

CHARTER OF THE CITY OF ERIN, TENNESSEE¹

CHAPTER NO. 94

HOUSE BILL NO. 3562

By Representative Tidwell

Substituted for: Senate Bill No. 3470

By Senator Kurita

AN ACT to amend Chapter 403 of the Private Acts of 1951; as amended by Chapter 515 of the Private Acts of 1953; Chapter 147 of the Private Acts of 1967; Chapter 34 of the Private Acts of 1979; Chapter 200 of the Private Acts of 1980 and Chapter 110 of the Private Acts of 2002; and any other acts amendatory thereto, relative to the charter of the City of Erin.

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¹Priv. Acts 2004, ch. 94, is the current basic charter act for the City of Erin, Tennessee. The text of the basic charter act set out herein includes all its amendments through the 2020 session of the Tennessee General Assembly. Sections of the charter which have been amended contain at the end of those sections the citation to the official act or acts constituting the amendment or amendments. No other changes have been made to the charter except the addition of a table of contents to facilitate its use. A list of all the acts including the basic charter appears at the end of the charter.

Acts which did not expressly or in effect amend any particular section or part of the basic charter, but which supplemented it, have been placed after the basic charter act as "Related Acts."

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 403 of the Private Acts of 1951, as amended by Chapter 515 of the Private Acts of 1953, Chapter 147 of the Private Acts of 1967, Chapter 34 of the Private Acts of 1979, Chapter 200 of the Private Acts of 1980, and Chapter 110 of the Private Acts of 2002, and any other acts amendatory thereto, being the charter of the City of Erin, is amended by deleting such chapter, as amended, in its entirety and by substituting instead the following language to be the charter of the City of Erin:

ARTICLE I
CHARTER, DEFINITIONS, CITY LIMITS AND
CORPORATE POWERS

Section 1.01. This Act shall constitute the whole charter of the City of Erin, replacing the charter provided by Chapter 403 of the Private Acts of 1951, and all acts amendatory thereto. The City of Erin, in the County of Houston, and the inhabitants thereof, are hereby continued a body politic and corporate by the name and style of the City of Erin, Tennessee, and by that name shall continue to have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

Section 1.02. Definitions.

(a) As used in this act the following words and terms shall have the following meanings:

(1) "Agency" shall mean any office, court, utility, board, commission, institution, or other organization in charge of or administering any public function or municipal affair of the City of Erin;

(2) "Alderman" shall mean a person elected to the Board of Mayor and Aldermen as provided in this act. "Board of Mayor and Aldermen" shall mean the Mayor and each Alderman;

(3) "Board" shall mean the Board of Mayor and Aldermen;

(4) "City" shall mean the City of Erin;

(5) "City Judge" shall mean the president officer of the city court;

(6) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the federal or state government or by a municipality, or by a trade association or other organization generally recognized as an authority in its field of activity;

(7) "Elector" shall mean a person residing within the city, or who is qualified to vote therein because of ownership of property therein amounting to at least fifty percent (50%) fee simple interest in the ownership of the piece of property and can provide a certified copy of the deed or a certified copy of the tax records that provides the name(s) of the owner(s) of the property;

(8) "Employee" shall mean an individual who shall fill a "position of employment";

(9) "Nonpartisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization;

(10) "Officer" shall mean and include the Mayor, aldermen, city judge, members of boards and commissions, and any other persons classified as public officers by the laws or judicial decisions of this state. An "officer" as herein defined shall fill an "office"; and

(11) "Public Way" shall mean any land used by the public as a passageway, including but not limited to streets, roads, highways, expressways, freeways, boulevards, avenues, parkways, alleys, lanes, sidewalks, walks, bridges, viaducts, subways, underpasses, tunnels, and other thoroughfares, and including the right-of-ways of such public ways.

(b) The masculine shall include the feminine, and the singular shall include the plural and vice versa. The word "or" may be "and", and the word "and" may be "or" if the context clearly requires it. [as replaced by Priv. Acts 2014, ch. 60, § 1]

Section 1.03. City Limits. The boundaries of the city shall be those fixed by Chapter 403 of the Private Acts of 1951, and all acts amendatory thereto, and any annexation made pursuant to general law. The precise boundaries shall be kept on record by the city recorder.

Section 1.04. Corporate powers. The corporate powers of the city, to be exercised by the Board of Mayor and Aldermen shall include the following:

(a) To levy and provide for assessment and collection of taxes on all property subject to taxation.

