designated; powers. A person shall be appointed by the Board of Mayor and Aldermen of the City of Erin authorized to exercise the powers prescribed by this chapter and that such person be designated "public officer," and such public officer is hereby authorized such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including the following powers in addition to others herein granted:

(1) To investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination; provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinance; and

(5) To delegate any of his functions and powers under the chapter to such officers and agents as he may designate. (1974 Code, § 8-601(1))

13-302. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer, by a public authority, or by at least five (5) residents of the municipality charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to

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[1]State law reference

Tennessee Code Annotated, title 13, chapter 21.

be served upon the owner of, and parties in interest of such structure, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1974 Code, § 8-601(2))

13-303. Orders to owners of unfit structures. If, after such notice and hearing, the public officer determines that the structure under consideration is unfit for human occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure as a place of human occupancy or use.

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure, requiring the owner, within the time specified in the order, to remove or demolish such structure.

(3) For the purpose of defining "reasonable cost" it is provided that reasonable cost shall mean: When the estimated value of existing structure (to be determined upon hearing) exceeds the estimated cost of repair (to be determined upon hearing), it shall be considered that the structure may be repaired at a reasonable cost. (1974 Code, § 8-601(3))

13-304. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (1974 Code, § 8-601(4))

13-305. When public officer may remove or demolish. If the owner fails to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1974 Code, § 8-601(5))

13-306. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such costs was incurred. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court; provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1974 Code, § 8-601(6))

13-307. Basis for a finding of unfitness. The public officer may determine that a structure is unfit for human occupation or use if he finds conditions that exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants of neighboring structures or other residents of the municipality. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; and uncleanliness. (1974 Code, § 8-601(7))

13-308. Service of complaints or orders. Complaints or orders issued by the public officer shall be served upon persons, either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order, upon such persons, may be made by publishing the same once each week for two (2) consecutive weeks in The Stewart-Houston Times, a newspaper published in Houston County and circulating in the City of Erin. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Houston County, Tennessee, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (1974 Code, § 8-601(8))

13-309. Enforcement. The board of mayor and aldermen shall, upon the due adoption of this chapter, determine and estimate the costs necessary for the enforcement of this chapter and make sufficient appropriations therefor. (1974 Code, § 8-601(9))

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

CHAPTER 1

MUNICIPAL PLANNING COMMISSION [1]

SECTION

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of eight (8) members; two (2) of these shall be the mayor and a member of the board of aldermen selected by the board of aldermen; the other six (6) members shall be appointed by the mayor. Except for the initial appointments, the terms of the six (6) members appointed by the mayor shall be for three (3) years each. The six (6) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the terms of two (2) members expire each year. The terms of the mayor and the member selected by the board of aldermen shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1974 Code, § 11-101, as amended by Ord. #523, Nov. 2001)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with Tennessee Code Annotated, title 13. (1974 Code, § 11-102)

14-103. Powers and duties. The municipal planning commission shall have all of the powers, duties and responsibilities as set forth in Pub. Acts 1935, chapters 34, 44, and 45, or other acts relating to the duties and powers of the commission subsequently adopted. (1974 Code, § 11-103)

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[1]Ord. #523, Nov. 2001, of record in the office of the recorder, sets compensation for members of the planning commission and the board of zoning at twenty-five dollars ($25.00) for attendance to regular and special called meetings including public hearings.

CHAPTER 2

ZONING ORDINANCE[1]

SECTION

14-201. Land use to be governed by zoning ordinance. Land use within the City of Erin shall be governed by Ord. #303, titled "Zoning Ordinance, Erin, Tennessee," and any amendments thereto.[2]

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[1]Ord. #523, Nov. 2001, of record in the office of the recorder, sets compensation for members of the planning commission and the board of zoning at twenty-five dollars ($25.00) for attendance to regular and special called meetings including public hearings.

[2]Ord. #303, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

Amendments to the zoning map are of record in the office of the city recorder.

CHAPTER 3

FLOOD CONTROL

SECTION

14-301. Building permits in flood areas. The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any and all proposed new construction or substantial improvement (including prefabricated and mobile homes) must be designed or modified and anchored to prevent flotation, collapse, or lateral movement of the structure, use construction materials and utility equipment that are resistant to flood damage, and use construction methods and practices that will minimize flood damage. (1974 Code, § 4-601)

14-302. Subdivision proposals reviewed. The building inspector shall review subdivision proposals and other proposed new developments to assure that all such proposals are consistent with the need to minimize flood damage, all public utilities and facilities, and water systems, such as sewer, gas, electrical, are elevated, located, and constructed to minimize or eliminate flood damage, and adequate drainage is provided so as to reduce exposure to flood hazards. (1974 Code, § 4-602)

14-303. Flooded water and sewer systems. The building inspector shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding. (1974 Code, § 4-603)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS[2]

SECTION

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[1]Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

[2]State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits of the City of Erin unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1974 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1974 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1974 Code, § 9-107)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1974 Code, § 9-109)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1974 Code, § 9-110)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right-hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right-hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right-hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1974 Code, § 9-111)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1974 Code, § 9-112)

15-108. Miscellaneous traffic-control signs, etc.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the City of Erin unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1974 Code, § 9-113)

15-109. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,[2] published by the U.S. Department of Transportation, Federal

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[1]Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

[2]This manual may be obtained from the Superintendent of Documents, U.S.

(continued...)

Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the City of Erin. This section shall not be construed as being mandatory but is merely directive. (1974 Code, § 9-114)

15-110. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1974 Code, § 9-115)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. (1974 Code, § 9-116)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1974 Code, § 9-117)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1974 Code, § 9-118)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to, any other moving vehicle upon any street, alley, or other public way or place. (1974 Code, § 9-120)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers.

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This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1974 Code, § 9-121)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1974 Code, § 9-122)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1974 Code, § 9-123)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1974 Code, § 9-124)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1974 Code, § 9-125)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1974 Code, § 9-126)

15-121. Damaging pavements. No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1974 Code, § 9-119)

15-122. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor-driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor scooters.

No person operating or riding a bicycle, motorcycle, or motor scooter shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor scooter shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor scooter shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor scooter while any other person is a passenger upon said motor vehicle.

No person shall operate or ride upon any motorcycle, motorbike, or motor scooter unless such person is equipped with and wearing on the head a safety helmet[1] with a secured chin strap and suspension lining, which said helmet shall conform to the type and design manufactured for the use of the operators and riders of such motor vehicles. (1974 Code, § 9-127)

15-123. Use of motor vehicles upon the railroad bed prohibited. In order to protect the health and general welfare of citizens and the residents of the City of Erin, it shall be illegal for any person to operate a motor vehicle, including bicycles with motor, motorcycles, go-carts, automobiles and trucks,

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[1]State law reference

Tennessee Code Annotated, § 55-9-302.

upon the railroad bed property within the city limits of the City of Erin, except at public crossings maintained by the City of Erin.

Violation of this section is declared to be a misdemeanor and the violation of which shall be a fine not to exceed fifty dollars ($50.00), and court cost. (1974 Code, § 9-128)

15-124. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violations under Tennessee Code Annotated, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident of which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purpose of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, and insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, complied in Tennessee Code Annotated, chapter 12, title 55, has been issued:

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, complied in the Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioners, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owners' consent.

(4) Civil offence. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty ($50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person changed with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is

satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #525, March 2002)

15-125. Compression braking devices. (1) All truck tractor and semi-trailers operating within the City of Erin shall conform to the visual exhaust system inspection requirements, 40 CFR § 202.22, of the Interstate Motor Carriers Noise Emission Standards.

(2) A motor vehicle does not conform to the visual exhaust system inspection requirements referenced in subsection (1) above if inspection of the exhaust system of the motor carrier vehicle discloses that the system:

(a) Has a defect that adversely affects sound reduction, such as exhaust gas leaks or alteration or deterioration of muffler elements. (Small traces of soot on flexible exhaust pipe sections shall not constitute a violation.);

(b) Is not equipped with either a muffler or other noise dissipative device, such as a turbo charger (supercharger driven by exhaust by gases); or

(c) Is equipped with a cut out, bypass, or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

(3) Violations of this section shall subject the offender to a fine of fifty dollars ($50.00) per offense.

(4) This section shall be supplemental to other noise control ordinances and regulations of the city, and shall be effective upon passage of the ordinance comprising this section. (as added by Ord. #595, Dec. 2013)

15-126. Adoption of state traffic statutes. By the authority under Tennessee Code Annotated, § 16-18-302, the City of Erin adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in Tennessee Code Annotated, §§ 55-8-101 through 55-8-131 and §§ 55-8-133 through 55-8-180. Additionally, the City of Erin adopts Tennessee Code Annotated, §§ 55-4-101 through 55-4-128, §§ 55-4-130 through 55-4-133, §§ 55-4-135 through 55-4-138, §§ 55-8-181 through 55-8-191, § 55-8-193, § 55-8-199, § 55-8-207, §§ 55-9-401 through 55-9-408, §§ 55-9-601 through 55-9-606, § 55-12-139, and § 55-50-351, by reference as if fully set forth in this section. (as added by Ord. #621, Aug. 2019 ***Ch9_6-8-21***)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1974 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.[1] (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red or blue light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red or blue light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1974 Code, § 9-103)

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[1]Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than six hundred feet (600') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1974 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a firefighter or policeman. (1974 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1974 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1974 Code, § 9-202)

15-303. In school zones and near playgrounds. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the City of Erin. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1974 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the City of Erin. (1974 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.[1] (1974 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. (1974 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerline of the two (2) roadways. (1974 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1974 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1974 Code, § 9-305)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1974 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1974 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1974 Code, § 9-403)

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1974 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1974 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1974 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1974 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected by the City of Erin it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1974 Code, § 9-408)

15-509. Pedestrians crossing streets. Pedestrians shall have the right-of-way over motor vehicles at street crossings not controlled by traffic signals, and all motorist shall slow their speed or stop for any pedestrian who shall be upon the half of the street traveled by such motorist. (1974 Code, § 9-409)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,[1] except in an emergency. (1974 Code, § 9-410)

[1]State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the City of Erin shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the City of Erin has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than forty-eight (48) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1974 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the City of Erin for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1974 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1974 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the municipality, nor:

(1) On a sidewalk.

(2) In front of a public or private driveway.

(3) Within an intersection or within fifteen feet (15') thereof.

(4) Within seven and one-half feet (7-1/2') of a fire hydrant.

(5) Within twenty feet (20') of a pedestrian crosswalk.

(6) Within fifty feet (50') of a railroad crossing.

(7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.

(8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.

(9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(10) Upon any bridge.

(11) Alongside any curb painted yellow or red by the municipality. (1974 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the City of Erin as a loading and unloading zone. (1974 Code, § 9-505)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the City of Erin, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the board of mayor and aldermen, parking shall be regulated by parking meters where the same have been installed by the municipality. The presumption shall be that all installed parking meters were lawfully installed by the City of Erin. (1974 Code, § 9-506)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1974 Code, § 9-507)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one (1) time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1974 Code, § 9-508)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one (1) space may be permitted to occupy two (2) adjoining spaces provided proper coins are placed in both meters. (1974 Code, § 9-509)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1974 Code, § 9-510)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1974 Code, § 9-511)

15-612. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1974 Code, § 9-512)

15-613. Parking on Main Street. It shall be lawful to park one (1) hour during business hours on the north side of Main Street between Hill Street and the courthouse. (1974 Code, § 9-513)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1974 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1974 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within twenty-four (24) hours during the hours and at a place specified in the citation. (1974 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any vehicle which is illegally parked, abandoned, or otherwise

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[1]State law reference

Tennessee Code Annotated, §§ 7-63-101, et seq.

parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be five dollars ($5.00) and a storage cost of one dollar ($1.00) per day shall also be charged. (1974 Code, § 9-604)

15-705. Violations and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of fifty cents ($0.50); provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after twenty-four (24) hours but before a warrant for his arrest is issued, his fine shall be one dollar ($1.00).

