THE
ERWIN
MUNICIPAL
CODE

Prepared by the
MUNICIPAL TECHNICAL ADVISORY SERVICE
INSTITUTE FOR PUBLIC SERVICE
THE UNIVERSITY OF TENNESSEE

in cooperation with the
TENNESSEE MUNICIPAL LEAGUE

March 2005
TOWN OF ERWIN, TENNESSEE

MAYOR
W. Don Lewis

VICE MAYOR
Connie Denney

ALDERMEN
Gary Edwards
Joe Frazier
Jim Stevens
James G. Tilson

RECORER
Randy Trivette
The Erwin Municipal Code contains the codification and revision of the ordinances of the Town of Erwin, 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 § 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 town's ordinance book or the city recorder for a comprehensive and up to date review of the town's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the town'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 7 of the adopting ordinance).

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

(3) That the town 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 Linda Dean, the MTAS Administrative Specialist, and Nancy Gibson, Program Resource Specialist, is gratefully acknowledged.

Steve Lobertini
Codification Consultant
ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

SECTION 1. Ordaining clause specified. Be it further enacted, That the Board of Mayor and Aldermen shall have the power, by majority vote, to pass ordinances, and all ordinances shall begin, "Be it ordained by the Town of Erwin, as follows:"

SECTION 2. Procedure for adopting; when effective; amendment of. Be it further enacted, that each and every ordinance shall before the same becomes effective, be passed on two (2) different days, and not less than one (1) week shall elapse between the first and second reading. The first passage may be by the reading of the caption only. On the second passage, the proposed ordinance shall either be read in full or full copies of the said proposed ordinance shall be made available to each member of the Board of Mayor and Aldermen and to the public prior to said passage, which second passage shall be at a regular meeting of the Board.

No ordinance shall take effect until after the expiration of ten (10) days after the final passage thereof, except in the case of emergency ordinances. An emergency ordinance may become effective upon the day of the final passage, provided it shall contain the statement that an emergency exists and shall specify distinctly the facts and reasons constituting such emergency; and the unanimous vote of all members of the Board present shall be required to pass an emergency ordinance. No ordinance shall be amended except by ordinance. [As amended by Priv. Acts 1988, ch. 203, § 2; and as replaced by Priv. Acts 2001, ch. 25]

SECTION 3. To be numbered and kept in ordinance book. Be it further enacted, That every ordinance shall be immediately taken in charge by the Recorder and by him numbered and copied in an ordinance book filed and preserved in his office.

SECTION 4. Publication requirements; codification of; proving. Be it further enacted, That all ordinances of a penal nature shall be published at least one time in a newspaper of the Town, unless such ordinance be of such length as would, in the opinion of the Board of Mayor and Aldermen, render the publication thereof unnecessarily expensive, in which event the facts shall be stated in the ordinance, whereupon the ordinance may be published by posting a certified copy thereon on a bulletin board at the Municipal Building. The said posting shall be at least ten (10) days before the effective date of the ordinance, and, after such publication, the said ordinance shall be in full force and effect...
TITLE 1

GENERAL ADMINISTRATION\(^1\)

CHAPTER
1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.
4. TOWN ENGINEER.
5. TOWN ATTORNEY.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION
1-101. Time and place of regular meetings.
1-102. Order of business.
1-103. General rules of order.
1-104. Salaries of mayor and aldermen.
1-105. Budget amendments.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall hold regular monthly meetings at 6:30 P.M. on the second and fourth Mondays of each month at the city hall. Provided, however, the mayor and a majority of the members of the board of mayor and aldermen may change the meeting time, but not the meeting date, from time to time as the needs of the town dictate, provided actual adequate notice of any such change is given to the other members of the board of mayor and aldermen and the local media. The public shall be notified of such change, by posting notices on the doors of the municipal building at least twenty-four (24) hours prior to the new meeting time. Provided further, the board of mayor and aldermen may from time to time cancel meetings. (1976 Code, 1-101, as amended by Ord. #519, Aug. 1989)

---

\(^1\)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.
1-102. **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.
5. Communications from the mayor.
6. Reports from committees, members of the board, and other officers.
7. Old business.

1-103. **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. (1976 Code, § 1-103, modified)

1-104. **Salaries of mayor and aldermen.** The monthly salary of the mayor is set at one hundred fifty dollars ($150.00) and the monthly salary of each member of the board of aldermen is set at one hundred dollars ($100.00). (1976 Code, § 1-104, as amended by Ord. #462, Sept. 1983)

1-105. **Budget amendments.** Prior to the approval of any amendment to the annual budget that would increase appropriations for the expenditure of town funds, the board of mayor and aldermen shall approve a resolution that identifies a corresponding source of funds to cover the proposed additional expenditure, and/or identifies a corresponding reduction in expenditure to compensate for the proposed additional expenditure. Nothing in this section shall be construed or interpreted as an explanation or limitation on any power or authority granted to the municipality by the State of Tennessee. (Ord. #503, Oct. 1987)

---

1Municipal code reference
Finance and taxation: title 5.
CHAPTER 2

MAYOR\textsuperscript{1}

SECTION
1-201. Generally supervises town's affairs.

1-201. Generally supervises town's affairs. The mayor shall 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. (1976 Code, § 1-201)

1-202. Executes town's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1976 Code, § 1-202)

\textsuperscript{1}Charter reference

Officers and corporate authority: art. IV.
CHAPTER 3

RECORDER¹

SECTION
1-301. To be bonded.
1-302. To keep minutes, etc.
1-303. To perform general administrative duties, etc.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen. (1976 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. (1976 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board 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 town shall provide. (1976 Code, § 1-303)

¹Charter references
   Recorder: art. IV, § 14, and art. VI, § 5.
CHAPTER 4

TOWN ENGINEER\(^1\)

SECTION
1-401. Office established.
1-402. Responsibilities.

1-401. Office established. There is hereby established the office of the town engineer. (1976 Code, § 1-1301)

1-402. Responsibilities. The town engineer is responsible to the board of mayor and aldermen for directing the operation of the public works department. This includes the organization, direction, and coordination of activities for construction and maintenance of streets, refuse collection and disposal, building inspections and permits, equipment and building maintenance and repair, and all other duties that may be assigned. (1976 Code, § 1-1302)

\(^1\)Charter reference
Town engineer: art. IV, § 16.
CHAPTER 5

TOWN ATTORNEY

SECTION

1-501. Office established.
1-502. Term of office.
1-503. Responsibilities and duties.
1-504. Compensation.

1-501. Office established. There is hereby established the office of town attorney. (Ord. #430, ___)

1-502. Term of office. The term of office of the town attorney will be for a period of one (1) year and/or until his successor is elected and qualifies. Said attorney shall be elected by the board of mayor and aldermen at the first regular meeting in July of each year. (Ord. #430, ___)

1-503. Responsibilities and duties. It shall be the duty of the town attorney to appear for and represent the town in all law suits in any court in which the town is a party; to examine and pass upon all bonds submitted by the officers of the town and their agents or others; to examine and pass upon all land contracts, deeds and other instruments in which the town is a party or has an interest; to render legal opinions in matters affecting the town; to attend meetings of the board, when requested, and perform such other duties within the scope of the business of an attorney and counselor as may be required by the board of mayor and aldermen. (Ord. #430, ___)

1-504. Compensation. The board of mayor and aldermen shall set the salary of the town attorney at such figure as the board may deem proper at the beginning of each fiscal year. In addition to the regular salary approved by the board of mayor and aldermen, additional fees and expenses may be paid to said attorney, as follows:

(1) For services rendered said town in connection with litigation to which the town is a party; for prolonged negotiations of matters not in litigation, for extensive research of legal questions and matters of interest to said town and for the performance of any other legal service that involves substantial time and effort not ordinarily included within retainer compensation.

(2) To reimburse said attorney for travel and other incidental expenses incurred in connection with attending to the business or interests of said town.

Upon the performance of said additional services, or after incurring incidental expenses, said attorney will present a resume of his services, with charges therefor, and a list of expenses to the board for its approval. Upon
approval of same, the attorney will be paid from the general fund. (Ord. #430, ___)
TITIE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER 1

ERWIN BOARD OF PUBLIC UTILITIES

SECTION

2-101. Creation, membership, jurisdiction. The Erwin Board of Public Utilities, consisting of five (5) members, is hereby created pursuant to the provisions of Tennessee Code Annotated, title 7, chapter 52. The board shall have such powers and duties with respect to the town's electric, water, and sewer systems as are authorized by said state law. (1976 Code, § 13-101, as amended by Ord. #487, Nov. 1986)

2-102. Temple Hill Department of Erwin Utilities--creation, membership, jurisdiction. (1) In accordance with Tennessee Code Annotated, § 7-82-202(f), the Erwin Board of Mayor and Aldermen, acting by and through its (Town of Erwin) Board of Public Utilities (known hereafter as "Erwin Utilities"), shall be the governing board of the "Temple Hill Department of Erwin Utilities;"

(2) Advisory committee. An advisory committee on the Temple Hill Department of Erwin Utilities is hereby created and shall be composed of residents and customers of the Temple Hill Department of Erwin Utilities. The members of the advisory committee shall be recommended by the Mayor of the Town of Erwin to the board of mayor and aldermen, and then elected on vote of the board of mayor and aldermen.