(b) To levy and to provide for the collection of license taxes on privileges, occupations, trades, and professions. A collection fee may be added to each such license tax.

(c) Deleted.

(d) To appropriate and borrow money to provide for payment of the debts of the city, and to authorize the expenditure of money for any municipal purpose or matter of national or state interest.

(e) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed property, inside or outside the city.

(f) To condemn property, inside or outside the city, for present or future use, under Tennessee Code Annotated, or under other applicable public acts.

(g) To acquire, operate, and dispose of public utilities subject to the provisions of applicable general laws.

(h) To grant franchises or make contracts for public utilities and public services, not to exceed a period of twenty (20) years.

(i) To prescribe and regulate the rates, fares, charges, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor insofar as not in conflict with such regulation by state laws or federal laws providing jurisdiction in such matters.

(j) To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks, public grounds, cemeteries, public buildings, libraries, sewers, drains, sewage treatment plants, airports, hospitals, and charitable, educational, recreational, sport, and medical institutions, agencies, and facilities, and any other public improvements, inside or outside the city, and to regulate the use thereof, and for such purposes property may be taken as provided under Tennessee Code Annotated, or other applicable public acts.

(k) To prescribe standards of health and sanitation and to provide for the enforcement of such standards, which enforcement may extend two (2) miles outside the corporate limits.

(l) To provide for the collection and disposal of garbage, rubbish, and refuse. Charges may be imposed to cover the costs of such services which, if unpaid, shall constitute a lien against any property of persons served, which lien shall be second in priority only to liens for county and city property taxes and shall be enforceable in the same manner and under the same remedies as a lien for city property taxes.

(m) To define, regulate, and prohibit any act, practice, conduct, or use of property, detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, convenience, or general welfare of inhabitants of the city.

(n) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installations and equipment, plumbing, and housing, for the health, sanitation, cleanliness, and safety of inhabitants of the city, and to provide for the enforcement of such standards.

(o) To regulate and license or prohibit the keeping or running at large of animals and fowls, and to provide for the disposition or impoundment of same in violation of any ordinance or lawful order and for their disposition, by sale, gift, or humane killing.

(p) To regulate and license vehicles operated for hire in the city, to limit the number of such vehicles, to require the operators thereof to be licensed, to require public liability insurance on such vehicles in amounts prescribed by ordinance, and to regulate and rent parking spaces in public ways for the use of such vehicles, or require operators to provide off-street parking facilities.

(q) To levy and provide for the collection of special assessments for public improvements.

(r) To enforce any ordinance, rule, or regulation by fines, forfeitures, and penalties and by other actions or proceedings in any court of competent jurisdiction.

(s) To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this act as fully and completely as if such powers were full enumerated herein. No enumeration of particular powers in this act shall be held to be exclusive of others or restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities under the constitution or applicable public acts of the state. [as amended by Priv. Acts 2014, ch. 60, § 2]

ARTICLE II BOARD OF MAYOR AND ALDERMEN

Section 2.01. Election of Mayor and Aldermen. Beginning with the election scheduled for the first Thursday of August, 2018. The City shall utilize staggered terms of office. In August 2018, Electors of the City of Erin shall elect the Mayor and one (1) alderman from each of the four (4) wards for a four-year term of office. In the same election, the Electors shall elect one (1) alderman from each of the four (4) wards to serve a transitional term of office of two (2) years. At this transitional election in 2018, candidates for Aldermanic seats will declare their intention to run for a seat designated either as a four year term (A), or as a two-year term (B) of office. All subsequent elections for Mayor or Alderman shall be staggered so as to elect one alderman from each Ward every two (2) years. The term of office of the Mayor and Aldermen shall begin at 12:01 AM. on the second Monday following their election, and they shall serve until their successors have been elected and qualified. No informality shall invalidate such an election, providing it is conducted fairly and in

substantial conformity with the requirements of this act and the election laws of the State of Tennessee. [as replaced by Priv. Acts 2014, ch. 60, § 3]

Section 2.02. Eligibility of Voters. All person who are qualified to vote in state and county elections and who reside within the corporate limits of the City of Erin or considered an eligible elector shall be entitled to vote in all municipal elections in the City of Erin; provided, however, such persons shall be required to show registration receipts and they shall be required to register under any applicable state election registration law.