(b) Other parking violations. For other parking violations, the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be fifty cents ($0.50) within twenty-four (24) hours and one dollar ($1.00) thereafter. (1974 Code, § 9-603, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1974 Code, § 12-201)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen feet (14'). (1974 Code, § 12-202)

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[1]Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1974 Code, § 12-203)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.[1] (1974 Code, § 12-204)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen. (1974 Code, § 12-205)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1974 Code, § 12-206)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1974 Code, § 12-207)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1974 Code, § 12-208)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1974 Code, § 12-209)

16-110. Parades regulated. It shall be unlawful for any club, organization, or similar group to hold any meeting, parade, demonstration, or

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[1]Municipal code reference
Building code: title 12, chapter 13.

exhibition on the public streets without some responsible representative first securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter. (1974 Code, § 12-210)

16-111. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1974 Code, § 12-211, modified)

16-112. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1974 Code, § 12-212)

16-113. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1974 Code, § 12-213)

16-114. Street numbering. (1) Uniform numbering system. A uniform system of numbering properties and principal buildings, as shown on the map identified by the title "Erin Street Numbering System" which is filed in the office of the city recorder, is hereby adopted for use in the City of Erin, Tennessee. This map, and all explanatory matter thereon, is hereby adopted and made a part of this section.

(2) Assignment of numbers. (a) All properties or parcels of land within the corporate limits of Erin, Tennessee shall here after be identified by reference to the uniform numbering system adopted herein; provided, all existing numbers of property and buildings not now in conformity with provisions of this section shall be changed to conform to the system herein adopted within six (6) months from the date of passage of this section.

(b) A separate number shall be assigned for each twenty feet (20') of frontage.

(c) Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one (1) business or family dwelling

unit, each separate front entrance of such principal building shall bear a separate number.

(d) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located. Such numerals may be obtained from the city recorder, as provided in subsection (3), below.

(3) Administration. (a) The city recorder shall be responsible for maintaining the numbering system. In the performance of this responsibility he shall be guided by the provisions of subsection (2) above.

(b) The recorder shall keep a record of all numbers assigned under this section.

(c) The city recorder shall issue to any property owner in Erin upon request a set of numerals for each principal building or separate front entrance to such building. In doing so, he shall issue only numerals for the number assigned to each building under the provisions of this section; provided, however, that the recorder may issue additional numerals in accord with the official numbering system whenever a property has been subdivided, a new front entrance opened, or undue hardship has been worked on any property owner.

(4) Penalties. Violation of this section shall be a misdemeanor and may be punished by a fine of one dollar ($1.00) to five dollars ($5.00). Each separate day such violation is continued shall constitute a separate offense. (1974 Code, § 12-214)

16-115. Animals and vehicles on "Erin Railroad Greenway." It shall be unlawful for any person to ride, lead, or tie any horse, cattle, or other large animal on the "Erin Railroad Greenway." And it further shall be unlawful to place any vehicle across or upon the "Erin Railroad Greenway" in such a manner as to unreasonably interfere with or inconvenience "joggers," "walkers," or other pedestrians using the "Erin Railroad Greenway" from the overhead bridge to a point opposite the Shamrock Apartments. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. This section shall not apply to crossing of animals at public crossing. (1974 Code, § 12-215)

CHAPTER 2

EXCAVATIONS AND CUTS[1]

SECTION

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1974 Code, § 12-101)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

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[1]State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1974 Code, § 12-102)

16-203. Fee. The fee for such permits shall be two dollars ($2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents ($0.25) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels; but not to exceed one hundred dollars ($100.00) for any permit. (1974 Code, § 12-103)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars ($25.00) if no pavement is involved or seventy-five dollars ($75.00) if the excavation is in a paved area and shall ensure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the City of Erin of relaying the surface of the ground or pavement, and of making the refill if this is done by the City of Erin or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the municipality if the applicant fails to make proper restoration. (1974 Code, § 12-104)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1974 Code, § 12-105)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the City of Erin shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the City of Erin, but shall be paid for by such person, firm, corporation, association, or others promptly upon the completion of the work for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley,

or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the City of Erin will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the municipality, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1974 Code, § 12-106)

16-207. **Insurance**. In addition to making the deposit or giving the bond hereinbefore required to ensure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thousand dollars ($100,000.00) for each person and three hundred thousand dollars ($300,000.00) for each accident, and for property damages not less than twenty-five thousand dollars ($25,000.00) for any one (1) accident, and a seventy-five thousand dollar ($75,000.00) aggregate. (1974 Code, § 12-107)

16-208. **Time limits**. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the City of Erin if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1974 Code, § 12-108)

16-209. **Supervision**. The chief of police shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the City of Erin and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1974 Code, § 12-109)

16-210. **Driveway curb cuts**. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the

recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1974 Code, § 12-110)

CHAPTER 3

ADOPTION OF 1996 STREET MAP

SECTION

16-301. Street map adopted. The City of Erin does hereby adopt the 1996 City Street map as prepared by the Tennessee Department of Transportation as the official master street map for this municipality.

This map reflecting the streets in the City of Erin can be added or deleted as necessary. (Ord. #495, May 1997)

CHAPTER 4

LANDOWNER'S RESPONSIBILITY

SECTION

16-401. Drainage ditches and/or culverts to be kept clean and mowed. The City of Erin shall require that all city landowners whose property abuts a drainage ditch or a culvert connecting said property to the public street to pull said ditches and keep them free of obstructions, whether man made or natural. It is further the responsibility of the landowner to keep all culverts which adjoin city streets clear and free of obstructions whether man made or natural.

The responsibility of landowners to cause ditch lines to be mowed thus avoiding any obstructions due to vegetation growth.

Should the landowner fail in their responsibilities the city shall reserve the right to perform maintenance duties as deemed necessary by the city. (Ord. #496, May 1997)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER

CHAPTER 1

REFUSE

SECTION

17-101. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the City of Erin are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, filth, and trash. Such persons, firms, and corporations are hereby required to store such refuse in sanitary containers of the type described in this chapter between intervals of collection or to dispose of such material in a manner prescribed by the health officer so as not to cause a nuisance or become injurious to the public health and welfare. (1974 Code, § 8-101)

17-102. Definitions. (1) "Refuse" means garbage, rubbish, ashes, and all other putrescible and non-putrescible, combustible and non-combustible materials originating from the preparation, cooking, and consumption of food, market refuse, waste from the handling and sale of produce and other similar unwanted materials, but shall not include sewage, body wastes, or recognizable

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[1]Municipal code reference
Property maintenance regulations: title 13.

industrial by-products, from all residences and establishments, public and private.

(2) "Garbage" means all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products, from all public and private residences and establishments.

(3) "Rubbish" means all nonputrescible waste materials except ashes from all public and private residences and establishments.

(4) "Ashes" means the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(5) "Collector" means any person, firm, corporation, or political subdivision, that collects, transports, or disposes of any refuse within the corporate limits of Erin.

(6) "Health officer" means the Health Officer of the County of Houston or his authorized representative. (1974 Code, § 8-102)

17-103. Storage of refuse. Each owner, occupant, tenant, subtenant, lessee, or others, using or occupying any building, house, structure, or grounds within the corporate limits of the City of Erin where refuse materials or substances as defined in this chapter accumulate, or are likely to accumulate, shall provide an adequate number of suitable containers, of a type approved by the health officer, for the storage of such refuse. Such containers shall be constructed of metal and shall be strong and durable, not readily corrodible, rodent and insect-proof, and of a capacity not exceeding thirty-two (32) gallons and not less than ten (10) gallons, except that the maximum capacity shall not apply in cases where the city is equipped to handle containers of similar construction mechanically. Such containers shall be equipped with handles to facilitate emptying and shall be equipped with tight fitting lids or covers constructed of the same material and of such design as to preclude the free access of flies and other insects and to prevent such containers from collecting water during rains. The lids or covers shall be kept in place at all times except when refuse is being lawfully deposited therein or removed therefrom. Storage containers shall be placed in such convenient and accessible locations for trucking as may be designated by the official refuse collecting agency.

Wet garbage or refuse must be drained of all liquids and wrapped in paper or other equivalent material prior to placing it in the storage receptacle. All containers shall be maintained in a clean and sanitary manner and shall be thoroughly cleaned by washing or other methods as often as necessary to prevent the breeding of flies and the occurrence of offensive odors. (1974 Code, § 8-103)

17-104. Confiscation of unsatisfactory storage containers. The official refuse collecting agency of the city is herein authorized to confiscate or

to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when in the discretion of the health officer such containers are not suitable for the healthful and sanitary storage of refuse substances. Such unsatisfactory containers shall be removed and disposed of at a place and in a manner designated by the official collecting agency only after the owner or owners of such containers have been duly notified of such impending action. (1974 Code, § 8-104)

17-105. Leaves, lawn clippings, brush, etc. In no case will it be the responsibility of the refuse collection agency of the city to shovel or pick up from the ground any accumulations of refuse, including leaves, lawn clippings, brush, or packing material. All such materials are to be placed in containers of the type described in § 17-103 or cut and baled, tied, bundled, stacked, or packaged so as not to exceed thirty-six inches (36") in length and seventy-five (75) pounds in weight. (1974 Code, § 8-105)

17-106. Collection of refuse. (1) Collection interval. All refuse (including garbage and rubbish as heretofore defined) shall be collected sufficiently frequent to prevent the occurrence of nuisances and public health problems and at intervals of at least once in seven (7) days. The collection of refuse within the City of Erin shall be under the jurisdiction of the sanitation department.

(2) Permits. No person, firm, or corporation (other than the owner) shall engage in the business of collecting refuse or removing the contents of any refuse containers for any purpose whatsoever, unless he possesses a permit to do so from the appropriate authority of the City of Erin. Such permits may be issued only after the applicant's capability of complying with the requirements of this chapter has been fully determined. Such permits may be suspended or revoked for violation of any of the terms of this chapter.