(3) This advisory committee of the Temple Hill Department of Erwin Utilities shall be composed of a total of six (6) members, who shall serve for

---

1Municipal code references

Building code: title 12, ch. 1.
Electric code: title 12, ch. 3.
Gas code: title 12, ch. 4.
Water and sewers: title 18.
terms of two (2) years. Initially, the terms of three (3) of those members shall first expire on June 30, 1996, with the terms of the other three (3) members expiring on June 30, 1997. As soon as reasonably practical after the expiration of a member(s) term, new member(s) to the advisory committee shall be appointed as per the procedure set out in subsection (2) above, so that there will be six (6) members serving on the advisory committee. Members of the advisory committee may be reappointed after the expiration of their term in the discretion of the mayor and the board of mayor and aldermen.

(4) This advisory committee of the Temple Hill Department of Erwin Utilities shall meet when needed and shall advise the Town of Erwin Board of Public Utilities (known hereafter as "Erwin Utilities"), with regard to operation of the Temple Hill Department of Erwin Utilities, as authorized by state law. Final decisions with regard to the Temple Hill Department of Erwin Utilities shall be by vote of the Town of Erwin Board of Public Utilities (known hereafter as "Erwin Utilities").

(5) When the "Temple Hill Department of Erwin Utilities" ceases to be operated as a separate department of Erwin Utilities and is fully merged into the other utility services of the Town of Erwin, the advisory committee of the Temple Hill Department of Erwin Utilities may be dissolved on resolution or vote of the Board of Mayor and Aldermen of the Town of Erwin.

(6) The Town of Erwin Board of Mayor and Aldermen does hereby designate all necessary powers and authority for the day to day operation of the Temple Hill Department of Erwin Utilities to its (Town of Erwin) Board of Public Utilities, (known hereafter as Erwin Utilities). (Ord. #555, Feb. 1996)
3-101. City judge. The officer designated by the charter to handle judicial matters within the town shall preside over the city court and shall be known as the city judge. (1976 Code, § 1-501)
CHAPTER 2
COURT ADMINISTRATION

SECTION
3-201. Maintenance of docket.
3-202. Imposition of fines, penalties, and costs.
3-203. Disposition and report of fines, penalties, and costs.
3-204. Disturbance of proceedings.
3-205. Trial and disposition of cases.

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. (1976 Code, § 1-502)

3-202. Imposition of fines, penalties, and costs. All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court. The maximum penalty for city ordinance violations shall not exceed fifty dollars ($50.00) for each violation. Each day any violation of the municipal code continues shall constitute a separate offense. (Ord. #560, Oct. 1996, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over promptly to the town or state as appropriate. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or noncollection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1976 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. (1976 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. (1976 Code, § 1-506)
CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION
3-301. Issuance of arrest warrants.
3-302. Issuance of summonses.
3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants. The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1976 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. (1976 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. (1976 Code, § 1-505)

---

¹State 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.
3-402. Appeals.
3-403. Bond amounts, conditions, and forms.

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. (1976 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\(^1\) next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1976 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 and fifty dollars ($250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty 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. (1976 Code, § 1-510)

---

\(^1\)State law reference

SECTION
4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of this town to provide for all eligible employees and officials of the town, 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 town shall take such action as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-701)

4-102. Necessary agreements to be executed. The mayor or other official, as appropriate, 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. (1976 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 such times as may be required by applicable state or federal laws or regulations,
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. (1976 Code, § 1-704)

4-105. Records and reports to be made. The recorder or other official, as appropriate, shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-705)

4-106. Election workers excluded from federal system of old age, survivors, disability and health insurance.\(^1\) Notwithstanding any provision(s) heretofore contained in the Social Security agreement between the Town of Erwin, Tennessee, and the state old age and survivors insurance agency, it is the intent and purpose of the Town of Erwin, Tennessee, to amend the said agreement (and to authorize the city recorder) to exclude from its coverage group under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of election workers and election officials if the individual remuneration paid for such services in a calendar year is less than one thousand dollars ($1,000.00) on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount thereafter determined under section 218(c)(8)(B) of the Social Security Act, for any calendar year commencing on or after January 1, 2000. (Ord. #544, Nov. 1994)

4-107. Joint hospital board created between Unicoi Memorial Hospital and Old Age Survivors Insurance Agency. Pursuant to the Public Acts of the State of Tennessee, with particular reference to certain provisions set forth in Tennessee Code Annotated, § 68-11-504, et seq., the County Court of Unicoi County and the Town of Erwin by ordinance jointly created and established a hospital board on a fifty-fifty (50/50) basis for the construction and operation of the Unicoi County Memorial Hospital. Tennessee Code Annotated, § 8-38-114, a political subdivision is authorized to make and enter into an agreement with the Old Age and Survivors Insurance Agency, State of Tennessee, for the assurance of the payment of any social security contributions due and payable to the Old Age and Survivors Insurance Agency, State of Tennessee, by an instrumentality of a political subdivision or political subdivisions. The Unicoi

\(^1\)State law references
Tennessee Code Annotated, chapter 38, title 8.
Tennessee Code Annotated, § 4-3-2403.
County Memorial Hospital of the Town of Erwin is deemed to be an instrumentality of two political subdivisions, namely, the Town of Erwin and the County of Unicoi, Tennessee. It is the desire of said town to make and enter into such agreement with the state as a means of assuring a fifty percent (50%) payment of any deficit or deficits which may arise in connection with the social security agreement by the state agency and the hospital district.

Acting under the provisions of Tennessee Code Annotated, § 8-38-114, the town agrees to appropriate from its general funds one-half (½) of any monies that may be required to pay any deficit or deficits that may arise in connection with the terms and provisions of an agreement made and entered into between the State of Tennessee and the Unicoi County Memorial Hospital for coverage of employees and officials in said entity in the System of Federal Old Age and Survivors Insurance. As a further assurance that the said deficit or deficits mentioned shall be paid, the state is hereby authorized to withhold such deficit or deficits as "a first charge" from any monies payable to the Town of Erwin by any department or agency of the State of Tennessee.

The Mayor of the Town of Erwin, Tennessee, is hereby authorized and directed to execute an agreement with the director of Old Age and Survivors Insurance, as agent or agency to effectuate the authorizations herein contained. (Ord. #455, March 1982)
CHAPTER 2
PERSONNEL SYSTEM

SECTION
4-201. Purpose.
4-202. Coverage.
4-203. Administration.
4-204. Personnel rules and regulations.
4-205. Records.
4-206. Right to contract for special services.
4-207. Discrimination.
4-208. Amendments or revisions.

4-201. Purpose. The purpose of this chapter is to establish a system of personnel administration in the Town of Erwin that selects, develops, and maintains an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations and regardless of race, sex, age, creed, national origin or handicapping condition. (Ord. #570, July 1998)

4-202. Coverage. All offices and positions of the town are divided into the regular service and the exempt service. The exempt service shall include the following:
   (1) All elected officials and persons appointed to fill vacancies in elective offices.
   (2) All members of appointive boards, commissions or committees.
   (3) Consultants, advisors, and counsel rendering temporary professional service.
   (4) Independent contractors.
   (5) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.
   (6) Temporary employees who are employed by the town for not more than four (4) months during the fiscal year.
   (7) Persons rendering part-time service.
   (8) Volunteer personnel, and all other personnel appointed to serve without compensation. (Ord. #570, July 1998)

4-203. Administration. Rules shall be administered by the personnel director/city recorder under the direction of the mayor. (Ord. #570, July 1998)

4-204. Personnel rules and regulations. The personnel director/city recorder shall develop rules and regulations necessary for the effective
administration of the personnel system. The board of mayor and aldermen shall adopt changes to the rules presented to them by resolution. Amendments to the rules and regulations shall be made in accordance with procedure below. (Ord. #570, July 1998)

4-205. Records. The personnel director/city recorder shall maintain adequate records of the employment record of every employee. (Ord. #570, July 1998)

4-206. Right to contract for special services. The board of mayor and aldermen may direct the city recorder to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #570, July 1998)

4-207. Discrimination. No person in the regular service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions, or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, or religious belief. (Ord. #570, July 1998)

4-208. Amendments or revisions. Amendments or revisions of these rules may be recommended for adoption by any elected official or by department heads. Such amendments or revisions of these rules shall be by resolution and shall become effective after public hearing and approval by the governing body. (Ord. #570, July 1998)
CHAPTER 3

OCCUPATIONAL SAFETY AND HEALTH PROGRAM\(^1\)

SECTION

4-301. Title. This chapter shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of the Town of Erwin. (Ord. #603, June 2003)

4-302. Purpose. The board of mayor and aldermen, in electing to update their established program plan will maintain an effective occupational safety and health program 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 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) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee 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 State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

\(^1\)The Occupational Safety and Health Program for the Town of Erwin, is included in this municipal code as Appendix 2.
(5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems that 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, 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.  (Ord. #603, June 2003)

4-303. Coverage. The provisions of the Occupational Safety and Health Program Plan for the employees of the Town of Erwin shall apply to all employees of each administrative department, commission, board, division, or other agency of the Town of Erwin whether part-time or full-time, seasonal or permanent.  (Ord. #603, June 2003)

4-304. Standards authorized. The occupational safety and health standards adopted by the board of mayor and aldermen 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 1972.¹  (Ord. #603, § June 2003)

4-305. Variances from standards authorized. The mayor or city recorder may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, 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, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the mayor or city recorder shall notify or serve notice to 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 as designated by the board of mayor and aldermen shall be deemed sufficient notice to employees.  (Ord. #603, June 2003)

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.
4-306. Administration. For the purposes of this chapter, the city recorder is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the town's occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan. (Ord. #603, June 2003)

4-307. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the board of mayor and aldermen. (Ord. #603, June 2003)
CHAPTER 4

INFECTIOUS DISEASE CONTROL POLICY

SECTION
4-401. Purpose.
4-402. Coverage.
4-403. Administration.
4-404. Definitions.
4-405. Policy statement.
4-406. General guidelines.
4-407. Hepatitis B vaccinations.
4-408. Reporting potential exposure.
4-409. Hepatitis B virus post-exposure management.
4-410. Human immunodeficiency virus post-exposure management.
4-411. Disability benefits.
4-412. Training regular employees.
4-413. Training high risk employees.
4-414. Training new employees.
4-415. Records and reports.
4-416. Legal rights of victims of communicable diseases.