Section 2.03. Board of Mayor and Aldermen. The mayor and eight (8) aldermen shall compose the Board of Mayor and Aldermen, in which is vested all corporate, legislative, and other powers of the city, except as otherwise provided in this act. The Board shall be the final judge of the election and qualifications of its members. The Board shall hold regular public meetings at a stated time and place, as provided by ordinance. The Board shall meet in special session on written call of the mayor, or any four (4) aldermen, upon adequate notice served on the other members personally or left at their residences at least twelve (12) hours in advance of the meeting and upon adequate public notice. Only the business stated in the written call may be transacted at a special meeting. The Board of Mayor and Aldermen shall exercise its powers only in public meetings. The mayor, or the vice mayor in the absence of the mayor, and four (4) other aldermen shall constitute a quorum. The Board may by ordinance adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The Board may subpoena and examine witnesses and order the production of books and papers and pursue the enforcement of such subpoenas and orders as provided by general law.

Section 2.04. Mayor as presiding officer. The mayor shall preside at meetings of the Board, shall vote, but shall have no veto power; he shall be the ceremonial head of the city, shall sign ordinances and resolutions on their final passage, shall sign deeds, bonds, and contracts when authorized by the Board to do so, shall be the officer to accept process against the city, and shall perform other duties imposed by this act and ordinances not inconsistent with this act.

Section 2.05. Administrative duties of mayor. The mayor shall be the executive head of the city government, responsible for the efficient and orderly administration of the city's affairs. Unless otherwise designated by the Board by ordinance, the mayor shall perform the

following duties or may designate department heads to perform any of the following duties:

(a) The mayor shall be responsible for the enforcement of laws, rules, and regulations, ordinances and franchises in the city, and the city attorney shall take such legal actions as the mayor may request for such purposes.

(b) The mayor shall have authority to appoint, promote, demote, transfer, suspend, and remove all appointed officers and employees, subject, however, to the approval of the Board of Mayor and Aldermen, and to direct and control their work, except as otherwise provided in this act.

(c) The mayor shall have authority to make expenditures of funds within the limits of appropriations and no expenditures shall be made without his approval.

(d) The mayor shall act as the purchasing agent for the city in the purchase of all materials, supplies, and equipment for the proper conduct of the city's business; provided, that all purchases shall be in accordance with policies, practices, and procedures established by the Board.

(e) The mayor shall countersign checks and drafts drawn upon the treasury and shall sign all contracts to which the municipality is a party.

(f) The mayor shall make appointments to boards and commissions as authorized by law.

(g) The mayor shall prepare and submit the preliminary budget and capital program to the Board for its adoption by ordinance.

(h) The mayor shall keep the Board fully advised as to the conditions and the needs of the city.

(i) The mayor shall make recommendations to the Board for improving the quality and quantity of public services to be rendered by the officers and employees to the residents of the city.

(j) The mayor shall report to the Board the conditions of all property, real and personal, owned by the city and recommend repairs or replacements as needed.

(k) The mayor shall recommend to the Board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the city.

(l) The mayor may conduct inquiries and investigations into the conduct of the city's affairs and shall have such other powers and duties as may be provided by ordinance not inconsistent with this act.

Section 2.06. Vice Mayor. At the first regular meeting, after the newly elected mayor and aldermen have taken office following each city election, the mayor shall designate an alderman to serve as a vice-mayor for a term of two (2) years. The vice-mayor shall perform the duties of the mayor during the mayor's absence or inability to act, and shall fill out any unexpired term in the office of mayor.

Section 2.07. Vacancy in office of Mayor or Aldermen. A vacancy shall exist if the mayor or an alderman resigns or dies. Also, a vacancy shall exist if the mayor or an alderman moves his residence from the city, has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office, or is convicted of malfeasance or misfeasance in office, a felony, a violation of this act, or a violations of the election laws of the state and is accordingly removed from office pursuant to the ouster provisions of general law found in Tennessee Code Annotated, Title 8, Chapter 47. The Board shall appoint a qualified person to fill an alderman vacancy for the remainder of the unexpired term. If a tie vote by the Board to fill a vacancy is unbroken for fifteen (15) days, the mayor, or vice mayor in a case of vacancy in the office of mayor, shall appoint a qualified person to fill the vacancy.