(3) Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and public thoroughfares. Provisions shall be made to prevent the scattering of refuse over the streets and thoroughfares by effective coverings or closed truck beds. (1974 Code, § 8-106)

17-107. Disposal of refuse. The disposal of refuse in any quantity by any individual, householder, establishment, firm, or corporation in any place, public or private, other than the site or sites designated by the constituted authority of the City of Erin is expressly prohibited. All disposal of refuse and garbage shall be by methods approved by the department of health. Such methods shall include the maximum practical rodent, insect, and nuisance control at the place of disposal, and no garbage shall be fed to swine unless said garbage has first been heated to at least two hundred twelve degrees Fahrenheit

(212°F). and held there at least thirty (30) minutes in apparatus and by methods approved by the Tennessee Department of Agriculture as set forth in Pub. Acts 1953, ch. 94. Animal offal and carcasses of dead animals shall be buried or cremated under circumstances approved by the health officer, or shall be rendered at 40 psi steam pressure, or higher, or similarly heated by equivalent cooking. (1974 Code, § 8-107)

17-108. Dumping in streams, sewers, and drains prohibited. It shall be unlawful for any person, firm, or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer, or other drain within the City of Erin. (1974 Code, § 8-108)

17-109. Burning restricted. It shall be unlawful for any person, firm, or corporation to burn or attempt to burn refuse on private or public property within the corporate limits of the City of Erin without first securing the approval of the appropriate city departments having jurisdiction. (1974 Code, § 8-109)

17-110. Service of orders. It shall be the duty of the health officer or his authorized representative to issue orders requiring the proper handling of garbage and refuse on private and public premises to owners, occupants, tenants, or lessees of such properties where violations of this chapter are known to exist. Such violations shall be corrected within the time specified by the health officer. (1974 Code, § 8-110)

17-111. Garbage service fee. There shall be a charge made for garbage service from each domestic user of two dollars ($2.00) per month. (1974 Code, § 8-111)

17-112. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or fail or refuse to obey any notice issued by the department of health or superintendent of the refuse collection department with reference to the storage, accumulation, or disposal of refuse. (1974 Code, § 8-112)

CHAPTER 2

LANDFILL CHARGES

SECTION

17-201. Establishing landfill rates. Landfill rates shall be as follows:

Residential	$3.50 per month
Commercial	$7.00 per month
Industrial	$10.00 per month

(1974 Code, § 13-601)

17-202. Authority to review rates. The City of Erin shall have the authority to review any and all rates established by rate schedule, contract, or otherwise, and shall have the authority to change the rate schedule immediately as may be necessary to assure the feasible operation of the municipal general budget of the City of Erin. (1974 Code, § 13-602)

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WATER.
2. SEWERS.
3. THIS CHAPTER WAS MOVED TO TITLE 18, CHAPTER 7.
4. SEWAGE AND HUMAN EXCRETA DISPOSAL.
5. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
6. WATER METER POLICY.
7. GENERAL WASTEWATER REGULATIONS.
8. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.

CHAPTER 1

WATER[2]

SECTION
18-101. Application and scope.
18-102. Definitions.
18-103. Obtaining service.
18-104. Application and contract for service.
18-105. Cash deposit for services.
18-106. Service charges for temporary service.
18-107. Water tapping fees.
18-108. Main extensions.
18-109. Variances from and effect of preceding rules as to extensions.
18-110. Meters.
18-111. Meter tests.
18-112. Multiple services through a single meter.
18-113. Billing.
18-114. Discontinuance or refusal of service.
18-115. Re-connection charge.
18-116. Termination of service by customer.

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[1]Municipal code references
Building, utility and residential codes: title 12.
Refuse disposal: title 17.

[2]Policies passed August 2012 for standards and limits regarding: adjustment of utility bills due to leaks (Ord. #587); replacement of water meters and leak detection (Ord. #588); and a water meter policy statement (Ord. #589) are of record in the recorder's office.

18-101. Application and scope. These rules and regulations are a part of all contracts for receiving water service from the City of Erin and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1974 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water service from the municipality.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" means of the pipe line extending from any water main of the municipality to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the municipality's water main to and including the meter and meter box.

(4) "Discount date" means the date fifteen (15) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premises" means any structure or group of structures operated as a single business or enterprise; provided, however, the term "premises" shall not include more than one (1) dwelling. (1974 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the City of Erin before connection and meter installation orders will be issued and work performed. (1974 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water service will be required to sign a standard form contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the City of Erin for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the City of Erin to render the service applied for. If the service applied for cannot be supplied in accordance with these rules, regulations, and general practice, the liability of the City of Erin to the applicant for such service shall be limited to the return of any deposit made by such applicant. (1974 Code, § 13-104)

18-105. Cash deposit for services. Each customer before connecting to the City of Erin Water shall obtain a permit for such connection from the City of Erin and shall be required to deposit the minimum amounts as follows::

Residential home owner	$100.00
Rental residential	$250.00
Commercial	$300.00

(1974 Code, § 13-104.1, as amended by Ord. #633, June 2021 ***Ch9_6-8-21***)

18-106. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1974 Code, § 13-105)

18-107. Water tapping fees. Water tapping fees, unless otherwise specified in the terms of any grants or loan agreement, shall be as follows:

INSIDE AND OUTSIDE THE CORPORATE LIMITS	
3/4"	$1,500.00
1"	$1,700.00
2"	$3,500.00
4"	$4,500.00
6"	$6,500.00

Large water taps will be on a cost plus basis. If road bore is necessary, an additional fee of one thousand five hundred dollars ($1,500.00) will be charged in addition to the tap fee for the inside and outside corporate limits. All tapping fees will be charged on a cost-plus basis, calculated by the City of Erin Water Department. (1974 Code, § 13-106, modified, as amended by Ord. #510, § 1, July

1999, and replaced by Ord. #552, July 2007 and amended by Ord. #634, June 2021 ***Ch9_6-8-21***)

18-108. <u>Main extensions</u>. Upon any person, group of persons, limited partnership, partnership, or corporation, hereinafter referred to as owner; making application to be served by the City of Erin water and/or sewer utility service, there shall be full compliance with the following:

(1) The owner must submit to the City of Erin detailed plans, drawings and specifications of the proposed development of the land site, and the provisions of this section shall apply to both resident and non-resident owners.

(2) Upon the filing of such plans, drawings, and specifications, and upon the owner making due application for the utility service or services to be provided by the city, the firm of engineers, or engineer, then retained by the city, shall develop a cost estimate for the construction that shall be required in order to provide the utility service or services requested, including the inspection of the work during its progress, and this estimate of costs to include work to be performed both on-site and off-site.

(3) Once the plan of construction has been duly approved by the city, such plans shall be submitted to the Tennessee Department of Health and Environment for approval.

(4) Prior to the commencement of construction, the owner of the land site shall pay to the City of Erin ten percent (10%) of the cost estimate to be used by the city for payment for engineering services and review, legal fees, inspection and administration. In the event that the ten percent (10%) deposit is insufficient to cover all costs incurred by the city, the remainder of such costs must be paid by the owner prior to the time that the requested utility service is provided.

(5) Notwithstanding to the provisions of other city ordinances to the contrary the owner shall pay to the city, prior to any construction one-half (1/2) of the normal "tap" fee for each lot on which a dwelling house is proposed to be constructed upon the land site to be developed. The normal "tap" fee shall be paid by the owner for any land area not designated for building construction at the time the original plans of development are submitted, and such fees must be paid prior to the time that the requested utility services are provided. Also, the owner shall be liable for all engineering, inspection, legal and other costs incurred by the city in reviewing, inspecting, and approving all developments by the owner not included in the original planning.

(6) The owner shall receive credit for off-site improvements which must be paid for by the owner in order to receive the requested utility service. The credit for such off-site expenses paid by the owner shall be extended by the city by decreasing the "tap" fee costs to the owner up to, but not exceeding, the costs of such off-site costs. If the privilege fees are greater than the off-site improvement costs to the owner, then the owner to receive credit against future approved development privilege fees to the extent of such overage.

(7) All work involved in the construction of lines and facilities for the utility service to be provided shall be inspected and approved by the City of Erin, and only an employee of the City of Erin may "turn on" the utility service requested.

(8) Water meter boxes shall be constructed at ground level and the water utility shall not be turned on should an inspection show that an improper construction was made.

(9) The city must approve the manufacturer of all materials to be installed in the utility construction.

(10) Owner must have cut-off valve on each building and the deed to any purchaser shall contain a provision of ownership of lines. (1974 Code, § 13-107)

18-109. Variances from and effect of preceding rules as to extensions. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the water system to construct a water main extension without requiring strict compliance with §§ 18-108 and 18-109, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the board of mayor and aldermen.

The authority to make water main extensions under §§ 18-108 and 18-109 is permissive only and nothing contained therein shall be construed as requiring the City of Erin to make water main extensions or to furnish service to any person or persons.

Wherever, any person, group of persons, or corporation pays the total cost of water line extension as permitted by §§ 18-108 and 18-109, of chapter 1, of title 18, of the Erin Municipal Code, the board shall have a legal right to enter into an agreement with the initial payer and/or payers of such costs to prohibit additional connections to such water line extension until such time as any applicant for water service from such extension pays to such payer and/or payers a fair share of such initial costs as may be determined by the board. Such water applicant shall also be required to pay all other costs and charges to the city as provided by other sections of the Erin Municipal Code; and all ordinances or parts thereof in conflict with the provisions of this paragraph are hereby expressly repealed. (1974 Code, § 13-108)

18-110. Meters. All meters shall be installed, tested, repaired, and removed by the City of Erin.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the City of Erin. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1974 Code, § 13-109)

18-111. Meter tests. The City of Erin will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

Meter Size	Percentage
5/8," 3/4," 1," 2"	2%
3"	3%
4"	4%
6"	5%

The City of Erin will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

Meter Size	Test Charge
5/8," 3/4," 1"	$2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test show a meter not to be accurate within such limits, the cost of such meter test shall be borne by the City of Erin. (1974 Code, § 13-110)

18-112. Multiple services through a single meter. No customer shall supply water service to more than one (1) dwelling or premise from a single service line and meter without first obtaining the written permission of the city.

Where the City of Erin allows more than one (1) dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises service through a single service line and meter shall be computed as if each such dwelling or premises has received service through a separately metered service, such computation to be made at the City of Erin's applicable water rate schedule, including the provisions as to minimum bills. This bill shall be computed and billed to the customer in whose name the service is supplied. For each additional dwelling or premises served through a single service line and meter, each shall be billed under a second bill for a minimum charge(s) for each dwelling or premises served and shall be billed to the customer in whose name the service is supplied. (1974 Code, § 13-112)

18-113. Billing. All water bills shall be rendered on the first day of the month following the month in which water was used. After the fifteenth day of

each month all such water bills shall carry and there shall be paid ten percent (10%) penalty. Water bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise, the gross amount will apply. Payment of water bills by mail will be accepted in the net amount if the envelope containing the payment is postmarked on or before the discount date shown on the bill. Payments other than by mail bearing a postmark on or before the discount date will be accepted in gross amount only.

The City of Erin water customers and/or applicants receiving additional utilities or services from the municipality will be billed on a combination utility service bill, and the provisions set forth above relating to billing date, payment, and acceptance of payment by the City of Erin shall apply to the combination bill and the payment must be for the combined charges to be acceptable.

In the event a bill is not paid on or before ten (10) days after the discount date no final notice will be sent, and service may be discontinued without further notice. The City of Erin shall not be liable for any service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the City of Erin if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the City of Erin reserves the right to render an estimated bill based on the best information available. (1974 Code, § 13-113)

18-114. <u>Discontinuance or refusal of service</u>. The board of mayor and aldermen shall have the right to discontinue service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

(1) These rules and regulations.

(2) The customer's application for service.

(3) The customer's contract for service.

(4) The violation of any duly adopted code or regulation providing for discontinuance of water service for noncompliance.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant.