4-401. Purpose. It is the responsibility of the Town of Erwin to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Erwin, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB). (Ord. #534, June 1992)

4-402. Coverage. Occupational exposures may occur in many ways, including needle sticks, cut injuries or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to body fluids from potentially infected individuals. Those high risk occupations include but are not limited to:

(1) Paramedics and emergency medical technicians;
(2) Occupational nurses;
(3) Housekeeping and laundry workers;
4-10

(4) Police and security personnel;
(5) Firefighters;
(6) Sanitation and landfill workers; and
(7) Any other employee deemed to be at high risk per this policy and an exposure determination. (Ord. #534, June 1992)

4-403. Administration. This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

(1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;
(2) Make an exposure determination for all employee positions to determine a possible exposure to blood or body fluids;
(3) Maintain records of all employees and incidents subject to the provisions of this chapter;
(4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
(5) Coordinate and document all relevant training activities in support of the infection control policy;
(6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infection control policy;
(7) Identify any and all housekeeping operations involving substantial risk of direct exposure to body fluids and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
(8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (Ord. #534, June 1992)

4-404. Definitions. (1) "Body fluids" - fluids that have been recognized by the Center for Disease Control as directly linked to the transmission of HIV and/or HBV and/or to which universal precautions apply: blood, semen, blood products, vaginal secretions, cerebrospinal fluid, synovial fluid, pericardial fluid, amniotic fluid, and concentrated HIV or HBV viruses.
(2) "Exposure" - the contact with blood or other body fluids to which universal precautions apply through contact with open wounds, non-intact skin, or mucous membranes during the performance of an individual's normal job duties.
(3) "Hepatitis B Virus (HBV)" - a serious blood-borne virus with potential for life-threatening complications. Possible complications include: massive hepatic necrosis, cirrhosis of the liver, chronic active hepatitis, and hepatocellular carcinoma.
(4) "Human Immunodeficiency Virus (HIV)" - the virus that causes acquired immunodeficiency syndrome (AIDS). HIV is transmitted through
sexual contact and exposure to infected blood or blood components and
perinatally from mother to neonate.

(5) "Tuberculosis (TB)" - an acute or chronic communicable disease
that usually affects the respiratory system, but may involve any system in the
body.

(6) "Universal precautions" - refers to a system of infectious disease
control which assumes that every direct contact with body fluid is infectious and
requires every employee exposed to direct contact with body fluids to be
protected as though such body fluid were HBV or HIV infected. (Ord. #534,
June 1992)

4-405. Policy statement. All blood and body fluids are potentially
infectious for several blood-borne pathogens and some body fluids can transmit
infections. For this reason, the Center for Disease Control developed the
strategy that everyone should always take particular care when there is a
potential exposure. These precautions have been termed "universal
precautions."

Universal precautions stress that all persons should be assumed to be
infectious for HIV and/or other blood-borne pathogens. Universal precautions
apply to blood, tissues, and other body fluids which contain visible blood.
Universal precautions also apply to semen, (although occupational risk or
exposure is quite limited), vaginal secretions, and to cerebrospinal, synovial,
pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do
not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat,
tears, urine, and vomitus unless these substances contain visible blood. (Ord.
#534, June 1992)

4-406. General guidelines. General guidelines which shall be used by
everyone include:

(1) Think when responding to emergency calls and exercise common
sense when there is potential exposure to blood or other body fluids which
require universal precautions.

(2) Keep all open cuts and abrasions covered with adhesive bandages
which repel liquids.

(3) Soap and water kill many bacteria and viruses on contact. If hands
are contaminated with blood or body fluids to which universal precautions
apply, then wash immediately and thoroughly. Hands shall also be washed after
gloves are removed even if the gloves appear to be intact. When soap and water
or handwashing facilities are not available, then use a waterless antiseptic hand
cleaner according to the manufacturer’s recommendation for the product.

(4) All workers shall take precautions to prevent injuries caused by
needles, scalpels, blades, and other sharp instruments. To prevent needle stick
injuries, needles shall not be recapped, purposely bent or broken by hand,
removed from disposable syringes, or otherwise manipulated by hand. After
they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

(5) The town will provide gloves of appropriate material, quality and size for each affected employee. The gloves are to be worn when there is contact (or when there is a potential contact) with blood or body fluids to which universal precautions apply:

(a) While handling an individual where exposure is possible;
(b) While cleaning or handling contaminated items or equipment;
(c) While cleaning up an area that has been contaminated with one of the above;

Gloves shall not be used if they are peeling, cracked, or discolored, or if they have punctures, tears, or other evidence of deterioration. Employees shall not wash or disinfect surgical or examination gloves for reuse.

(6) Resuscitation equipment shall be used when necessary. (No transmission of HBV or HIV infection during mouth-to-mouth resuscitation has been documented.) However, because of the risk of salivary transmission of other infectious diseases and the theoretical risk of HIV or HBV transmission during artificial resuscitation, bags shall be used. Pocket mouth-to-mouth resuscitation masks designed to isolate emergency response personnel from contact with a victims' blood and blood contaminated saliva, respiratory secretion, and vomitus, are available to all personnel who provide or potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other body fluids to prevent exposure to mucous membranes of the mouth, nose, and eyes. They are not required for routine care.

(8) Gowns, aprons, or lab coats shall be worn during procedures that are likely to generate splashes of blood or other body fluids.

(9) Areas and equipment contaminated with blood shall be cleaned as soon as possible. A household (chlorine) bleach solution (1 part chlorine to 10 parts water) shall be applied to the contaminated surface as a disinfectant leaving it on for at least 30 seconds. A solution must be changed and re-mixed every 24 hours to be effective.

(10) Contaminated clothing (or other articles) shall be handled carefully and washed as soon as possible. Laundry and dish washing cycles at 120° are adequate for decontamination.

(11) Place all disposable equipment (gloves, masks, gowns, etc...) in a clearly marked plastic bag. Place the bag in a second clearly marked bag (double bag). Seal and dispose of by placing in a designated "hazardous" dumpster. NOTE: Sharp objects must be placed in an impervious container and then taken to a hospital for disposal.
(12) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed.

All required tags shall meet the following criteria:

(a) Tags shall contain a signal word and a major message. The signal word shall be "BIOHAZARD", or the biological hazard symbol. The major message shall indicate the specific hazardous condition or the instruction to be communicated to employees.

(b) The signal word shall be readable at a minimum distance of five (5) feet or such greater distance as warranted by the hazard.

(c) All employees shall be informed of the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(13) Linen soiled with body fluids shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen shall be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage.

The employee responsible for transported soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with body fluids.

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (Ord. #534, June 1992)

4-407. Hepatitis B vaccinations. The Town of Erwin shall offer the appropriate Hepatitis B vaccination to employees at risk of exposure free of charge and in amounts and at times prescribed by standard medical practices. The vaccination shall be voluntarily administered. High risk employees who wish to take the HBV vaccination should notify their department head who shall make the appropriate arrangements through the Infectious Disease Control Coordinator. (Ord. #534, June 1992)

4-408. Reporting potential exposure. Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc...):

(1) Notify the Infectious Disease Control Coordinator of the contact incident and details thereof.

(2) Complete the appropriate accident reports and any other specific form required.
(3) Arrangements will be made for the person to be seen by a physician as with any job-related injury.

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to human immunodeficiency virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should also be provided. (Ord. #534, June 1992)

4-409. Hepatitis B virus post-exposure management. For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the hepatitis B vaccine should receive the vaccine series. A single dose of hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to hepatitis B surface antigen (anti-HBs), and given one dose of vaccine and one dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (Ord. #534, June 1992)

4-410. Human immunodeficiency virus post-exposure management. For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and serologically for evidence of HIV infection as soon as possible after the exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within 12 weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested 6 weeks, 12 weeks, and 6 months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first 6 - 12 weeks after exposure) exposed workers should follow the U.S. Public Health service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during
sexual intercourse. During all phases of follow-up, it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing 12 weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through an occupational exposure. (Ord. #534, June 1992)

4-411. Disability benefits. Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker’s Compensations Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303. (Ord. #534, June 1992)

4-412. Training regular employees. On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or body fluids. They shall also be counseled regarding possible risks to the fetus from HIV/HBV and other associated infectious agents. (Ord. #534, June 1992)

4-413. Training high risk employees. In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to their work situation. They shall also be trained about the meaning of color coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per this policy. (Ord. #534, June 1992)

4-414. Training new employees. During the new employee's orientation to his/her job, all new employee will be trained on the effects of infectious disease prior to putting them to work. (Ord. #534, June 1992)

4-415. Records and reports. (1) Reports. Occupational injury and illness records shall be maintained by the infectious disease control coordinator. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature
of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, hepatitis B immune globulin, hepatitis B vaccine, etc...) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (Ord. #534, June 1992)

4-416. Legal rights of victims of communicable diseases. Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

(1) Officers assume that a certain degree of risk exists in law enforcement and emergency service work and accept those risks with their individual appointments. This holds true with any potential risks of contacting a communicable disease as surely as it does with the risks of confronting an armed criminal.