Section 2.08. Restrictions on aldermen. The Board shall act in all matters as a body, and no member shall seek individually to influence the official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position or employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. The Board shall deal with the various agencies, officers, and employees of the city, except boards or commissions authorized by this act, solely through the mayor, and shall not give orders to any subordinates of the mayor, either publicly or privately. Nothing herein contained shall prevent the Board from conducting such inquiries into the operation of the city government and the conduct of the city's affairs as it may deem necessary. The office of any alderman violating any provisions of this section shall immediately become vacant upon his conviction in a court

of competent jurisdiction and pursuant to the provisions of Tennessee Code Annotated, Title 8, Chapter 47.

Section 2.09. Official City Newspaper. The Board of Mayor and Aldermen by resolution may designate a newspaper of general circulation in the city as the official city newspaper if needed.

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 (5) members of the Board or the mayor and four (4) members shall be required to pass any motion, resolution, or ordinance, including two (2) readings, not less than one (1) week apart, in the case of a ordinance. Each ordinance, before being adopted, shall be read in its entirety at one (1) regular meeting of the Board, and shall take effect ten (10) 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 (2) 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 having a regulatory effect or of general application which are to be continued in force. Existing ordinances 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.

ARTICLE III
ORGANIZATION AND PERSONNEL

Section 3.01. Organization. The Board of Mayor and Aldermen by ordinance may establish, abolish, merge, or consolidate officers, positions of employment, departments, and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments and agencies of the city, subject to the following exceptions:

(a) The number of members and authority of the Board, as provided in this act, shall not be changed; and

(b) The office of mayor shall not be abolished, nor shall his powers, as provided in this act, be reduced.

Section 3.02(a) Officers. The Board by ordinance may establish offices and may abolish, combine or modify them. The powers and duties of such offices may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the mayor, but in any event, the mayor may require officers of the city, except those appointed by and accountable to the Board, to perform such additional duties as may be considered necessary by him/her for the proper and efficient conduct of the city's affairs. Public utilities owned or operated by the city shall be under the supervision of the mayor. The salaries and compensation of all elected and appointed officers of the city shall be fixed by ordinance under a pay plan applying uniformly to all such officers. Under such terms and conditions as it deems appropriate, the Board by resolution or ordinance may provide health insurance to officers.

Section 3.02(b) Employees. The Board by ordinance may establish positions of employment and may abolish, combine or modify them. The powers and duties of such positions of employment may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the mayor, but in any event, the mayor may require employees of the city, except those appointed by and accountable to the Board, to perform such additional duties as may be considered necessary by him/her for the proper and efficient conduct of the city's affairs. Public utilities owned or operated by the city shall be under the supervision of the mayor. The salaries and compensation of all employees of the city shall be fixed by ordinance under a pay plan applying uniformly to all such employees. Under such terms and conditions as it

deems appropriate, the Board by resolution or ordinance may provide health insurance to employees. Employees may either accept or refuse to accept such health insurance. The salaries of employees who refuse to accept health insurance, at the Board's opinion, may be increased by the amount of the premium the City of Erin, Tennessee, would otherwise have paid. [as replaced by Priv. Acts 2006, ch. 82, § 1]

Section 3.03. Recorder. The Board of Mayor and Aldermen shall elect a recorder who also may be appointed to the position of treasurer. The recorder shall be responsible for keeping and preserving the city seal and all records of the corporation; attending meetings of the Board and keeping a journal of its proceedings at such meetings, including the names of members present and absent, the vote of each member on each questions, each motion considered, and the title of each resolution or ordinance considered; and preparing and certifying copies of official records in the recorder's office, for which fees may be prescribed by ordinance. The recorder shall issue all privilege licenses and collect taxes on same and shall collect all ad valorem and special taxes levied by the Board. The recorder shall have and perform such other duties as may be required by the mayor or the Board not in conflict with the provisions of this charter or laws of the state.

Section 3.04. Treasurer. The Board of Mayor and Aldermen shall appoint a city treasurer who shall execute bond and who shall serve at the pleasure of the Board. The treasurer shall receive, collect, and provide receipt for all taxes and all other revenue and bonds of the city and the proceeds of its bond issues and shall disburse them. The treasurer shall keep a proper account of all funds of whatever nature that may come into the treasurer's hands and shall keep books as the Board may direct.