Discontinuance of service by the City of Erin for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1974 Code, § 13-114)

18-115. Re-connection charge. Whenever service has been discontinued as provided for above, a fee of fifty dollars ($50.00) shall be collected during regular business hours 7:30 A.M. to 3:30 P.M. Monday through Friday and a fee of one hundred dollars ($100.00) shall be collected after regular business hours. The fees shall be paid, prior to restored service. (1974 Code, § 13-115, as amended by Ord. #555, July 2007 and Ord. #633, June 2021 ***Ch9_6-8-21***)

18-116. Termination of service by customer. Customers and/or applicants who wish to discontinue service must give at least three (3) days notice to that effect unless his contract specifies otherwise. Within thirty (30) days after discontinuance, the City of Erin shall determine amounts owed by the customer at the time of discontinuance and make a final settlement of the account. The City of Erin shall refund to the person who made the meter deposit the amount that the deposit exceeds. (1974 Code, § 13-116)

18-117. Access to customers' premises. The City of Erin's identified representatives and employees shall be granted access to all customers' premises at all reasonable times with the customer's permission, for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1974 Code, § 13-117)

18-118. Inspections. The City of Erin may, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later time. The City of Erin reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the City of Erin. (1974 Code, § 13-118)

18-119. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the City of Erin shall be and remain the property of the City of Erin. Each customer shall provide space for and exercise proper care to protect the property of the City of Erin on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to care for it properly care for same, the cost of necessary repairs or replacements shall be paid by the customer and/or applicant. (1974 Code, § 13-119)

18-120. Customer's responsibility for violations. Where the City of Erin furnishes water service to a customer, such customer as well as the user shall be responsible for all violations of these rules and regulations which occur

on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1974 Code, § 13-120)

18-121. Supply and resale of water. All water shall be supplied within the City of Erin exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the City of Erin. (1974 Code, § 13-121)

18-122. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the City of Erin. (1974 Code, § 13-122)

18-123. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the City of Erin.

All private fire hydrants shall be sealed by the City of Erin, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the City of Erin a written notice of such occurrence. (1974 Code, § 13-123)

18-124. Damages to property due to water pressure. The City of Erin shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1974 Code, § 13-124)

18-125. Liability for cutoff failures. The City of Erin's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least three (3) days' written notice to cut off water service, the municipality has failed to cut off such service.

(2) The City of Erin has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main. Except to the extent stated above, the City of Erin shall not be liable for any loss or damage resulting from cutoff failures. If a customer and/or applicant wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also, the customer and/or applicant (and not the

City of Erin) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1974 Code, § 13-125)

18-126. Restricted use of water. In times of emergencies or in times of water shortage, the City of Erin reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1974 Code, § 13-126)

18-127. Interruption of service. The City of Erin will endeavor to furnish continuous water service, but does not guarantee to the customer any fixed pressure or continuous service. The City of Erin shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the City of Erin water system, the water supply may be shut off without notice when necessary or desirable, and each customer must be prepared for such emergencies. The City of Erin shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1974 Code, § 13-127)

18-128. Schedule of rates.

Inside Residential

First 1,000 gallons	$14.50
Over 1,001 gallons	$6.00 per one thousand gallons

Outside Residential

First 1,000 gallons	$21.00
Over 1,001 gallons	$7.25 per one thousand gallons

Inside Commercial

First 1,000 gallons	$22.25
Over 1,001 gallons	$7.25 per one thousand gallons

Outside Commercial

First 1,000 gallons	$32.00
Over 1,001 gallons	$8.50 per one thousand gallons

Industrial

Meter Size	Minimum Charge	Gallons	Over Minimum
3/4	$70.00	20,000	$5.50 per 1,000 gallons
1"	$150.00	40,000	$5.50 per 1,000 gallons
2"	$200.00	64,000	$5.50 per 1,000 gallons
3"	$425.00	128,000	$5.50 per 1,000 gallons
4"	$587.00	200,000	$5.50 per 1,000 gallons
6"	$1,250.00	200,000	$5.50 per 1,000 gallons
8"	$1,875.00	300,000	$5.50 per 1,000 gallons
TVA	$3,150.00	1,400,000	$5.50 per 1,000 gallons

Tennessee Ridge $2.62 per 1,000 gallons
Cumberland City $2.62 per 1,000 gallons

(1974 Code, § 13-111, as amended by Ord. #497, June 1997; Ord. #513, June 2000; Ord. #514, June 2000; Ord. #516, Aug. 2000; Ord. #518, June 2001, Ord. #519, June 2001, Ord. #553, July 2007, Ord. #599, July 2014, Ord. #602, June 2015, and Ord. #631, June 2021 ***Ch9_6-8-21***)

18-129. Fluoridation of water supply. The water department is authorized and instructed to make plans for the fluoridation of the water supply of the city, and to submit plans to the Department of Health of the State of Tennessee for approval. When such plans are approved by the department the water department will add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of the city water supply. All costs of such fluoridation will be borne by the revenues of the water department of the city. (1974 Code, § 13-128)

18-130. Connection fee charge. All customers requiring service of water and/or sewer shall be required to pay a connection fee of fifty dollars ($50.00) per meter in addition to all deposit fees. (as added by Ord. #633, June 2021 ***Ch9_6-8-21***)

CHAPTER 2

SEWERS[1]

SECTION

18-201. Use of system regulated. All persons using, desiring, or required to use the public sanitary sewer system shall comply with the provisions of this chapter and with such written rules and regulations as may be prescribed by the superintendent of the sewer system when such rules and regulations have been approved by the Board of Mayor and Aldermen of the City of Erin. (1974 Code, § 13-201)

18-202. Permit and supervision required for connecting to system. No premises shall be connected to the public sanitary sewer system without a permit from the city recorder. Also all connections to the system must be made under the direct supervision of the superintendent of the sewer system or someone designated by him. (1974 Code, § 13-202)

18-203. Sewer tapping fees. Sewer tapping fees, unless otherwise specified in the terms of any grant or loan agreement, shall be as follows:

GRAVITY FLOW

Single family residential	$1,500.00
All other (4")	$4,000.00
All other (6")	$6,000.00

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[1]Municipal code references
Plumbing regulations: title 12.
Sanitary sewer services: title 18, chapters 7 and 8.

Policies passed August 2012 for standards and limits regarding: adjustment of utility bills due to leaks (Ord. #587); replacement of water meters and leak detection (Ord. #588); and a water meter policy statement (Ord. #589) are of record in the recorder's office.

Larger taps will be on a cost plus basis. All structures other than single family residential shall also be charged a fee equal to forty cents ($0.40) per square foot of finished floor space.

The tapping fee shall include all materials and labor necessary to install the tap and up to thirty feet (30') of service line. Any line in excess of thirty feet (30') will be charged on a cost plus basis.

INDIVIDUAL GRINDER PUMP

For structures that require the installation of an individual grinder pump for sewer service, the tap fee and charges will be the same as for gravity flow plus the cost of the pump and all materials necessary for proper installation. City will not install, maintain or service, nor will the City of Erin be responsible in any way for said grinder pump; installation and upkeep will be done at the customer's expense. (1974 Code, § 13-203, as replaced by Ord. #553, July 2007 and amended by Ord. #634, June 2021 ***Ch9_6-8-21***)

18-204. Installation of lateral lines, etc. When connections to the public sanitary sewer system are required and/or permitted the City of Erin shall be responsible for installing all the necessary lateral lines and facilities from the sewer main to the property line unless there is a written contract between the Board of Mayor and Aldermen of the City of Erin and the property owner to the contrary. All necessary installations within the property lines shall be made by the owner. (1974 Code, § 13-204)

18-205. Sewer service charges. Sewer service charges shall be collected and assessed in the same manner as assessed and collected from water customers. A sewer service charge shall be collected from each person billed sewer service charge shall be based and computed upon water consumption by water customers as follows:

Residential

3/4" Meter	
First 1,000 gallons	$13.10
All over 1,001 gallons	$4.50 per 1,000 gallons

Industrial

Meter size	Minimum charge	Gallons
3/4"	$71.40	20,000
1" and 1-1/2"	$140.76	40,000
2"	$228.99	64,000
3"	$395.76	128,000
4"	$632.40	200,000

4" without water	$565.00	200,000
6"	$1,071.00	200,000

Above the minimum (large meters) at 5.50 per one thousand (1,000) gallons. (1974 Code, § 13-205, as amended by Ord. #551, July 2007 and Ord. #632, June 2021 ***Ch9_6-8-21***)

18-206. Extension policies. Insofar as practicable, the various policies set forth in the preceding chapter with respect to extending water service facilities shall also apply to extending sewer service facilities except that where, in such provisions, a six-inch (6") cement-lined cast iron pipe is specified for water purposes, an eight-inch (8") pipe of salt glazed vitrified clay or other construction approved by the board of mayor and aldermen shall be substituted for sewer purposes. (1974 Code, § 13-206)

18-207. Adjustment of monthly sewer charges under certain circumstances. Customers are eligible for the adjustment of his/her monthly sewer charges in the following circumstance:

The customer is a residential customer who used extra water for lawn or garden irrigation purposes and satisfies the requirement herein. The reduction period will be for only the months of June, July, August, and September. If the consumption for a said month exceeds one hundred twenty percent (120%) of the monthly winter average calculated by averaging the months of October through May less the high and low months, the customer shall not be charged sewer charges on the excess. If the customer does not have a consumption history for a winter average calculation as set forth above herein, the consumption average for the customer's category plus twenty percent (20%) shall be used and six thousand seven hundred thirty (6,730) gallons shall be used as the average for residential applicants. (1974 Code, § 13-207)

CHAPTER 3

(this chapter was moved to title 18 chapter 7
by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

CHAPTER 4

SEWAGE AND HUMAN EXCRETA DISPOSAL[1]

SECTION

18-401. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The Health Officer of Houston County, Tennessee, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than seven hundred fifty (750) gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Construction of Septic Tanks and Disposal

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[1]Municipal code reference
Plumbing code: title 12, chapter 13.

Fields for Residential Uses." A minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1974 Code, § 8-201)

18-402. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1974 Code, § 8-202)

18-403. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premises accessible to the sewer no other method of sewage disposal shall be employed. (1974 Code, § 8-203)

18-404. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1974 Code, § 8-204)

18-405. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1974 Code, § 8-205)

18-406. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-402 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1974 Code, § 8-206)

18-407. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1974 Code, § 8-207)

18-408. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-402, or the agent of the owner to provide such facilities. (1974 Code, § 8-208)

18-409. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1974 Code, § 8-209)

18-410. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1974 Code, § 8-210)

18-411. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1974 Code, § 8-211)

18-412. Pollution of groundwater prohibited. No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing

facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of groundwater. (1974 Code, § 8-212)

18-413. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to ensure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within thirty (30) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1974 Code, § 8-213)

18-414. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of thirty (30) days provided for in the preceding section. (1974 Code, § 8-214)

18-415. Violations. Any person, persons, firm, association, or corporation, or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1974 Code, § 8-215)

CHAPTER 5

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.[1]

SECTION

18-501. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter.

(1) "Cross-connection" means any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices through which, or because of which, backflow could occur are considered to be cross-connections.

(2) "Public water supply" means the City of Erin Public Water System which furnishes water to public for general use and which is recognized as a public water supply by the Tennessee Department of Environment and Conservation.

(3) "Department" means the City of Erin Public Water System.

(4) "Potable water" means water which meets the criteria of the Tennessee Department of Conservation and of the Environmental Protection Agency for human consumption.

(5) "Backflow" means the reversal of the intended direction in a piping system.

(6) "Backsiphonage" means the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

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[1]Municipal code references
Plumbing code: title 12.
Water and sewer system administration: title 18.
Wastewater treatment: title 18.

(7) "Auxiliary intake" means any water supply, on or available to a premises, other than that directly supplied by the public water system.

(8) "By-pass" means any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(9) "Air gap" means a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air gap separation must be at least twice the inside diameter of the supply line, but not less than two inches (2"). Where a discharge line serves as a receiver, the air gap separation shall be at least twice the diameter of the line, but not less than two inches (2").