(2) Any officer who refuses to take proper action in regard to victims of a communicable disease, when appropriate protective equipment is available, shall be subject to disciplinary measures along with civil and, or criminal prosecution.

(3) Whenever an officer mentions in a report that an individual has or may have a communicable disease, he shall write "contains confidential medical information" across the top margin of the first page of the report.

(4) The officer's supervisor shall ensure that the above statement is on all reports requiring that statement at the time the report is reviewed and initiated by the supervisor.

(5) The supervisor disseminating newspaper releases shall make certain the confidential information is not given out to the news media.

(6) All requests (including subpoenas) for copies of reports marked "contains confidential medical information" shall be referred to the town attorney when the incident involves an indictable or juvenile offense.

(7) Prior approval shall be obtained from the town attorney before advising a victim of sexual assault that the suspect has, or is suspected of having a communicable disease.

(8) All circumstance, not covered in this policy, that may arise concerning releasing confidential information regarding a victim, or suspected victim, of a communicable disease shall be referred directly to the appropriate department head or town attorney.
(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

(10) Whenever an employee finds it necessary to notify another employee, police officer, firefighter, emergency service officer, or health care provider that a victim has or is suspected of having a communicable disease, that information shall be conveyed in a dignified, discrete and confidential manner. The person to whom the information is being conveyed should be reminded that the information is confidential and that it should not be treated as public information.

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action and/or civil and/or criminal prosecution. (Ord. #534, June 1992)
CHAPTER 5
TRAVEL REIMBURSEMENT REGULATIONS

SECTION
4-501. Purpose.
4-502. Enforcement.
4-503. Travel policy.
4-504. Travel reimbursement rate schedule.
4-505. Administrative procedures.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with Public Acts 1993, Chapter 433. This Act 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." (Ord. #539, Oct. 1993)

4-502. Enforcement. The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #539, Oct. 1993)

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 town 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 town. 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 CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the town for registration fees, air fares, meals, lodging, conferences, and similar expenses.
Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the CAO 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.

(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 town business for which travel was authorized, and
   (b) Actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of five dollars ($5.00) or more 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 town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #539, Oct. 1993)

4-504. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The town's travel reimbursement rates will automatically change when the State of Tennessee rates are adjusted.

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. (Ord. #539, Oct. 1993)

4-505. Administrative procedures. The town 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, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder. (Ord. #539, Oct. 1993)
CHAPTER 1

PURCHASING

SECTION


5-101. Competitive bidding. Pursuant to Tennessee Code Annotated, § 6-56-304(1), it is the intent and purpose of the Town of Erwin that municipal purchases of items costing less than ten thousand dollars ($10,000.00) may be made without following the advertised or competitive bidding procedure. (Ord. #548, Sept. 1995, as amended by Ord. #579, July 1999)
CHAPTER 2

REAL PROPERTY TAXES

SECTION
5-201. When due and payable.
5-202. When delinquent--penalty and interest.
5-203. Recorder's duties at tax sales.

5-201. When due and payable. Taxes levied by the town against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1976 Code, § 6-101)

5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter. (1976 Code, § 6-102)

5-203. Recorder's duties at tax sales. The recorder is hereby authorized, empowered, and directed to attend all tax sales conducted through the chancery court for the purpose of foreclosing liens for unpaid taxes due the town. At such sales, in the absence of good faith bids for the amount of taxes, penalties, and costs by other parties, he is directed and empowered to bid the amount of such taxes, penalties, and costs then accruing against any property or properties, for the year or years for which such properties are offered for sale. Any bids for such property or properties shall be made subject to unpaid state and county taxes, unpaid street improvements, assessments, and for taxes accruing after the year or years for which the sales are made in favor of the town. On confirmation of such sales to the town, title thereto shall be taken in the corporate name of the Board of Mayor and Aldermen of the Town of Erwin. (1976 Code, § 6-103)
CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.
5-302. License required.
5-303. Enforcement.

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 town at the rates and in the manner prescribed by the act. (1976 Code, § 6-201)

5-302. License required. No person shall exercise any such privilege within the town 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. (1976 Code, § 6-202)

5-303. Enforcement. If any privilege taxes levied pursuant to this chapter, or pursuant to any other provisions of this code or the Charter of the Town of Erwin, Tennessee, specifically Article VII, Section II, of said charter, shall remain unpaid for a period of sixty (60) days after the due date thereof, or if any person, partnership, corporation or other entity shall exercise privileges without a currently effective privilege license as provided in § 5-302, hereof, for a period of sixty (60) days; then the city recorder may, upon an additional sixty (60) days written notice to such persons, partnership, corporation or other entity, withdraw from said business or privilege all refuse collection as provided in title 17 chapter 1 of this code, specifically § 17-111 thereof, or that provided by any other provisions of this code.

Provided, however, the withdrawal from said business or privilege of all refuse collection shall not relieve said business or privilege from the requirements of this code to properly dispose of all refuse, garbage and/or rubbish and said disposal shall be thereafter done by said business or privilege by privately contracting for the removal of said refuse. It shall be required of said business or privilege to keep their premises in a clean and sanitary condition, free from accumulations of refuse, offal, filth and trash. Such business or privilege is hereby required to store such refuse in sanitary containers of the type described in title 17, chapter 1 of this code, and have such
refuse removed from said premises at intervals which are at least as often as those previously provided by the town, or to dispose of such material in a manner prescribed by the proper health officer so as not to cause a nuisance or become injurious to the public health and welfare. The violation of any provision hereof shall be punishable by a penalty of not more than fifty dollars ($50.00) and costs, and each day said condition is allowed to exist shall be a separate violation.

The disposal of refuse in any quantity by any such business or privilege, or by any individual employed by or conducting said business or privilege, in any place, public or private, including any other dumpster site provided by the Town of Erwin, Tennessee, after the withdrawal of said refuse collection privilege, other than as provided in this section, is expressly prohibited, and any violation hereof shall be punishable by a penalty of not more than fifty dollars ($50.00) and costs, for each separate occurrence. (Ord. #494, June 1987)
CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6. (1976 Code, § 6-301)

1Municipal code reference
Beer: title 8, chapter 2.

2State law reference
Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 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.
TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST

SECTION
6-101. Policemen subject to chief’s orders.
6-102. Policemen to preserve law and order, etc.
6-103. Policemen to wear uniforms and be armed.
6-104. When policemen to make arrests.
6-105. Policemen may require assistance.
6-106. Disposition of persons arrested.
6-107. Police department records.
6-108. Sheriff also authorized to enforce ordinances.

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. (1976 Code, § 1-401)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the town. They shall patrol the town and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1976 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen 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. (1976 Code, § 1-403)

1Municipal code references
   Traffic citations, etc.: title 15, chapter 7.
6-104. When policemen to make arrests. 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. (1976 Code, § 1-404)

6-105. Policemen may require assistance. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1976 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available or the alleged offender does not post the required bond, he shall be confined. (1976 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. (1976 Code, § 1-407)

6-108. Sheriff also authorized to enforce ordinances. (1) The Sheriff of Unicoi County, Tennessee, is hereby authorized to enforce the ordinances of the Town of Erwin.

(2) This section is passed for the purpose of expressing the desire and intent of the Town of Erwin that the sheriff enforce its ordinances as required by Tennessee Code Annotated, § 8-8-201(34), as amended.

(3) A certified copy of this section shall be filed with the Sheriff and General Sessions Court of Unicoi County, Tennessee. (1976 Code, § 1-408)
CHAPTER 2

WORKHOUSE

SECTION

6-201. Jail to be used.
6-202. Inmates to be worked.
6-203. Compensation of inmates.

6-201. Jail to be used. The jail in the Unicoi County Safety Building is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1976 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. (1976 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars ($5.00) per day as credit toward payment of the fines assessed against him. (1976 Code, § 1-603)
TITLE 7
FIRE PROTECTION AND FIREWORKS

CHAPTER
1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.

CHAPTER 1
FIRE DISTRICT

SECTION
7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include all that area of the town zoned as the B-3 (central) business district and the B-4 (intermediate) business district. (1976 Code, § 7-101)

_____________________________

1Municipal code references
Building, utility and housing codes: title 12.
Fire hydrants: §§ 18-231 and 18-236.
Fire in streets prohibited: § 16-113.
Private fire lines: § 18-232.
Sprinkler systems: § 18-229.
CHAPTER 2

FIRE CODE

SECTION
7-201. Fire code adopted.
7-203. Definition of "municipality."
7-204. Storage of explosives, flammable liquids, etc.
7-205. Gasoline trucks.
7-206. Variances.
7-207. Violations.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 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, 1997 edition, as recommended by the American Insurance 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, three (3) copies of the fire prevention code have been filed with the city recorder and are available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1976 Code, § 7-201, as amended by Ord. #576, April 1999)

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. (1976 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 Town of Erwin, Tennessee. (1976 Code, § 7-203)

7-204. Storage of explosives, flammable liquids, etc. (1) The limits referred to in § 12.50 of the fire prevention code, in which storage of explosives and blasting agents are prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

1Municipal code reference
Building, utility and housing codes: title 12.