The treasurer shall make and present quarterly, or more frequently if the Board demands it, a full and explicit report of all moneys and the disbursement of the same, that have come into the city's hands, which report shall, after it is approved by the mayor, be published in some newspaper in Houston County or by printed statements upon handbills, which shall be left in the office of the recorder where they can be distributed to the taxpayers and inhabitants of the city.

The treasurer shall perform such other duties as the Board may provide.

Section 3.05. City Attorney. The Board of Mayor and Aldermen shall elect a city attorney who shall be an attorney at law, entitled to

practice law in the courts of the state of Tennessee. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party, shall attend meetings of the Board, shall advise the Board and mayor and other officers and employees of the city concerning legal aspects of the city's affairs, shall approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents, and shall perform such other duties as may be prescribed by the Board or mayor.

Section 3.06. City court. A city court, presided over by a city judge on a full- or part-time basis as may be prescribed by ordinance, is hereby established, which shall have jurisdiction over violations of this act and ordinances of the city. The city judge shall have authority to impose fines, costs, and forfeitures, as provided in this act and by general law. Appeals from the city court shall be to the general sessions, circuit, or criminal court, as appropriate. Warrants, subpoenas, and other processes of the city court shall be executed by police officers of the city, who for such purposes shall have the powers and authority as a sheriff in executing process of a circuit court and the same fees shall be charged therefore.

Section 3.07. City judge. The Board shall appoint and fix the salary of the city judge; the Board shall fix such salary annually under the city's pay plan. The Board may remove the city judge for neglect or refusal to enforce the laws of the state and ordinances of the city, or for other misconduct in office or neglect of duty. Any person so removed may appeal such removal by any means authorized by general law. The Board shall fill a vacancy in this office by appointment for the unexpired term. The city judge shall recuse himself from a case in which he is interested, he is related to the defendant by blood or marriage within the third degree, or for any reason he believes that he will be prejudiced, and such a case, as well as cases, during the absence or disability of the city judge, shall be heard and decided by an acting city judge appointed by the mayor, or by the mayor or vice mayor. The mayor may remove the acting city judge at any time without cause. The compensation of an acting city judge shall be fixed by ordinance. [as amended by Priv. Acts 2014, ch. 60, § 4]

Section 3.08. Deleted. [as deleted by Priv. Acts 2014, ch. 60, § 5]

Section 3.09. Appointment, suspension, and removal of employees. All employees of the city, except as otherwise provided in this act shall be appointed, promoted, demoted, transferred, suspended, and removed by the mayor subject, however, to the approval of the Board. During a

suspension, an employee's salary may be reduced or eliminated, as determined by the Board of Mayor and Aldermen. Notwithstanding the above, the mayor shall have the power to suspend any employee of the city, for cause, until the next regular meeting of the Board of Mayor and Aldermen following such suspension; and the mayor shall have the authority to reduce or eliminate the salary of such employee during any such suspension. At the next regular meeting of the Board of Mayor and Aldermen after the occurrence of the suspension, it shall be the duty of the Board of Mayor and Aldermen to take all final action relative to any continued suspension, demotion, or discharge of the employee suspended.

Section 3.10. Oath of office. Before a person takes any office in the city government, he shall take, subscribe to, and file with the recorder the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Tennessee, that I will, in all respects, observe the provisions of the charter and ordinances of the City of Erin, and that I will faithfully discharge the duties of the office of _____."

Section 3.11. Official bond. The mayor and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees as may be required by ordinance shall give a fidelity bond, or faithful performance bond, as provided by ordinance, which some surety company authorized to do business in the State of Tennessee as surety, in such amount as shall be prescribed by ordinance. All such bonds and sureties thereto shall be subject to approval by the Board. The cost of such bond shall be paid by the city. All such bonds shall be kept in the custody of the mayor, and said mayor shall file said bonds in a fireproof safe for safekeeping, subject at all times to the Board's inspection.

Section 3.12. Officers and employees not to profit from connections with city. No officer or employee of the city shall profit personally, directly, or indirectly, from any contract, purchase, sale, or service between the city government and any person or company, nor shall any officer or employee accept any free or preferred service, benefits, or concessions from any person or company, and unless approved by the board and properly entered on the minute book.

ARTICLE IV
FISCAL ADMINISTRATION

Section 4.01. Fiscal year. The fiscal year of the city government shall begin on the first day of July and shall end on the same thirtieth day of June of the succeeding year.