(10) "Reduced pressure principle backflow prevention device" means an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

(11) "Double check valve assembly" means an assembly of two (2) independently operating spring loaded check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each check valve.

(12) "Double check detector assembly" means an assembly of two (2) independently operating spring loaded check valves with a water meter (protected by another check valve or a reduced pressure backflow prevention device, depending upon the degree of hazard) connected across the check valves, and with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each part of the assembly.

(13) "Atmospheric vacuum breaker" means a device which prevents backsiphonage by creating an atmospheric vent when there is a negative pressure or a sub-atmospheric pressure in the water system.

(14) "Pressure vacuum breaker" means an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the check valves and relief valve.

(15) "Approved" means that the device or method is accepted by the Tennessee Department of Environment and Conservation and the Superintendent as meeting specifications suitable for the intended purpose.

(16) "Superintendent" means the Superintendent of the City of Erin Public Water System or his authorized deputy, agent or representative.

(17) "Fire protection systems."

(a) Class 1 shall be those with direct connections from the public water mains only; no pumps, tanks, or reservoirs; no physical

connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1 except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, and having storage tanks filled from the public water system, with the water maintained in potable condition.

(d) Class 4 shall be those with direct connection from the public water mains and having an auxiliary water supply dedicated to fire protection and available to the premises.

(e) Class 5 shall be those with direct connection from the public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or from river, ponds, wells, or industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks. (1974 Code, § 8-301)

18-502. Construction and operation subject to approval of Tennessee Department of Environment and Conservation; under supervision of the superintendent. (1) Compliance with Tennessee Code Annotated. The water department of the City of Erin is to comply with Tennessee Code Annotated, §§ 68-221-701 to 68-221-719, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, interconnections, and establish an effective on-going program to control these undesirable water uses.

(2) Regulated. (a) It shall be unlawful for any person to cause a cross-connection to be made; or allow one (1) to exist for any purpose whatsoever unless the construction and operation of the same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direction of the Superintendent of the City of Erin Public Water System.

(b) If in the judgement of the superintendent or his designated agent, an approved backflow prevention device is required at the public water service connection to the customer premises, to protect the potable water supply, the superintendent shall compel the installation, maintenance, inspection, and testing of said device at the owner's expense.

(c) For new installations, the department shall inspect the site and/or review plans in order to determine the type of backflow prevention

device, if any, that will be required, and notify the owners in writing of the required device. All required devices must be installed and operate prior to initiation of water service.

(d) For existing premises, the department shall perform evaluations and inspections and shall require correction of violations in accordance with this chapter and the City of Erin Cross-Connection Control Program Procedures Manual.[1]

(3) Maintenance or repair tag required. No installation, alteration or change shall be made of any backflow prevention device connected to the public water supply for water supply, fire protection, or any other purpose without first securing a maintenance or repair tag from the cross-connection control department.

(4) Inspections. The superintendent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspection and reinspections based on potential health hazards involved shall be established by the superintendent in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. The superintendent or authorized representative shall have the right to enter at any reasonable time any property served by a connection to the City of Erin Public Water System for the purpose of inspecting the piping system therein for cross-connection, auxiliary intakes, bypasses, or interconnections, or for the testing of backflow prevention devices. On request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.

(5) Corrections of violations. (a) Any person found to have cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of time required to complete the work, the amount of time shall be designated by the superintendent, but in no case shall the time for correction exceed ninety (90) days.

(b) Where cross-connections, auxiliary intakes, bypasses, or interconnections are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the superintendent of the water system shall require that immediate corrective action be taken to eliminate the threat to the public water system.

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[1]A copy of this manual is of record in the office of the recorder.

(c) Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is corrected immediately.

(d) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within the time limits set by the City of Erin Public Water System shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall physically separate the public water system from the customer's on-site piping system in such a manner that the two (2) systems cannot again be connected by an unauthorized person.

(6) Required protective device. (a) Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

(i) Impractical to provide an effective air-gap separation;

(ii) The owner and/or occupant of the premises cannot, or is not willing to, demonstrate to the superintendent or his designated representative that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;

(iii) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;

(iv) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;

(v) There is a likelihood that protective measures may be subverted, altered, or disconnected; or

(vi) The plumbing from a private well enters the building served by the public water supply.

Then the superintendent shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.

(b) The protective devices shall be of the type approved by the Tennessee Department of Environment and Conservation and the superintendent as to manufacture, model, size and application. The method of installation of backflow protective devices shall be approved by the superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation and with the installation criteria set forth in subsection (6)(f) below. The installation shall be at the expense of the owner or occupant of the premises.

(c) Applications requiring backflow prevention devices include, but are not limited to, service and/or fire flow connections for most commercial and educational buildings, construction sites, all industrial,

institutional, and medical facilities, all fountains, lawn irrigation systems, swimming pools, softeners and other point of use treatment systems, and on all fire hydrant connections other than by the fire department in combating fires.

(i) Class 1, Class 2, and Class 3 fire protection systems generally shall require a double check detector assembly, except a reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler pipelines are parallel to and within ten feet (10') horizontally of pipelines carrying sewage or significantly toxic wastes;

(B) Premises have unusually complex piping systems; and/or

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(ii) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(iii) Wherever the fire sprinkler system piping is not an acceptable potable water system material, or chemicals such as liquid foam concentrates are used, a reduced pressure backflow prevention device shall be required.

(d) Plumbing for commercial and educational buildings wherein backflow prevention devices are not immediately required shall be designed to accommodate such devices in conformance with standards for such devices, including the required drains.

(e) Additionally, the superintendent may require internal and/or additional backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(f) Installation criteria. Minimum acceptable criteria for the installation of reduced pressure zone type backflow prevention devices, double check valve assemblies, pressure vacuum breakers, or other devices requiring regular inspection and testing shall include the following:

(i) All required devices must be installed by a person certified by the Tennessee Department of Environment and Conservation, Division of Drinking Water, or its successor. Evidence of current certification at the time of installation will be required.

(ii) All devices shall be installed in accordance with the manufacturer's installation instructions, and shall possess all test cocks and fittings required for testing the device. All fittings shall permit direct connection to department test devices.

(iii) The entire device including test cocks and valves shall be easily accessible for testing and repair.

(iv) Reduced Pressure Backflow Prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above the floor surface. Maximum height above the floor surface shall not exceed sixty inches (60").

(v) Clearance of device from wall surfaces or other obstructions shall be a minimum of six inches (6").

(vi) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging environment.

(vii) Devices shall be positioned where discharge from relief port will not create undesirable conditions.

(viii) An approved air gap shall separate the relief port from any drainage system.

(ix) An approved strainer, fitted with a test cock, shall be installed immediately upstream of the backflow device or shut-off valve before strainer.

(x) Devices shall be located in an area free from submergence or flood potential.

(xi) A gravity drainage system is required on all installations. Generally, below ground installations will not be permitted. On certain slopes where installations below ground level may be permitted, a single or multiple gravity drain system may be used; provided that the single drain line is at least four (4) times the area of the relief port or that the multiple drain lines are at least two and one-half (2-1/2) times the area.

(xii) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed in such a manner that backsiphonage/backflow through the drain may occur.

(xiii) Where jockey (low volume-high pressure) pumps are utilized to maintain elevated pressure, as in a fire protection system, the discharge of the pump must be on the downstream side of any check valve or backflow prevention device. Where the supply for the jockey pump is taken from the upstream side or the check valve or backflow prevention device, an assembly of the same type as required on the main line shall be installed on the supply line.

(xiv) High volume fire pumps shall be equipped with a suction limiting control to modulate the pump if the suction pressure approaches 10 psi. Ideally, such pumps should draw from an in-house reservoir fed by several supply lines. If any of the supply lines have a source other than the public water supply, all supply lines must have air-gap discharges into the reservoir.

(g) Personnel of City of Erin Public Water System shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the superintendent. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(h) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) unit has been installed and the continuance of service is critical, the Superintendent shall notify, in writing, the occupant of the premises of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the device. In such cases, the superintendent may require the installation of a duplicate unit. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, and to keep any protective device working properly. The expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the superintendent. The failure to maintain a backflow prevention device in proper working order shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing, or altering of a protective device or the installation thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent.

(i) Testing of devices. Devices shall be tested at least annually by the Cross-Connection Control Department of the City of Erin Public Water System. Personnel of the City of Erin Public Water System shall have the right to inspect and test the devices whenever deemed necessary by the superintendent. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(7) Nonpotable supplies. (a) The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: WATER UNSAFE FOR DRINKING.

(b) The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background.

(c) Color coding of pipelines in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the superintendent, such color coding is necessary to identify and protect the potable water supply.

(8) Provision applicable. The requirements contained herein shall apply to all premises served by the City of Erin Public Water System and are hereby made a part of the conditions required to be met for the superintendent to provide water services to any premises. This "cross-connection" section shall be rigidly enforced since it is essential for the protection of the water distribution system against the entrance of contamination. Any person aggrieved by the action of the superintendent is entitled to a due process hearing upon timely request. (1974 Code, § 8-302)

18-503. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1974 Code, § 8-303)

18-504. Penalty; discontinuance of water supply. (1) Penalty. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and subject to a fine of fifty dollars ($50.00) a day each and every day that the violation exist, until it is corrected.

(2) Independent of and in addition to fines and penalties, the superintendent may discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass or interconnection, has been discontinued. (1974 Code, § 8-304)

18-505. Backflow prevention. (1) New installations. No installation, alteration, testing or change shall be made of any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing a suitable plumbing permit from the City of Erin Water Department (where appropriate), approval from the Erin Fire Official (where appropriate) and a cross-connection control devices test report with an installation/maintenance tag from the Erin Water Department. A copy of the plumbing permit (where applicable) shall be displayed in a conspicuous place at the job site at all times from the time of issuance until the final inspection. The installation/maintenance tag shall be installed on the device following installation and testing, and shall be removed only by personnel from the Erin Water Department at the time of inspections. One (1) copy of the

cross-connection control devices test report shall be submitted to the Erin Water Department upon completion of the installations and testing.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate permits, approvals and a cross-connection control devices test report and an installation/maintenance tag from the Erin Water Department. The installation/maintenance tag shall be installed on the device following alteration, repair and/or testing, and shall only be removed by personnel from the Erin Water Department.

(3) Cross-connection control permits. A cross-connection control permit shall be required for the installation, testing, repair or alteration of any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose. Anyone wishing to install, test or repair a backflow prevention device shall provide proof of valid cross-connection control certification, and a certificate of liability insurance, prior to the issuance of a permit. The cost of a permit is five dollars ($5.00) for each device to be installed, tested or repaired. A permit may be obtained in the business office of the Erin Water Department during normal business hours. At the time of permit issuance, the permittee should receive the following information:

(a) Cross-Connection Control Program Manual. The City of Erin has developed and extensive cross-connection control program, which outlines in detail the installation criteria, list of currently approved backflow preventative devices, and the rules and regulations concerning these devices.

(b) Installation and maintenance tag. Any person installing or maintaining any backflow prevention device shall upon completion of the work affix a completed installation and maintenance tag upon the device.

(c) Backflow prevention device test report. Any person testing any backflow prevention device shall completely fill out this report and return it to the City of Erin.