2Copies of this code are available from the American Insurance Association, Engineering and Safety Department, 85 John Street, New York, NY 10038.
(2) The limits referred to in § 16.22a of the fire prevention code, in which storage of flammable liquids or combustible liquids in outside above ground tanks is prohibited, are hereby declared to be the fire district as set out in § 7-101 of this code.

(3) The limits referred to in § 16.61 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.

(4) 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. (1976 Code, § 7-204)

7-205. Gasoline trucks. No person shall operate or park any gasoline tank truck within the fire limits or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline. (1976 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. (1976 Code, § 7-206)

7-207. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the code hereby 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 or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1976 Code, § 7-207)
CHAPTER 3

FIRE DEPARTMENT

SECTION
7-301. Establishment, equipment, and membership.
7-302. Objectives.
7-303. Organization, rules, and regulations.
7-304. Records and reports.
7-305. Tenure and compensation of members.
7-306. Chief responsible for training and maintenance.
7-307. Equipment to be used only within corporate limits generally.
7-308. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the town and shall be and remain the property of the town. The fire department shall be composed of a chief and such number of full-time personnel as may be appointed by the board of mayor and aldermen and such number of physically fit officers and firemen as the chief shall appoint. (1976 Code, § 7-301)

7-302. Objectives. The fire department shall have as its objectives:
(1) To prevent uncontrolled fires from starting.
(2) To prevent the loss of life and property because of fires.
(3) To confine fires to their places of origin.
(4) To extinguish uncontrolled fires.
(5) To prevent loss of life from asphyxiation or drowning.
(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1976 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the board of mayor and aldermen. (1976 Code, § 7-303)

---

1Municipal code references
   Emergency vehicles: title 15, chapter 2.
   Special privileges with respect to traffic: title 15, chapter 2.
7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1976 Code, § 7-304)

7-305. Tenure and compensation of members. The chief and all full-time personnel shall hold office so long as their conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend temporarily any member of the fire department when he deems such action to be necessary for the good of the department.

All personnel of the fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1976 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1976 Code, § 7-306)

7-307. Equipment to be used only within corporate limits generally. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless such fire is on town owned property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the town as to endanger such town property or unless expressly authorized in writing by the board of mayor and aldermen. (1976 Code, § 7-307)

7-308. 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 banking 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. (1976 Code, § 7-308)
TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally. Except as authorized by applicable laws, and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish or solicit orders for any intoxicating liquor within the Town of Erwin. "Intoxicating liquor" shall be defined to include whiskey, wine, home brew, moonshine, and all other intoxicating, spirituous, vinous or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (Ord. #561, March 1997)

---

1Municipal code reference
Wholesale beer tax: title 5, ch. 4.
State law reference
Tennessee Code Annotated, title 57.
CHAPTER 2

BEER

SECTION

8-201. Beverage board; creation, membership, duties, powers, organization; issuance, suspension, and revocation of permits.
8-202. Permit required for engaging in beer business.
8-203. Applicant must agree to comply with laws.
8-204. Contents of application.
8-205. Additional application requirements; effect of false statements; action of board on application; issuance of permit; term of permit.
8-206. Waiting period on new applications; temporary permits.
8-207. Discretionary powers of board; no permits for premises near churches or schools or with living quarters.
8-208. Issuance of permit.
8-209. Payment of privilege taxes; display of permit; sales by manufacturers, etc.; permits not transferable; separate permit required for each location; term of permit; permits to be restrictive.
8-210. Hours of sale restricted.
8-211. Miscellaneous regulations for distributors, wholesalers, etc.
8-212. Persons underage.
8-213. Dancing.
8-214. No consumption of other alcoholic beverages permitted.
8-215. For "off premise" permits, no beer may be consumed on the premises.
8-216. Proper sanitary facilities required.
8-217. Visibility through front required.
8-218. Lighting of establishment.
8-219. No live entertainment permitted without prior approval.
8-220. Permits not transferable.
8-221. Bond required.
8-222. Purchases for or by underage persons prohibited.
8-223. Loitering and sales to certain persons prohibited.
8-224. Possession of more than five (5) gallons restricted.
8-226. Delivery of beer restricted.
8-227. Permits for nonconforming premises prohibited.
8-228. Inspections.

\[1\] 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).
8-229. All sales by wholesalers to be for cash.
8-230. Price reductions or adjustments by wholesalers for breakage, etc., restricted.
8-231. Gifts and reduced prices prohibited.
8-232. Taxes.
8-233. Sales on certain holidays prohibited.
8-234. Violations.
8-235. Penalty for violations.
8-236. Privilege tax.
8-238. Civil penalty in lieu of suspension.
8-239. Applicability to private clubs.

8-201. Beverage board; creation, membership, duties, powers, organization; issuance, suspension, and revocation of permits. (1) There is hereby created a board, which shall be known and designated as the "Beverage Board of the Town of Erwin" hereinafter referred to in this chapter as the "board." This board shall be composed of all the members of the Town of Erwin Board of Mayor and Aldermen.

(2) It shall be the duty of the board to regulate and supervise the issuance of permits to manufacture, store more than five (5) gallons, distribute and sell beer, and other beverages of an alcoholic content of not in excess of five percentum (5%) by weight, hereinafter referred to as beer, to the persons and in the manner provided in this chapter.

(3) It is hereby declared that the sale, storage, manufacture and distribution of beer in the town is a privilege and such board is hereby empowered with complete discretion to issue, revoke, and suspend all permits or licenses to sell, store, manufacture, or distribute beer in the town including the sole right to determine the suitability and approve the general appearance of the proposed structure.

(4) The board is empowered to elect its own chairman and other officers, to make its own regulations with respect to meetings or hearings, and may deny the issuance of any permit or license whenever it determines that such issuance would be detrimental to the public health, safety or morals. The board may likewise suspend or revoke the permit and license of any licensee who violates any of the laws of the United States, the State of Tennessee, or the Town of Erwin, or whenever it shall satisfactorily appear that the premises or business of any permittee or licensee is being maintained and operated in such manner as to be detrimental to the public health, safety and morals.

(5) Where a permit or license is revoked, no new license or permit shall be issued to such permittee for a period of five years. (Ord. #561, March 1997)
8-202. Permit required for engaging in beer business. (1) New beer permits for "off premise sales" shall be issued only to applicants who offer substantial other commodities for sale, such as variety and convenience stores. (2) Beer may not be sold through any "drive-through" window. (3) Beer permits for "on-premise sales" may be issued, in the discretion of the Beverage Board of the Town of Erwin, to restaurants and dining facilities, provided that:

(a) At least sixty percent (60%) of the total annual business receipts of the restaurant are received from the sale of food. When applying for a beer permit, the applicant must certify in its application, a reasonable expectation that at least sixty percent (60%) of its total annual business receipts will be from the sale of food. Prior to renewing the beer permit, (and in no event later than January 31 of each calendar year), the restaurant or dining facility must file with the Town of Erwin a sworn affidavit setting out its total annual business receipts, total dollar food sales, and total beer sales for the prior calendar year. No beer permit for a restaurant or dining facility may be renewed until this annual affidavit is filed with the city recorder's office. The city recorder shall review the affidavit to confirm that the requirements of this section have been met. The definition of "food" and "food sales" shall include food and non-alcoholic beverages.

(b) The restaurant or dining facility must have a minimum seating capacity of at least forty (40) persons, as verified by the Building Inspector of the Town of Erwin.

(c) All other provisions and requirements of the Town of Erwin Beer Ordinance, including all distance and other requirements, must be met.

(4) Grandfather clause. Individuals and entities who presently hold (as of December 9th 2002), a valid beer permit to sell beer within the Town of Erwin, may continue to hold their present beer permits as long as they remain in compliance with the Town of Erwin Beer Ordinance. If and when these existing beer permits lapse, any new applicants granted a beer permit after December 9, 2002, must meet the new requirements set out herein. (Ord. #601, Jan. 2003)

8-203. Applicant must agree to comply with laws. The applicant must agree in the application to comply with all of the laws of the United States and the State of Tennessee, and all ordinances of the Town of Erwin, and said application shall be supported by an affidavit or oath that the facts therein stated are true. (Ord. #561, March 1997)

8-204. Contents of application. The application shall be on a form provided by the Town of Erwin and shall contain:
(1) The name and residence of the applicant and how long the applicant has resided there;

(2) The particular place for which a license is desired, designated by street and number, if practicable, and if not, by such other apt description as finitely locates it;

(3) The kind of permit desired, whether an "on premise," an "off premise," or "both on and off premise" beer permit;

(4) The name of the owner of the premises upon which the business licensed is to be carried on;

(5) A statement that the applicant will not engage in the sale, storage, manufacture, or distribution of beer except at the place or places for which the license or permit was issued to such applicant; and that no sale, storage, manufacture or distribution of such beverage will be made except within the permit granted;

(6) No sale of beer will be made to any person under twenty-one (21) years of age. No person under eighteen (18) years of age may be employed in the direct sale, storage, manufacture, distribution or serving of beer.