Section 4.02. Sale of city property. The Board may sell any city property which is valued not in excess of five hundred dollars (\$500), without taking bids, but sealed bids shall be taken or a public auction shall be held for any sale anticipated to produce more than five hundred dollars (\$500); provided, that any sale for more than one thousand dollars (\$1,000) or any sale of real estate shall be subject to approval by the Board.

Section 4.03. Property taxes. All property subject to taxation for state or county purposes may be subject to the property tax levied by the city. The Board by ordinance may elect to use the county assessment or may provide for an independent city assessment by a city assessor appointed by the mayor. If an independent city assessment is made, a board of equalization, consisting of three (3) persons appointed by the Board, with compensation fixed by ordinance, shall hear appeals of taxpayers taken within ten (10) days after the city assessor has sent a notice by ordinary mail of a new or increased assessment; provided, that such notice shall not be required nor may appeals be taken in the case of initial city assessments that are the same as county assessments. Except as otherwise provided in this section, appeals from the board of equalization involving city property assessment may be taken as provided by general law. The board of equalization may increase or decrease the assessment of all property of the same class by a uniform percentage, in which case all individual notices shall not be mailed but a notice of such action shall be published once in the official city newspaper; such a blanket increase or decrease shall not be subject to appeal. The authority and duties of such city assessing personnel shall be the same as those provided by general law for county assessing personnel. The city assessor shall meet with and assist the board of equalization. The board of equalization, upon completion of its work, shall submit a written report to the Board, including total increases and decreases made by it and the final total assessment of each class of property.

Section 4.04. Tax levy. The Board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation, and if no tax levy is made within ninety (90) days prior to the

tax due date, the property tax rate in effect the last fiscal year shall continue in effect as the tax rate for the new fiscal year.

Section 4.05. Tax due dates and tax bills. The due dates of property taxes shall be fixed by ordinance. The city may send tax bills to taxpayers, showing the assessed valuation, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax. Property taxes shall become delinquent sixty (60) days after a due date, at which time a penalty of three percent (3%) shall be added and thereafter such taxes shall be subject to interest at the rate of one-half of one percent ($\frac{1}{2}$ of 1%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgement of a court of record.

Section 4.06. Collection of delinquent taxes. The Board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the recorder for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a justice of the peace, or by the county trustee as provided by general law, or by the city attorney acting in accordance with general laws providing for the collection of delinquent city and/or county taxes, or by any two or more of the foregoing methods, and by the use of any available legal processes and remedies. A lien shall exist against all property on which city property taxes are levied which shall be superior to all other liens except that it shall have equal dignity with those for federal, state, or county taxes.

Section 4.07. Special Assessments. The city may assess all or part of the cost of constructing, reconstructing, widening, or improving any public way, sewers, or other utility main and appurtenances, against the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become delinquent sixty (60) days after their due dates or after the due date of each installment if paid on an installment basis, shall thereupon be subject to a penalty of three percent (3%), and shall thereafter be subject to interest at the rate of one-half of one percent ($\frac{1}{2}$ of 1%) for each month or fraction thereof until paid. A lien shall exist against the abutting property superior to all other liens, except that it shall be of equal dignity with liens for county and city property taxes, and said lien shall be enforceable by the same procedures and under the same remedies as provided in this article for city property taxes.

Section 4.08. Disbursement Policy. All disbursements shall be made upon approval of the Treasurer, or in the absence or incapacity of the Treasurer the City Recorder, with the Mayor's consent to make such disbursements. However, any expenditure in excess of two thousand five hundred dollars (\$2,500) shall have the prior approval of the Board entered into the minutes of a regular meeting. [as replaced by Priv. Acts 2014, ch. 60, § 6]

Section 4.09. Official depository. The Board may designate an official depository or depositories for depositing and safekeeping of the funds of the city, and may require such collateral security as it deems necessary.

Section 4.10. Approval of expenditures. All expenditures shall only be required to be approved by action entered on the minutes and it shall not be necessary or required for expenditures to be approved by ordinance.

ARTICLE V MISCELLANEOUS

Section 5.01. Actions for damages against city. Actions against the city for damages shall be governed by the Governmental Tort Liability Act, compiled in Tennessee Code Annotated, Title 29, Chapter 20.

Section 5.02. General laws may be used. The Board in its discretion may elect to use the provisions of any general laws of the state in addition to or instead of the provisions of this act; provided, however, at any time the provisions of this act conflict with the provisions of general law, the provisions of general law shall prevail.