(4) Testing devices. Devices shall be tested at least annually by a qualified person possessing valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A copy of this certification shall be on file with the City of Erin for any person installing, repairing or testing backflow prevention devices shall also maintain on file with the superintendent a current copy of a valid certificate of liability insurance in an amount of not less than one hundred thousand dollars ($100,000.00). Records of all installations, repairs and testing shall be submitted to the cross-connection program administrator upon completion. Personnel of the Erin Water Department shall have the right to inspect and/or test a device whenever deemed necessary by the City of Erin. Water service shall not be disrupted to test a device without the knowledge of the occupant of

the premises. All testing and inspection services are to be at the expense of the owner or occupant of the premises. (Ord. #506, Feb. 1999)

CHAPTER 6

WATER METER POLICY

SECTION

18-601. Purpose. To establish policies and fees related to ownership, installation, use, testing, replacement, and damages to city water meters and accessories. (as added by Ord. #614, Aug. 2017)

18-602. General. The intent of this policy is to establish requirements related to the installation and use of the City of Erin water meters.

(1) Applicability. This policy establishes requirements for all existing and new water meters. The policy shall be effective upon approval by the city council.

(2) By establishment of this policy, the city is clarifying previous informal policies of the city public works department.

(3) The following requirements are made effective to all water customers of the City of Erin water system:

(a) All water used shall be metered, except for water used by public works or the fire department for firefighting or water system flushing.

(b) All new water connections for irrigation purposes shall have a separate water meter installed or have an approved backflow preventing device.

(c) The City of Erin shall own and maintain all water meters registering water consumption of the water customer from the street to the meter, including all components in the meter box. The water customer shall own and maintain all lines and any other devices beyond the meter box.

(d) All meter boxes and service lines shall be installed according to the city standards and details on file in the public works department.

(e) All water meters shall be set or reset by the City of Erin Public Works Department or a city approved contractor. Any other person removing or tampering with the city water meter will be subject to fines and penalties as established herein. Theft of city water will be subject to action as determined and prosecuted by the city attorney in addition to a fine for each time of such theft as established herein.

(f) The public works department shall service and maintain city owned water meters without charge and shall replace defective or

malfunctioning meters without charge; provided, however, if damages to the meter (including meter box and accessories) are the result of an accident or of negligence other than by a city employee or agent, then the water customer shall be liable for the expense of repairs or replacement of such damaged items. Payment must be made within thirty (30) days of invoicing of repairs or replacement or water service to the premises will be discontinued.

(g) The public works department can obtain a shop test of a three-fourths inch (3/4") water meter for a fee and provide a written certification of its accuracy. Should the test find the meter to be greater than five percent (5%) over true quantity, the fee will be returned, and an adjustment in the water bill made for a maximum of three (3) months of use for the overage amount. If the meter is found to be over the under true quantity by more than five percent (5%), the meter will be replaced at no expense to the customer.

(h) There will be a non-refundable fee of twenty-five dollars ($25.00) assessed to each new customer account and or transfer of accounts. This fee is in addition to the refundable meter deposits as addressed in the service agreement.

(i) Leaks on the customers' side of the water meter that are no fault of the City of Erin must be repaired within thirty (30) days of notification by the DPW. In the event leaks are not repaired in a timely manner service may be suspended.

(j) In the event of a leak that has been proven to be of no negligence or responsibility of the City of Erin an adjustment may be made on a case by case basis as prescribed in the adjustment policy:

(k) Water meter re-check will be done at no cost to the customer for the first visit. A fee of twenty-five dollars ($25.00) will be added to the customer's account for each visit thereafter. If the City of Erin is in any way at fault or found negligent all fees will be refunded. (as added by Ord. #614, Aug. 2017)

18-603. <u>Fees</u>. The following fees are hereby established as related to this water meter policy and such are subject to change by the city council upon a favorable vote:

(1)	Water meter accuracy test	$50.00 Fee
(2)	Tampering with city water meter	$200.00 Fine
(3)	Theft of water, including fire hydrants	$100.00 Fine
(4)	Damaged 3/4" water meter and or hardware replacement	$350.00
(5)	Damaged meter box replacement	$200.00 (as added by Ord. #614, Aug. 2017)

18-604. <u>Payment of fees or fines</u>. Payment of the above fees or fines shall be made by the water customer within thirty (30) days of invoicing or the service may be discontinued. (as added by Ord. #614, Aug. 2017)

CHAPTER 7

GENERAL WASTEWATER REGULATIONS[1]

SECTION

18-701. Purpose and policy. This chapter sets forth uniform requirements for users of City of Erin, Tennessee, wastewater treatment system and enables the sewer department to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

(1) To protect public health;

(2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, which will interfere with the system operation;

(3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;

(4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(5) To promote reuse and recycling of industrial wastewater and sludge from the facility;

(6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and

(7) To enable the sewer department to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the sewer department must have adequate wastewater treatment

[1]Ordinance's original formatting retained for ease of future updates.

either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the county who are, by implied contract or written agreement with the sewer department, dischargers of applicable wastewater to the wastewater treatment facility. Chapter 8 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 8 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1974 Code, § 13-2A01, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-702. Administrative. Except as otherwise provided herein, the general manager shall serve as the local administrative officer of the sewer department and shall administer, implement, and enforce the provisions of this chapter. The board of the sewer department shall serve as the local hearing authority. (1974 Code, § 13-2A01, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-703. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

"Administrator." The administrator or the United States Environmental Protection Agency.

"Act or the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. §§ 1251, et seq.

"Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

"Authorized or duly authorized representative of industrial user":

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities; provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with

environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a) to (c) above may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the sewer department.

"Best Management Practices" or "BMPs." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-709 of this chapter. BMPs also include treatment requirement, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

"Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Centigrade (20°C) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

"Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

"Categorical pretreatment standard or categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405471.

"City or county." The Sewer Department of Houston County, Tennessee.

"Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

"Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in sewer department's NPDES permit for its

wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

"Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

"Control authority." The "approval authority," defined herein above; or the local hearing authority if the sewer department has an approved pretreatment program under the provisions of 40 CFR § 403.11.

"Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

"Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the sewer department under either an express or implied contract requiring payment to the sewer department for such service.

"Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

"Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

"Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

"Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

"Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

"Garbage." Solid wastes generated from any domestic, commercial or industrial source.

"Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used

will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

"Grease interceptor." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or less and is generally located inside the building.

"Grease trap." An interceptor whose rated flow is fifty gallons per minute (50 g.p.m.) or more and is located outside the building.

"Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

"Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

"Indirect discharge." The introduction of pollutants into the WWF from any nondomestic source.

"Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 U.S.C. § 1342).

"Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

"Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

"Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the sewer department treatment works or collection system.

"Local administrative officer." The chief administrative officer of the local hearing authority.

"Local hearing authority." City of Erin Council or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-805.

"Pretreatment standards or standards." Prohibited discharge standards, categorical pretreatment standards, and local limits.

"NAICS, North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

"New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided that:

(i) The building structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this section has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection (c).

"NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Clean Water Act as amended.

"Pass-through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

"Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

"pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

"Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

"Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxics from sewer department, or odor discharge into water).

"Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW, The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR § 403.6(d).

"Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

"Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

"Pretreatment standards or standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

"Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act (33 U.S.C.§ 1292) which is owned in this instance by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect

discharges to and the discharges from such a treatment works. See WWF, Wastewater Facility, below.

"Shall" is mandatory; "May" is permissive.

"Significant industrial user."

(a) All industrial users subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the WWF (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR § 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR § 403.8(f)(6)).

"Significant noncompliance." Per 1200-4-14-.08(6)(b)8:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-805(1)(b)(i)(D), Emergency Order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control

mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

"Slug." Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

"Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

"State." The State of Tennessee.

"Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

"Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

"Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

"Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

"Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

"Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

"User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if

a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

"Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the WWF.

"Wastewater facility." Any or all of the following; the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

"Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

"1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1974 Code, § 13-2A02, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-704. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of sewer department, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the sewer department any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or sewer department or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) below, the owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper private or public sewer in accordance with the provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect

to the public sewer. Service is considered "available" when a public sewer main is located in an easement, right-of-way, road or public access way which abuts the property.

(5) Where a public sanitary sewer is not available under the provisions of subsection (4) above the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-705.

(6) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations. (1974 Code, § 13-2A03, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-705. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-704(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the sewer department. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the sewer department to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the county health department. The application for such approval shall be made on a form furnished by the county health department which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the installation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, and the county health department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the sewer department and the county health department. (1974 Code, § 13-2A04, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-706. Connection to public sewers. (1) Application for service.

(a) There shall be two (2) classifications of service:

(i) Residential; and

(ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the sewer department. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include, but are not limited to, those required by this chapter. Service connection fees for establishing new sewer service are paid to the sewer department. Industrial user discharge permit fees may also apply. The receipt by the sewer department of a prospective customer's application for connection shall not obligate the sewer department to render the connection. If the service applied for cannot be supplied in accordance with this chapter and sewer department's rules and regulations and general practice, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the sewer department to the applicant for such service.

(b) Users shall notify the sewer department of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The sewer department may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of this chapter shall be completely and permanently disconnected within sixty (60) days of the effective day of this chapter. The owners of any building sewer having such connections, leaks or defects shall bear all of the costs incidental to removal of such sources. Pipes,

sumps and pumps for such sources of groundwater shall be separate from the sanitary sewer.

(3) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The sewer department shall make all connections to the public sewer upon the property owner first submitting a connection application to the sewer department.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the sewer department at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The sewer department will inspect the installation prior to backfilling and make the connection to the public sewer.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. The owner shall indemnify the sewer department from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings use a common building sewer are now located on separate properties, the building sewers must be separated within sixty (60) days.

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent, to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system - four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades: Four-inch (4") sewers - one-eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a veloSewer Department when flowing full of at least two feet (2') per second.

(iv) Building sewers shall be installed in uniform alignment at uniform slopes.

(v) Building sewers shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six-inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4"). Blockages on the property owner's side of the property line cleanout are the responsibility of the property owner.

(vii) Connections of building sewers to the public sewer system shall be made only by the sewer department and shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. Bedding must support pipe to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage earned by such building drain shall be lifted by an approved pump system according to § 18-707 and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the sewer department or to the procedures set forth in appropriate specifications by the ASTM. Any deviation from the prescribed

procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the sewer department.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections.

(i) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(4) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the sewer department. Owners failing to maintain or repair building sewers or who allow groundwater or groundwater to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the sewer department. In the absence of policies and procedures the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage Works, located at http://www.state.tn.us/environment/wpc/publications/. Contractors must provide the superintendent or manager with as-built drawing and documentation that all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. Contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to

acknowledge transfer of ownership to the sewer department. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (1974 Code, § 13-2A05, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-707. Septic tank effluent pump or grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to the regulations of the sewer department.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the sewer department.

(b) Pumps must be approved by the sewer department and shall be maintained by the property owner.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the sewer department. Installation shall follow design criteria for STEP and GP systems as provided by the superintendent.

(3) Costs. STEP and GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the sewer department and connection will be made to the sewer department sewer only after inspection and approval of the sewer department.

(4) Ownership and easements. Homeowners or developers shall provide the sewer department with ownership of the equipment and an easement for access to perform necessary maintenance or repair. Access by the sewer department to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance of drain lines from the building to the STEP and GP tank.

(d) Prohibited uses of the STEP and GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the sewer department. However, pumping required more frequently than once every five (5) years shall be billed to the homeowner.

(7) Additional charges. The sewer department shall be responsible for maintenance of the STEP and GP equipment. Repeat service calls for similar problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (1974 Code, § 13-2A06, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-708. Regulation of holding tank waste disposal or trucked in waste. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval from the sewer department to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the sewer department to be set as specified in § 18-807 of this chapter. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all the provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other

wastewater or excreta disposal systems within the service area of sewer department.