(7) That the applicant has not had a license for the sale, storage, manufacture, or distribution of legalized beer revoked;

(8) That neither the applicant nor any person employed or to be employed by him in the distribution, storage, manufacture, or sale of beer has been convicted of any violation of the law against prohibition, sale, manufacture, storage, distribution, usage, or transportation of intoxicating liquor or of any crime involving moral turpitude within the past ten years preceding the filing of such application;

(9) A statement that the applicant will conduct the business in person for himself or if he is acting as agent the applicant shall state the person, firm or corporation, syndicate, association, or joint stock company for whom the applicant intends to act;

(10) That no brewer, manufacturer, distributor or warehouseman of legalized beer has any interest in the business, financial or otherwise, or in the premises upon or in which the business to be licensed to sell beer at retail is to be carried on;

(11) A statement that the applicant is willing to be fingerprinted by the police department of the Town of Erwin and is willing to be investigated by municipal, county, state and federal law enforcement agencies concerning the applicant's background and record, and that the applicant will sign a general release for such investigation to be made;

(12) That if the applicant is a partnership, the names and address of all partners in the business;

(13) That if the applicant is a corporation, the names and address of the officers of the corporation, and the names and addresses of shareholders who hold more than a ten percent (10%) interest in the corporation;
(14) An oath or affidavit by the applicant that the facts set forth in the application are true;
(15) The date of the application;
(16) The signature of the applicant;
(17) A statement that the applicant acknowledges receipt of a copy of the Town of Erwin Beer Ordinance, and that the applicant has read and understands the same. (Ord. #561, March 1997, as amended by Ord. #601, Jan. 2003, modified)

8-205. Additional application requirements; effect of false statements; action of board on application; issuance of permit; term of permit. The applicant shall state distinctly whether the person so applying will conduct the business in person, or whether he is acting as agent for any other person, corporation, or association, and shall also state specifically the name of the owner or owners of such business, and whether a wholesale or retail sale or distribution will be made.

The application shall at all times be kept on file by said board and shall be open to inspection by the general public, and any person, firm, corporation or association making any false statement in his application shall forfeit his permit and shall not be eligible to receive any permit for a period of five years thereafter.

Upon filing of such written application with the chairman of said board, it shall be carefully examined by the members of said board and its action thereon shall be kept in writing as part of the regular proceedings of said board. The board may, in its discretion, take favorable or unfavorable action on an application. If the applicant has requested both "on premise" and an "off premise" beer permit, the board may, in its discretion, grant both permits, or grant one permit (and not the other), or deny both permits. If favorable action is taken, a permit shall be issued to the applicant, describing the type of permit issued, and bearing the name of the chairman of said board and date of its issuance. The permit thus obtained shall entitle the applicant to obtain from the Town of Erwin a license to sell, store, and/or distribute such beverage, but no license shall be issued by the Town of Erwin until and unless a permit has been regularly issued to the applicant by the (beer) board. (Ord. #561, March 1997)

8-206. Waiting period on new applications; temporary permits. New applications must lay in wait with the board for thirty (30) days before final action can be taken on the beer permit. A temporary permit for thirty (30) days can be granted upon the discretion of the board. (Ord. #561, March 1997)

8-207. Discretionary powers of board; no permits for premises near churches or schools or with living quarters. All beer permits for the sale of beer in the Town of Erwin shall be issued at the discretion of the board and the board
shall issue such permits to such applicants for the sale of beer as said board in
the exercise of its discretion feels shall serve the best interest of the Town of
Erwin. No permit for the sale of beer shall be issued to any person or
establishment whose place of business is within two hundred (200) feet of any
established church or school building.

No permit for the sale of beer in the Town of Erwin shall be issued to any
person or establishment which has any entrances directly from the business into
living quarters within the building or doors or other openings from the business
into any area used for living quarters. (Ord. #561, March 1997)

8-208. Issuance of permit. Applications for beer permits that are
complete and accompanied by the required fee, shall be acted upon by the board
and either be approved or disapproved. If the applicant has requested both an
"on premise" and an "off premise" beer permit, the board may, in its discretion,
grant both permits, or grant one permit (and not the other), or deny both
permits. If approved by the board, a licensee shall be issued by the city recorder
for the Town of Erwin upon payment of the privilege taxes set out herein. If the
application is denied, the application becomes null and void, cannot be later
considered, and shall not receive any priority in the granting of any future beer
permits. Applications for beer permits do not "lie in wait" for future
consideration. (Ord. #561, March 1997)

8-209. Payment of privilege taxes; display of permit; sales by
manufacturers, etc.; permits not transferable; separate permit required for
each location; term of permit; permits to be restrictive. All privilege taxes shall
be paid annually in advance and shall not be subject to refund in whole or in
part. All permittees and licensees shall display and keep displayed their beer
permits and licenses in a conspicuous place on the premises where they are
licensed to conduct such business.

(1) No manufacturer, distributor or warehouseman shall sell beer or
alcoholic beverages to anyone except a licensed beer dealer.
(2) Permits and licenses shall not be transferable.
(3) A separate permit and license shall be obtained for each location
at which and from which any applicant is to manufacture, store, distribute or
sell beer.
(4) All beer permit shall be restrictive as to the type of beer business
authorized under them, stating whether it is a permit for on-premise
consumption, off-premise consumption or both. 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 him not to comply
with any and all expressed restrictions or conditions which may be written into
his permit by the board.
(5) A permit may, in the discretion of the board, be issued to the owner
of the business, whether a person, firm, corporation, joint stock company,
syndicate or association. A permit shall be valid only for the owner to whom the permit is issued and cannot be transferred to any other 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.¹

(6) A permit is valid only for a single location and cannot be transferred to another location. A permit shall be valid for all decks, patios 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 same business.

(7) A permit is valid only for a business operating under the name identified in the permit application.

(8) A permit holder must return a permit to the Town of Erwin within fifteen (15) days of termination of the business, or a change in ownership, or a relocation of the business or a change of the business's name; provided that notwithstanding the failure of the permittee to return his beer permit, the beer permit and license shall automatically expire on a termination of the business, a change in ownership, a relocation of the business or a change of the business name, unless otherwise provided herein.

(9) It is unlawful for any person or entity to sell, distribute or manufacture beer without having a valid certificate indicating that purchases of beer by that person are "for resale" as the term used in Tennessee Code Annotated, § 67-6-102(22)(A). Within ten (10) days after being issued a permit to sell, distribute or manufacture beer, a person shall file with the Town of Erwin and with each person from whom the person buys beer, a copy of a valid certificate indicating that the purchases of beer are "for resale" as that term is used in Tennessee Code Annotated, § 67-6-102(22)(A) and shall subsequently maintain at all times a valid resale certificate on file with the Town of Erwin and with each person from whom the person buys beer.² (Ord. #561, March 1997)

8-210. Hours of sale restricted. It shall be unlawful for any person to sell beer on any weekday, Monday through Friday, between the hours of 11:30 P.M. and 8:00 A.M. the following day, and between 12:00 midnight Saturday night until 8:00 A.M. Monday. (Ord. #561, March 1997)

8-211. Miscellaneous regulations for distributors, wholesalers, etc. (1) In addition to other requirements set out in this chapter, all distributors, wholesalers, warehousemen and manufacturers shall be duly licensed under the law to do business in the State of Tennessee.

¹State law reference
Tennessee Code Annotated, § 57-5-103.

²State law reference
Tennessee Code Annotated, § 57-5-103.
All distributors, wholesalers, manufacturers, and warehousemen of beer having a place of business within the corporate limits of the Town of Erwin shall locate same in areas designated and zoned for manufacturing under laws and ordinances of the Town of Erwin, Tennessee.

(2) It shall be unlawful within the corporate limits of the Town of Erwin for any wholesaler, distributor, warehouseman or manufacturer of beer or for any of their salesmen or representatives to sell or deliver beer enroute or from delivery vehicles to any person or place other than holders of valid retail beer permits and licenses; and it shall be the duty of such wholesaler, representative, etc., to ascertain whether or not such person or place has been issued a valid retail beer permit and license by the Town of Erwin. (Ord. #561, March 1997)

8-212. Persons underage. It shall be unlawful for any person engaged in the sale of beer to make or permit to be made any sales of beer to any person under twenty-one (21) years of age. The burden of ascertaining the age of each patron shall be upon the permittee or licensee of such place of business. Customers must have on their person a valid photo ID which lists their correct birth date. (Ord. #601, Jan. 2003)

8-213. Dancing. Dancing is permitted in establishments that hold "on premise" beer permits or licenses. However, all dancers must be fully clothed. (Ord. #561, March 1997)

8-214. No consumption of other alcoholic beverages permitted. In the place of business where such beverages will be sold or distributed, the consumption of any alcoholic beverages other than beer and/or ale shall not be allowed. (Ord. #561, March 1997)

8-215. For "off premise" permits, no beer may be consumed on the premises. If a business hold an "off premise" beer permit, no beer may be consumed inside the premises, outside the door of the premises, nor at any place on the property owned or rented by the holder of the "off premise" permit. (Ord. #561, March 1997)

8-216. Proper sanitary facilities required. In the places of business where such beverages will be sold or distributed, proper restrooms shall be provided. (Ord. #561, March 1997)

8-217. Visibility through front required. Proper visibility through the front of the establishment shall be maintained, to the result and effect that the interior of the establishment shall be visible to investigating officers. (Ord. #561, March 1997)
8-218. Lighting of establishment. All establishments who hold licenses to sell beer within the corporate limits of Erwin, Tennessee, shall maintain clear visibility within the said establishment. The use of black lights or strobe lights or any other type of lighting which restricts clear vision or which could restrict the identity of persons within the establishment is prohibited. (Ord. #561, March 1997)

8-219. No live entertainment permitted without prior approval. In the place of business where such beverages will be sold or distributed, live entertainment is permitted only by prior approval of the board. All entertainers must be fully clothed. In all such establishments, no loud music, unusual or obnoxious noises shall be allowed, and the applicant shall conduct such place of business otherwise in an orderly, peaceable and lawful manner. Live entertainment as used herein shall mean the performance in person by an entertainer or entertainers on the premises. (Ord. #561, March 1997)

8-220. Permits not transferable. When any person shall move the location of his place of business or there is any change in the ownership of the business where such beverages are sold, (whether voluntary or involuntary) then in all cases he shall be required to apply for a new permit in the manner herein provided by said board therefor.