Section 5.03. Penalties. The violation of any provision of this act, for which a penalty is not specifically provided herein, shall be punished by a fine of not more than fifty dollars (\$50.00).

Section 5.04. Severability. If any article, section, subsection, paragraph, sentence, or part thereof, of this act shall be held to be invalid or unconstitutional, of such invalidity or unconstitutionality shall not affect or impair other parts of this act unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being the legislative intent in enacting this act that each article, section, subsection, paragraph,

sentence, or part thereof, be enacted separately and independently of each other.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Erin. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2

PASSED: March 15, 2004

s/Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

s/John S. Wilder
JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 25th day of 2003

s/Phil Bredesen
PHIL BREDESEN, GOVERNOR

RELATED ACTS

PAGE

Priv. Acts 2000, ch. 143,
"Privilege tax on occupancy of rooms, lodgings, or accommodations
furnished to transients for a consideration" C-22

PRIVATE ACTS, 2000

CHAPTER NO. 143

SENATE BILL NO. 3301

By Kurita

Substituted for: House Bill No. 3325

By Ridgeway

AN ACT Relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, tourist cabin, campground, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration in the City of Erin, Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the room, lodging, or accommodation provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp or campground, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any hotel for a period of less than thirty (30) continuous days.

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise and includes any governmental unit.

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit or any other group or combination acting as a unit.

(6) "Tax collection official" means the City Recorder for the City of Erin, Tennessee.

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of the City of Erin, Tennessee, is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 3. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient, a copy thereof to be filed and retained by the operator as provided in Section 8 of this act. Such tax shall be collected by such operator from the transient and remitted to the City of Erin, Tennessee.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged, and the operator shall receive credit for the amount of such tax if previously paid or reported to the City.

SECTION 4. The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, or accommodations in hotels within the City to the tax collection official, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy, whether prior to, during or after occupancy, as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation due to the City of Erin shall be that of the operator.

SECTION 5. The City Recorder shall be responsible for the collection of such tax. A monthly tax return shall be filed under oath with the tax collection official by the operator with such number of copies thereof as the tax collection official may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the City Recorder and approved by the legislative body of the City of Erin prior to use. The City Recorder shall audit each operator in the City at least once a year and shall report on the audits made on a quarterly basis to the legislative body of the City of Erin. The legislative body is authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports.

SECTION 6. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 7. Taxes collected by an operator which are not remitted to the tax collection official on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is a violation of this act and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 8. It is the duty of every operator liable for the collection and payment of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable to the City. The tax collection official has the right to inspect such records at all reasonable times.

SECTION 9. The tax collection official in administering and enforcing the provisions of this act has as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Section 67-1-911. It is the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the

authority of this act; provided, the tax collection official shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to adjustment and settlement with taxpayers of all errors of taxes collected under the authority of this act and to direct the refunding of same.

With respect to the adjustment and settlement with taxpayers, all errors of City taxes collected by the tax collection official under authority of this act shall be refunded by the tax collection official. Notice of any tax paid under protest shall be given to the tax collection official, and suit for recovery shall be brought against such tax collection official.

SECTION 10. The City Recorder shall faithfully account for and make proper reports of all funds paid to and received by such City Recorder for the privilege tax levied in accordance with this act.

SECTION 11. The privilege tax levied by this act shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes.

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 13. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City of Erin, Tennessee, by December 31, 2000. Its approval or nonapproval shall be proclaimed by the Mayor of the City of Erin, Tennessee, and shall be certified by such presiding officer to the Secretary of State.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on the first day of the month following ninety (90) days from approval as provided in Section 14.

PASSED: May 22, 2000

s/John S. Wilder
JOHN S. WILDER
SPEAKER OF THE SENATE

s/Jimmy Naifeh
JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this day of 2000

DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 3301 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.

CHARTER AND RELATED ACTS FOR THE
CITY OF ERIN, TENNESSEE

YEAR	CHAPTER	SUBJECT
2000	143	Added a related act relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients for a consideration. (See Related Acts at the end of the charter)
2004	94	Basic charter act.
2006	82	Amends Art. III, § 3.02.
2014	60	Replaces Art. I, § 1.02; amends Art. I, § 1.04; replaces Art. II, § 2.01; amends Art. III, § 3.07; deletes Art. III, § 3.08; and replaces Art. IV, § 4.08.