(5) Trucked in waste. This subsection (5) includes waste from trucks, railcars, barges, etc., or temporally pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1974 Code, § 13-2A07, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-709. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the WWF. These general prohibitions apply to all such users of a WWF whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of this section may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of §§ 18-710 or 18-805. A user may not contribute the following substances to any WWF:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Celsius (60°C) using the test methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the sewer department, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds forty degrees Celsius (40°C) or one hundred four degrees Fahrenheit (104°F) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(h) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the WWF, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(i) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(j) Any substance which may cause the WWF's effluent or any other product of the WWF such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the WWF cause the WWF to be in noncompliance with sludge use or disposal criteria, 40 CFR part 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(k) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug," as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Detergents, surfactants, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(r) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxic sewer department tests.

(s) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 8 may be subject to numeric and best management practices as additional restrictions to then wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A - Plant Protection Criteria, unless specifically allowed by their discharge permit according to chapter 8 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - Plant Protection Criteria

Parameter	Maximum Concentration (mg/l)
Arsenic	0.0053
Benzene	0.01875

Parameter	**Maximum Concentration (mg/l)**
Cadmium	0.005
Carbon Tetrachloride	0.015
Chloroform	0.085
Chromium (total)	0.06
Copper	0.08
Cyanide	0.01132
Ethylbenzene	0.004
Lead	0.045
Mercury	0.0003
Methylene chloride	0.05
Molybdenum	0.0021
Naphthalene	0.001
Nickel	0.18
Phenol	0.05
Selenium	0.0029
Silver	0.005
Tetrachloroethylene	0.025
Toluene	0.015
Total Phthalate	0.064
Trichlorethlene	0.01
1,1,1 -Trichloroethane	0.03
1,2 Transdichloroethylene	0.0015
Zinc	0.2

(4) Fats, oils and grease traps and interceptors. (a) Fat, Oil, and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be installed when, in the opinion of the superintendent, they are necessary for the proper handling of liquid

wastes containing fats, oils, and grease, any flammable wastes, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amount which impact the wastewater collection system. Such interceptors shall not be required for single-family residences, but may be required on multiple-family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste, if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent the sewer user must:

(A) Implement the plan within a reasonable amount of time; and

(B) Service and maintain the equipment in order to prevent impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(c) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(d) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(e) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil, must be designed in accordance with the Tennessee Department of Environment and Conservation engineering standards or applicable sewer department guidelines. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the sewer department is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the sewer department. Nothing in this subsection (4) shall be construed to prohibit or restrict any other remedy the sewer department has under this chapter, or state or federal law. The sewer department retains the right to inspect and approve installation of control equipment.

(f) Solvents prohibited. The use of degreasing or line cleaning products containing petroleum-based solvents is prohibited. The use of other products for the purpose of keeping FOG dissolved or suspended until it has traveled into the collection system of the sewer department is prohibited.

(g) The superintendent may use industrial wastewater discharge permits under § 18-802 to regulate the discharge of fat, oil and grease. (1974 Code, § 13-2A08, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-710. <u>Enforcement and abatement</u>. Violators of these wastewater regulations may be cited to the sewer department court, general sessions court, chancery court, or other court of competent jurisdiction, face fines, have sewer service terminated or the sewer department may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 8. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The sewer department may take any or all the following remedies:

(1) Cite the user to the sewer department or general sessions court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1974 Code, § 13-2A09, as replaced by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-711.--18-713. <u>Deleted</u>. Deleted. (as deleted by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

CHAPTER 8

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS[1]

SECTION

18-801. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 CFR part 403 and Tennessee Pretreatment Rules § 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-709 of this title.

(2) Users wishing to discharge pollutants at higher concentrations than Table A - Plant Protection Criteria of § 18-709, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge waste which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-805.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as Table B - Local Limits or other applicable state and federal pretreatment rules which may take effect after the passage of this chapter.

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[1]Ordinance's original formatting retained for ease of future updates.

Table B - Local Limits

(Local limits shall be calculated by the LAO when requested by a potential SIU)

Pollutant	Monthly Maximum Concentration (mg/l)	Average*	Daily Maximum Concentraion (mg/l)
Arsenic	Local limits		
Benzene Cadmium			
Carbon Tetrachloride			
Chloroform			
Chromium (total)			
Copper			
Cyanide			
Ethybenzene			
Lead			
Mercury			
Methylene chloride			
Molybdenum			
Napthalene			
Nickel			
Phenol			
Selenium			
Silver			
Tetrachloroethylene			
Toluene			
Total Phthalate			
Trichlorethlene			

Pollutant	**Monthly Maximum Concentration (mg/l)**	**Average***	**Daily Maximum Concentraion (mg/l)**
1,1,1 Trichoroethane			
1,2 Transdichloroethylene			
Zinc			

*Based on twenty-four (24) hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste arc not subject to surcharges.

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the WWF reaches or exceeds the levels established by Table A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the sewer department the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of users whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or

the United States Environmental Protection Agency. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-802. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the sewer department sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-706 and an inspection has been performed by the superintendent or his representative.

The receipt by the sewer department of a prospective customer's application for connection shall not obligate the sewer department to render the connection. If the service applied for cannot be supplied in accordance with this chapter and sewer department's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the sewer department to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator an application on a prescribed form accompanied by the appropriate fee.

(ii) The application shall be in the prescribed form of the sewer department and shall include, but not be limited to, the following information: name, address, and SIC/NAICS number of the applicant; wastewater volume; wastewater constituents and characteristic, including, but not limited to, those mentioned in § 18-709 and § 18-801; discharge variations—daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises; each product produced by type,

amount, process or processes and rate of production; type and amount of raw materials; number and type of employees; hours of operation; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities; and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall, as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the sewer department under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection (2)(b)(iv), "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The sewer department will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the sewer department may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the sewer department of a prospective customer's application for wastewater discharge permit shall not obligate the sewer department to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the sewer department's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the sewer department to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and

the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(viii) Applications shall be signed by the duly authorized representative.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the sewer department.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, categorical pretreatment standards, local, state, and federal laws;

(D) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary, per Tennessee Rule § 1200-4-14-.08(6)a)3.(iii)(VI);

(G) Requirement to notify the WWF immediately if changes in the user's processes affect the potential for a slug discharge, per Tennessee Rule § 1200-4-14-.08(6)(b)6; and

(H) Requirement to evaluate slug discharges, per Tennessee Rule § 1200-4-14-.08(6)(b)6.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspection and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the sewer department, and affording the sewer department access thereto;

(F) Requirements for notification of the sewer department sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions; and

(I) Other conditions as deemed appropriate by the sewer department to ensure compliance with this chapter.

(d) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the sewer department. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked

in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges; and/or

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use; related to this chapter or the sewer department's or user's NPDES permit; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-803. Industrial user additional requirements. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When, in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Sample methods. All samples collected and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current edition of 40 CFR part 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities associated with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance include adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The sewer department may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of

premises where wastewater is created or discharged shall allow the sewer department or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The sewer department, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The sewer department will utilize qualified sewer department personnel or a private laboratory to conduct compliance monitoring. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from sewer department, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the sewer department shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the sewer department employees and the sewer department shall indemnify the company against loss or damage to its property by sewer department employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at the startup of the industrial process and be in full compliance of effluent standards within ninety (90) days of the startup of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the WWF, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-804. <u>Reporting requirements</u>. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-805.

(1) <u>Baseline monitoring report</u>. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule § 1200-4-14-.06(l)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (1)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards.

A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula.

(v) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 CFR part 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection (1)(b).

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 CFR part 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-804(2).

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-804(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-804(1)(d):

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components,

commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed nine (9) months.

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in section § 18-804(1)(b)(iv) and (1)(b)(v). For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14) below. All sampling will be done in conformance with subsection (11) below.

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the superintendent, submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the

procedures prescribed in subsection (11) below, the results of this monitoring shall be included in the report

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-801.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-802 or modify an existing wastewater discharge permit under § 18-802 in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require to determine the user's status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the sewer department performs sampling at the user's facility at least once a month, or if the sewer department performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the sewer department receives the results of this sampling, or if the sewer department has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection (9)(a) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-804(5). The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 18-804(1), 18-804(3), and 18-804(4).

(b) Dischargers are exempt from the requirements of subsection (9)(a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous

wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the superintendent, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxiSewer Department of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in sections (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the sewer department, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the

laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the sewer department, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsections (1) and (3) above, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) above, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-808. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the sewer department, or where the user has been specifically notified of a longer retention period by the superintendent.

(14) Certification statements. Signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person

or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Reports required to have signatures and certification statements include permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-805. Enforcement response plan. Under the authority of Tennessee Code Annotated, §§ 69-3-123, et seq.

(1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of City of Erin/Houston County Wastewater Regulations, pretreatment program, or of orders of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-805(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in Tennessee Code Annotated, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (1)(a)(i) through (1)(a)(iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the sewer department or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory

correction and prevention including specific actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the sewer department to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliance, or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the WWF, the local administrative

officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the sewer department in meeting the emergency.

(ii) Appeals from orders of the local administrative officer. (A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2) below. The local administrative officer's order shall remain in effect during the period of reconsideration.

(c) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection (2), the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written

petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (2)(a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Houston County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (2)(b) below; and

(viii) Any person to whom an emergency order is directed under § 18-805(1)(b)(i)(D) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under the common law writ of certiorari set out in Tennessee Code Annotated, §§ 27-8-101, et seq., within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (1)(a) or (1)(b) above, the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of Tennessee Code Annotated, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by Tennessee Code Annotated, § 69-3-115(a), shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any polluter or violator for damages to the sewer department resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program of this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have

violated or is about to violate the pretreatment program, tills section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-802(2)(g), users are subject to termination of their wastewater discharge for violations or a wastewater discharge permits, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-709.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties—special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(a) Levels of noncompliance. (i) Insignificant noncompliance: For the purpose of this subsection (7), insignificant noncompliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(ii) "Significant noncompliance." Per 1200-4-14-.08(6)(b)8:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(B) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant

parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(C) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-805(1)(b)(i)(D), Emergency Order, to halt or prevent such a discharge.

(E) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(F) Failure to provide, within forty-five (45) days after their due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(G) Failure to accurately report noncompliance.

(H) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(I) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(b) Any significant noncompliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).

(9) Public Notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of

the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (9)(c), (9)(d) or (9)(h) below) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) "Technical Review Criteria (TRC) violations," defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-807 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for stalling construction, completing construction, or attaining final compliance;

(f) Failure to accurately report noncompliance;

(g) Any other violation(s), which may include a violation of best management practices, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program; or

(h) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-806. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in Appendix A to impose sanctions or penalties for the violation of this chapter. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-807. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the sewer department's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the sewer department's schedule of charges and fees may include but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees (see Table C);
(e) Waste hauler permit;
(f) Industrial wastewater discharge permit fees;
(g) Fees for industrial discharge monitoring; and
(h) Other fees as the sewer department may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-802.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the sewer department at the time the application is filed.

(5) Sewer user charges.[1] The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-807 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the sewer department for the necessary compliance monitoring and other administrative duties of the pretreatment program.