A permit shall be valid only for the individual person, owner or applicant to whom the permit was issued and cannot be transferred to any other person or entity. 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.¹

A permit is valid only for a single location and cannot be transferred to another location. A permit is valid only for a business operating under the specific name identified in the permit application.

A permit holder must return the beer permit to the Town of Erwin within fifteen (15) days of termination of the business, a change in ownership of the business, a relocation of the business to a different location or address, or a change of the business's name; provided that notwithstanding the failure to return a beer permit to the town, the beer permit shall automatically expire if there is a termination of the business, a change in ownership of the business, a relocation of the business, or a change of the business name. (Ord. #561, March 1997)

8-221. Bond required. Every person, firm, corporation or association, before being issued a license to sell at retail within the corporation limits of the

¹State law reference
Tennessee Code Annotated, § 57-5-103.
8-222. Purchases for or by underage persons prohibited. It shall be unlawful for any person to purchase beer for the purpose of selling or giving same to any person under the age of twenty-one (21) years. Any person under the age of twenty-one (21) years who purchases beer is subject to fine under this chapter. (Ord. #561, March 1997)

8-223. Loitering and sales to certain persons prohibited. It shall be unlawful for any permittee or licensee to allow persons to loiter around the place of business, and it shall be unlawful for any such permittee or licensee to make, permit or allow to be made any sale of beer to any person who is intoxicated, feeble-minded, insane, or otherwise mentally incapacitated. (Ord. #561, March 1997)

8-224. Possession of more than five (5) gallons restricted. It shall be unlawful for any person to possess in the Town of Erwin more than five (5) gallons of beer without permit or license, or bill of sale or invoice of bill of lading showing the date of purchase of shipment, the true name and exact address of the seller or consignor and the true name and exact address of the purchaser or consignee. (Ord. #561, March 1997)

8-225. Possession of open beer restricted. It shall be unlawful for any person to possess open cans, bottles or containers of beer in motor vehicles in the Town of Erwin or upon the public streets, sidewalks, or other public places in the Town of Erwin, not otherwise permitted by this chapter. (Ord. #561, March 1997)

8-226. Delivery of beer restricted. It shall be unlawful for any holder of a retailer permit or license to sell beer or deliver beer away from the premises designated and described in the license. It shall further be unlawful for any owner or operator of a public conveyance to purchase or deliver beer or to any person not presently therein. (Ord. #561, March 1997)
8-227. Permits for nonconforming premises prohibited. No retail permit or license shall be issued to any person to sell beer from any place, premises, or location which constitutes a nonconforming use under the zoning laws and ordinances of the Town of Erwin in effect at the time of application for such permit or license. (Ord. #561, March 1997)

8-228. Inspections. It shall be the duty of the Police Department of the Town of Erwin or of any special police officers appointed by the board of mayor and aldermen to inspect the place of business and premises of the holders of permits and licenses under this chapter, and it shall be unlawful for any permittee or licensee to refuse to permit any such inspection during any time that such place is open. (Ord. #561, March 1997)

8-229. All sales by wholesalers to be for cash. In order to efficiently collect the tax levied by this act all sales of beer by wholesalers to retailers or any other person, except sales to duly licensed wholesalers, shall be for cash only. The intent of this section and provision is that the wholesale sale transaction, and any maneuver, devise, or method of extending credit, is expressly prohibited. (Ord. #561, March 1997)

8-230. Price reductions or adjustments by wholesalers for breakage, etc., restricted. In order to accurately determine the tax to be paid, no wholesaler shall make any reduction or adjustment for shortages or broken bottles, including chips and flats, except at the time of sale and delivery. All beer shall be inspected and accepted by the retailer or any other person at the time of delivery and no adjustment or refund for merchandise damage, breakage or shortage shall be made by any wholesaler subsequent to the time of delivery. (Ord. #561, March 1997)

8-231. Gifts and reduced prices prohibited. In order to determine the exact amount of tax and to facilitate the collection thereof, no wholesaler or licensee shall make any gift of beer or any other type of gift to any retailer or patron nor shall any deal be made with the retailer or any person whereby the wholesale price of beer shall be reduced below the list price as an inducement to said retailer or any other person to make larger purchases. (Ord. #561, March 1997)

8-232. Taxes. The tax rate established by this chapter is the maximum allowed by statute which will be levied on and paid by the wholesaler or distributor and precludes any other fee or tax except the privilege license fee now authorized by acts of the General Assembly of Tennessee on the sale of beer, either at retail or wholesale. (Ord. #561, March 1997)
8-233. **Sales on certain holidays prohibited.** It shall be unlawful to sell beer within the city limits of Erwin on Thanksgiving day, Christmas Day and New Year's Day. (Ord. #561, March 1997)

8-234. **Violations.** Any person violating any provision of this chapter shall be subject to a penalty under the general penalty clause for this code. Furthermore, any permittee or licensee violating any provision of this chapter may, in the discretion of the board, be cited to the board for a hearing to determine whether the beer permit and/or license should be suspended or revoked.

Each day's violation of any provision of this chapter by any permit holder or license, and each sale made in violation of any provision of this chapter shall constitute a separate offense. (Ord. #561, March 1997)

8-235. **Penalty for violations.** A finding by the board that an establishment has violated any section of this chapter, which prohibits the illegal sale of beer, shall permit the board, upon first offense, to invoke up to a ninety (90) day suspension of the establishment's beer license or licenses. For a second offense, the board may invoke up to a one hundred eighty (180) day suspension of the establishment's beer license or licenses. For a third offense, there shall be a mandatory revocation of the establishment's license or licenses. (Ord. #561, March 1997)

8-236. **Privilege tax.** There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual privilege tax, which shall be the maximum amount set out in Tennessee Code Annotated, § 57-5-104(b), but shall be no less than one hundred dollars ($100.00) annually for each permit. Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax for the calendar year by January 1st of that year, to the Town of Erwin, 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 pro-rated basis for each month or portion thereof remaining until the next tax payment date. No beer permit(s) may be renewed until any property taxes, business taxes or fines imposed by the state, county or city governments, and which are due, are paid. (Ord. #561, March 1997)

8-237. **Notices of privilege tax.** The Town of Erwin shall mail written notice to each permit holder of the payment date of the annual privilege tax at least thirty (30) days prior to each January 1st. Notice shall be mailed to the address specified by the permit holder on its permit application. If a permit holder does not pay the tax by January 31st, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the Town of Erwin shall notify the permit holder by certified mail that the tax payment is past due.
If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the beer permit shall automatically terminate without further hearing before the board. (Ord. #561, March 1997)

8-238. Civil penalty in lieu of suspension. The board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed one thousand, five hundred dollars ($1,500.00) for each offense of making or permitting to be made any sales to person who are underage, or a civil penalty not to exceed one thousand dollars ($1,000.00) for any other offense. If a civil penalty is offered as an alternative to revocation or suspension of license, 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 paid within that time, the revocation or suspension shall be deemed withdrawn. (Ord. #561, March 1997)

8-239. Applicability to private clubs. Private clubs which hold a valid state permit from the Tennessee Alcoholic Beverage Commission, allowing said club to sell wine or other alcoholic beverages for consumption on the premises, are exempt from Erwin Municipal Code §§ 8-211, 8-215, 8-218, 8-221 and 8-235; and from the "loitering" provisions contained in code §§ 8-213 and 8-225. (Ord. #561, March 1997)
Municipal code references

Building, plumbing, wiring and housing regulations: title 12.
Liquor and beer regulations: title 8.
Noise reductions: title 11.

TITLE 9
BUSINESS, PEDDLERS, SOLICITORS, ETC. ¹

CHAPTER
1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. CABLE TELEVISION.
7. SEXUALLY ORIENTED BUSINESSES.

CHAPTER 1
MISCELLANEOUS

SECTION
9-101. Ambulances, etc., to be insured.
9-103. Central business district sign ordinance.

9-101. Ambulances, etc., to be insured. All emergency vehicles, such as ambulances, shall be covered by liability insurance in the amounts of fifty thousand dollars ($50,000.00) and one hundred thousand dollars ($100,000.00). Said insurance shall be carried with insurance companies authorized to do business in the State of Tennessee by the State of Tennessee Commissioner of Insurance and Banking. (1976 Code, § 5-102)

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," "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. (1976 Code, § 5-103)

9-103. Central business district sign ordinance. (1) This section shall be known as the "central business district sign ordinance" for the Town of Erwin, Tennessee.

(2) This ordinance authorizes the use of signs visible from public rights-of-way provided the signs are:

(a) Compatible with their surroundings, pursuant to the objectives of proper design and zoning amenities;
(b) Allowing and promoting optimum conditions for meeting the sign users' needs while at the same time promoting the amenable environment desired by the general public;
(c) Designed, constructed, installed, and maintained in such a manner that they do not endanger public safety or traffic safety;
(d) Legible, readable, and visible in the circumstances in which they are used; and
(e) Respectful of the reasonable rights of other advertisers whose messages are displayed.