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[1]Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the Erin City Recorder.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violation are categorized in the Enforcement Response Guide Table (Appendix A). The local administrative officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 1	No penalty
Category 2	$50.00-$500.00
Category 3	$500.00-$41,000.00
Category 4	$l,000.00-$5,000.00
Category 5	$5,000.00-$10,000.00

(as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

18-808. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Erin Water and Sewer Department. (as added by Ord. #622, Aug. 2019 ***Ch9_6-8-21***)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

CHAPTER 1

ELECTRICITY[1]

SECTION

19-101. To be furnished under franchise. Electricity shall be furnished for the City of Erin and its inhabitants under such franchise as the board of mayor and aldermen shall grant.[2] The rights, powers, duties, and obligations of the City of Erin, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned. (1974 Code, § 13-301)

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[1]Municipal code reference
Electrical code: title 12.

[2]The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS[1]

SECTION

19-201. To be furnished under franchise. Gas service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.[2] (1974 Code, § 13-401)

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[1]Municipal code reference
Gas code: title 12.

[2]The agreements are of record in the office of the city recorder.

CHAPTER 3

GAS MAINS[1]

SECTION

19-301. Granted under franchise. Exclusive right and franchise is granted to Sam Houston Public Utility District to operate a gas works and to lay, extend and maintain gas mains on or across any street, avenue, road, park or other public places in the City of Erin. (1974 Code, § 13-501)

[1]See Ord. #206 of record in the city recorder's office for the franchise grated to Sam Houston Utility District which expires December 5, 1981. See also Ord. #467, Oct. 1993 of record in the recorder's office concerning franchise fees.

TITLE 20

MISCELLANEOUS

CHAPTER

CHAPTER 1

TELEPHONE SERVICE

SECTION

20-101. To be furnished under franchise. Telephone service shall be furnished for the City of Erin under such franchise or franchises as may be granted by the board of mayor and aldermen.[1] (1974 Code, § 13-503)

[1]See Ord. #186 and #211 of record in the city recorder's office.

CHAPTER 2

JOINT CIVIL DEFENSE ORGANIZATION

SECTION

20-201. Organization established. There is hereby created the Houston County Civil Defense Organization, which is a joint operation by the City of Erin and the County of Houston for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Erin shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the Houston County Civil Defense. (1974 Code, § 1-1001)

20-202. Authority and responsibilities. (1) Authority. In accordance with federal and state enactments of law, the Houston County Civil Defense Organization is hereby authorized to assist the regular government of the county and governments of all political subdivisions therein, as may be necessary due to enemy caused emergency or natural disasters, including, but not limited to, storms, floods, fires, explosions, tornadoes, hurricanes, droughts or peace time man made disasters, which might occur and affect the lives, health, safety, welfare and property of the citizens of Erin, when such occurrences are declared to be emergencies by the mayor and county judge or either, or by such higher authority as is appropriate.

(2) Planning, training, etc. The director shall have overall responsibility for the preparation of all plans, recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.

(3) Authority delegated. The director is given the authority to delegate such responsibility and authority as is necessary to carry out the purpose of this chapter, subject to the approval of the chief executive officer of the city and county. (1974 Code, § 1-1002)

20-203. Office of the director. The office of the director of civil defense is hereby created. He shall have authority to request the declaration of an emergency. He shall also be responsible to the chief executive officers of the city

and county for the execution of the authorities, duties and responsibilities of the Houston County Civil Defense Organization, for the preparation of all plans and administrative regulations and for recruitment and training of personnel. Storms, floods, fires, explosions, tornadoes, hurricanes, drought, or peace time man made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Houston County, comes under the responsibility of the director and his trained personnel. The Houston County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of disasters. The Houston County Civil Defense Organization is also designated the official agency to assist regular forces in time of said emergencies. (1974 Code, § 1-1003)

20-204. Composition of personnel. The Houston County Civil Defense Corps is hereby created. The corps shall be under the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the Civil Defense Emergency Plan. (1974 Code, § 1-1004)

20-205. Nonliability of participants. The duties prescribed in this chapter is an exercise by the city and county of its governmental functions for the protection of the public peace, health and safety and neither the City of Erin nor Houston County, the agents and representatives of said city and county nor any individual, receiver, firm, partnership, corporation, association or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an impending or actual enemy attack or practice drill shall together with his successors in interest, if any, not be civilly liable for the death of, or injury of, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person. (1974 Code, § 1-1005)

20-206. Expenditure of funds, etc. require prior approval by city. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this document without prior approval by the board of mayor and aldermen of the city and/or county or both; nor shall any person have any right to bind the city or county by contract, agreement or otherwise without prior and specific approval by the board of mayor and aldermen of the city and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense

organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Erin or Houston County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise, when available or state contributions to the civil defense organization from individuals and other organization, such funds becoming liable for audit by the city and county. (1974 Code, § 1-1006)

CHAPTER 3

FAIR HOUSING REGULATIONS

SECTION

20-301. Definitions. Except where the context clearly indicates otherwise, the following terms used in this section shall have the following meanings:

(1) "Hearing board" means that body of citizens duly appointed by the mayor and board of aldermen to hear, make determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

(2) "Conciliation agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

(3) "Conciliation failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

(4) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, or sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

(5) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(6) "Housing accommodations" includes improved and unimproved property and means a building, structure, a lot or part thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied as a home or residence of one (1) or more individuals.

(7) "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the city or county or any of its agencies, or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(8) "Real estate broker" or "affiliate broker" means an individual whether licensed or not who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging in advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these. (1974 Code, § 4-701)

20-302. Purposes of law; construction; effect. The general purposes of this chapter are:

(1) To provide for execution within the City of Erin of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968 as amended.

(2) To safeguard all individuals within the city from discrimination in housing opportunities because of race, color, religion, national origin, or sex; thereby to protect their interest in personal dignity and freedom from humiliation to secure the city against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interest, rights, and privileges of individuals within the city.

Nothing contained in the chapter shall be deemed to repeal any other law of this city relating to discrimination because of race, color, religion, national origin, or sex. (1974 Code, § 4-702)

20-303. Unlawful housing practices. It is an unlawful practice for a real estate owner or operator or for a real estate broker, affiliate broker, or any individual employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent, lease, or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin, or sex;

(2) To discriminate against an individual because of his or her race, color, religion, national origin, or sex in the terms, conditions, or privileges of this sale, exchange, rental, or lease of real property or in this furnishings of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, national origin, or sex;

(4) To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, national origin, or sex;

(5) To represent to an individual that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, national origin, or sex;

(6) To print, circulate, post, or mail or cause to be printed, circulated, posted, or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, national origin, or sex or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or lease with understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, national origin, or sex; or

(8) To otherwise deny to or withhold real property from an individual because of race, color, religion, national origin, or sex. (1974 Code, § 4-703)

20-304. **Blockbusting**. It is an unlawful practice for a real estate owner or operator, a real estate broker, an affiliate broker, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located; or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located. (1974 Code, § 4-704)

20-305. Exemptions from housing provisions. (1) Nothing in § 20-303 shall apply:

(a) To rental of housing accommodations in a building which contains housing accommodations for not more than four (4) families living independently of each other, if the owner or member of his family resides in one (1) of the housing accommodations;

(b) To the rental of one (1) room or one (1) rooming unit in a housing accommodation by an individual if he or a member of his family resides therein; and/or

(c) To a landlord who refuses to rent to an unmarried male-female couple.

(2) A religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwelling which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such a religion is restricted on account of race, color, sex or national origin.

(3) Single sex dormitory or congregate rental property shall be excluded from the provisions of this act which relate to discrimination based on sex. (1974 Code, § 4-705)

20-306. Provisions for enforcement. (1) Any violation of this chapter shall be misdemeanor punishable by a fine of not less than five dollars ($5.00) nor more than fifty dollars ($50.00), each twenty-four (24) hour period of such violation constituting a separate offense.

(2) The city may sue in a civil act through a court of competent jurisdiction for appropriate remedies to enforce the provisions of this chapter, including temporary restraining orders and mandatory and prohibitory injunctions.

(3) In addition to appropriate civil and/or equitable remedies for enforcement of this chapter, a violation of this chapter shall constitute misdemeanor punishable as provided by law. (1974 Code, § 4-706)

20-307. Agency no defense in proceeding against real estate dealer. It shall be no defense to a violation of this chapter by a real estate owner or operator, real estate broker, affiliate broker, a financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter. (1974 Code, § 4-707)

20-308. Establishment of procedures for conciliation. (1) The city shall designate an agent(s) to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this chapter. Conciliation

efforts may be initiated by any person(s) said to be subject to discrimination as defined in this chapter.

(2) The board of mayor and aldermen shall establish a hearing board which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties of a given charge of discrimination. Hearings by the board shall commence whenever the agent(s) acting on behalf of the city decides a conciliation failure has occurred and the respondent agrees to participate in the hearing board proceedings. Hearings open to the public may be initiated by the responding party any time during the conciliation process. (1974 Code, § 4-708)

20-309. Findings of hearing board; nature of affirmative action.

(1) If the hearing board determines that the respondent has not engaged in an unlawful practice, the board shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the city attorney, and such other public officers and persons as the board deems proper.

(2) If the hearing board determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgment will carry out the purposes of this section. A copy of the findings shall be delivered to the respondent, the complainant, the city attorney and such other public officials, officers and persons as the board deems proper.

(3) Affirmative action negotiated under this section may include, but not be limited to:

(a) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;

(b) Reporting as to the manner of compliance;

(c) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing board;

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual; and/or

(e) Payment to the complainant of damages for injury caused by unlawful practice including compensation for humiliation and embarrassment, and expenses incurred by the complainant in obtaining alternative housing accommodation and for other costs actually incurred by the complainant as a direct result of such unlawful practice.

(4) The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this chapter. (1974 Code, § 4-709)

20-310. Investigations, powers, records. (1) In connection with an investigation of a complaint filed under this chapter, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records, and

documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.

(2) Every person subject to this chapter shall make, keep, and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintenance and preserved in a manner and the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

(3) A person who believes that the application to it of a regulation or order issued under this section would result in undue hardship may apply to the hearing board for an exemption from the application of the regulation order. If the board finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief. (1974 Code, § 4-710)

20-311. Conspiracy to violate this chapter unlawful. It shall be an unlawful practice for a person, or for two (2) or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this chapter;

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter;

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; or

(4) To resist, prevent, impede, or interfere with the enforcing agent(s), hearing board, or any of its members or representatives in the lawful performance of duty under this chapter. (1974 Code, § 4-711)

20-312. Effective date. This chapter shall be effective thirty (30) days after publication as provided by law; provided, that it shall cease to be effective upon receipt by the city of written notification from the United States Department of Housing and Urban Development (HUD) that HUD will not recognize this chapter, including any amendments thereto, to be substantially equivalent to the provisions of the Civil Rights Act of 1968 so as to require HUD to refer housing discrimination complaints to the City of Erin, in accordance with federal law and regulations. (1974 Code, § 4-713)

CHAPTER 4

TELEVISION SERVICE

SECTION

20-401. To be furnished under franchise. Television service shall be furnished for the City of Erin and its inhabitants under such franchise or franchises as the board of mayor and aldermen shall grant.[1] (1974 Code, § 13-502)

[1]For fuller details see Ord. #242, #248, and #260 of record in the office of the city recorder.

Municipal code reference

Cable television: title 9, chapter 8.

ORDINANCE NO. 508

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF ERIN, TENNESSEE.

WHEREAS some of the ordinances of the City of Erin are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are other wise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Erin, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Erin Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF ERIN, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinance of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Erin Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right of franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars ($500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the

municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproducted in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be distributed to city officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provisions of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

ATTEST: **APPROVE:**

Linda Bratiehi

Passed 1st reading 6-1, 1999
Passed 2nd reading 8-3, 1999