(3) No sign may be so arranged that it interferes with traffic through glare, through blocking of reasonable sight lines for streets, sidewalks, or driveways, through confusion with a traffic control device (by reason of its color, location, shape, or other characteristics), or through any other means. Rotation beacons or flashing signs are prohibited.

(4) Any portion of a sign or a pole or standard for such sign, which is in contact with the ground shall be within the lot lines of the property.

(5) Signs painted directly on the structure are prohibited with the exception of entrances, doorways, and window display areas.

(6) Signs that advertise a product, service, or other business not situated on the same premises are prohibited. Any sign which is constructed of wood, masonite, plywood, and other porous material of a non-permanent nature subject to deterioration is prohibited.

(7) Roof signs which are not an integral part of the buildings design are prohibited.

(8) Overhanging signs referring to businesses operated on the premises are being permitted, provided that any such sign shall not be allowed to protrude more than two (2) feet from the building front, and shall not exceed one (1) square foot for each front foot of that business store front, up to a maximum of one hundred (100) square feet.

(9) Except as otherwise provided in this section, no sign or any portion thereof shall be permitted which moves or assumes any motion constituting a non-sanitary or fixed condition except for the rotation of barber poles, permissible changing signs, or permissible multi-prism units. Indexing multi-prism units must not exceed a speed of two (2) complete revolutions every
twenty (20) seconds. This section is not meant to prohibit any form of vehicular signage such as a sign attached to a bus or lettered on a motor vehicle.

(10) Any advertising structure or sign which was lawfully erected and maintained prior to the adoption of the provisions in this section shall be allowed to remain as a nonconforming sign. Any sign damaged to the extent of more than fifty (50) percent of its appraised value as determined by the building inspector shall be removed. Nonconforming signs advertising a business which changes ownership must be removed within one year of the date of said change of ownership.

(11) No person shall erect, construct or maintain any sign upon any property within the central business district without first submitting a drawing to the building inspector showing sign dimensions, etc., and the area in which the sign is to be located. Upon receiving written approval from the building inspector, the proposed sign may be constructed. (1976 Code, § 5-104)
CHAPTER 2

PEDDLERS, ETC.¹

SECTION
9-201. Permit required.
9-203. Application for permit.
9-204. Issuance or refusal of permit.
9-205. Appeal.
9-206. Bond.
9-207. Loud noises and speaking devices.
9-208. Use of streets.
9-209. Exhibition of permit.
9-210. Policemen to enforce.
9-211. Revocation or suspension of permit.
9-212. Reapplication.
9-213. Expiration and renewal of permit.

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. (1976 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. (1976 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.

¹Municipal code references
   Privilege taxes: title 5, chapter 3.
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 recorder within seventy-two (72) 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 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. Then recorder shall keep a permanent record of all permits issued. (1976 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. (1976 Code, § 5-205)

9-206. Bond. Every permittee shall file with the recorder a surety bond running to the town in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the town and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the town doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1976 Code, § 5-206)

9-207. 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 municipality 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. (1976 Code, § 5-207)

9-208. 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 such 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. (1976 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1976 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1976 Code, § 5-210)
9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen 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 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. (1976 Code, § 5-211)

9-212. 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. (1976 Code, § 5-212)

9-213. 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. (1976 Code, § 5-213)
CHAPTER 3

CHARITABLE SOLICITORS

SECTION
9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Denial of a permit.
9-304. Exhibition of permit.

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 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. (1976 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder, upon application, 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. (1976 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. (1976 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. (1976 Code, § 5-304)
CHAPTER 4

TAXICABS

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 town and has a currently effective privilege license. (1976 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

---

1Municipal 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 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 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. (1976 Code, § 5-402)

9-403. Liability insurance or bond required. No taxicab franchise shall be issued or continued in operation unless there is in full force and effect a liability insurance policy or bond for each vehicle authorized in the amount equal to that required by the state's financial responsibility law as set out in Tennessee Code Annotated, title 59, chapter 12. 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 town. (1976 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. (1976 Code, § 5-404)

9-405. Mechanical condition of vehicles. It shall be unlawful for any person to operate any taxicab in the town unless such taxicab is equipped with four (4) wheel brakes, front and rear lights, safe tires, horn, muffler, windshield wipers, and rear view mirror, all of which shall conform to the requirements of the 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. (1976 Code, § 5-405)

9-406. Cleanliness of vehicles. All taxicabs operated in the town 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. (1976 Code, § 5-406)
9-407. Inspection of vehicles. All taxicabs shall be inspected at least semiannually by the chief of police to insure that they comply with the requirements of this chapter with respect to mechanical condition, cleanliness, etc. (1976 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. (1976 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 town 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 traffic offenses.
(7) Is familiar with the state and local traffic laws. (1976 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. (1976 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 town for the purpose of obtaining patronage for their cabs. (1976 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 town 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. (1976 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. (1976 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. (1976 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 unreasonably disturb the peace, quiet and tranquility of the town in any way. (1976 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. (1976 Code, § 5-416)

9-417. **Fares.** Fares for taxicab service shall be charged in accordance with such rate schedule as may be approved by resolution of the board of mayor and aldermen. (1976 Code, § 5-417)
CHAPTER 5

POOL ROOMS

SECTION
9-501. Hours of operation regulated.
9-502. Minors to be kept out.

9-501. Hours of operation regulated. It shall be unlawful for any person, firm, or corporation owning, operating, or conducting a pool room in the Town of Erwin, to operate, conduct, or open for the purpose of operating or conducting, such pool room between the hours of 10:30 P.M. and 6:00 A.M. on any day, except that on Saturday nights the closing hour may be extended to 11:30 P.M.

It shall be unlawful for any person, firm, or corporation owning, operating, or conducting a pool room in said town to operate or conduct, or open the same for the purpose of operating or conducting it, at any time on Sunday.

It shall be unlawful for any person, firm, or corporation owning, operating, or conducting a pool room in said town to suffer or permit persons to loiter, loaf, or congregate in said pool room during the closing hours thereof as provided herein. (1976 Code, § 5-501)

9-502. Minors to be kept out. It shall be unlawful for any minors under eighteen (18) years of age, to congregate, loaf, or loiter in a pool room within the Town of Erwin.

Furthermore, no owner or manager of a pool room shall permit the same to be done. (1976 Code, § 5-502)

---

1Municipal code reference

Privilege taxes: title 5.
CHAPTER 6

CABLE TELEVISION

SECTION
9-601. To be furnished under franchise.

9-601. To be furnished under franchise. Cable television service shall be furnished to the Town of Erwin and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Erwin 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

¹For complete details relating to the cable television franchise agreement see Ord. #464 dated December 1983 in the office of the city recorder.
CHAPTER 7

SEXUALLY ORIENTED BUSINESSES

SECTION
9-701. Purpose and findings.
9-702. Definitions.
9-703. Classification.
9-704. License required.
9-705. Issuance of license.
9-706. Fees.
9-707. Inspections.
9-708. Expiration of license.
9-709. Suspension.
9-710. Revocation.
9-711. Transfer of license.
9-712. Location of sexually oriented businesses.
9-713. Additional regulations for adult motels.
9-714. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms.
9-715. Additional regulations for escort agencies.
9-716. Additional regulations for nude model studios.
9-717. Additional regulations concerning public nudity.
9-719. Hours of operation.
9-721. Violations and penalty.

9-701. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the board, and on findings incorporated in the cases of City
of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the council finds:

(a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(b) Certain employees of sexually oriented businesses defined in this chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(d) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(g) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States--600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.

(h) There have been thousands of reported cases of AIDS in the State of Tennessee.

(i) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Tennessee;
(j) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(k) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(l) The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(m) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(n) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(o) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(p) The findings noted in paragraphs (a) through (o) raise substantial governmental concerns.

(q) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(r) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(s) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

(t) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by
facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(u) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(v) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

(w) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

(x) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(y) The general welfare, health, morals and safety of the citizens of the town will be promoted by the enactment of this chapter.

(Ord. #567, May 1998)

9-702. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" or "specific anatomical areas."

(2) "Adult bookstore, adult novelty store or adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be
categorized as "adult bookstore, adult novelty store, or adult video store.
Such other business purposes will not serve to exempt such commercial
establishments from being categorized as an "adult bookstore, adult
novelty store, or adult video store so long as one of its principal business
purposes is the offering for sale or rental for consideration the specified
materials which are characterized by the depiction or description of
"specified sexual activities" or "specified anatomical areas."
(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar
commercial establishment which regularly features:
   (a) Persons who appear in a state of nudity or semi-nude; or
   (b) Live performances which are characterized by the exposure
      of "specified anatomical areas" or by "specified sexual activities;" or
   (c) Films, motion pictures, video cassettes, slides or other
      photographic reproductions which are characterized by the depiction or
      description of "specified sexual activities" or "specified anatomical areas."
(4) "Adult motel" means a hotel, motel or similar commercial
establishment which:
   (a) Offers accommodations to the public for any form of
      consideration; provides patrons with closed-circuit television
      transmissions, films, motion pictures, video cassettes, slides, or other
      photographic reproductions which are characterized by the depiction or
      description of "specified sexual activities" or "specified anatomical areas;"
      and has a sign visible from the public right of way which advertises the
      availability of this adult type of photographic reproductions; or
   (b) Offers a sleeping room for rent for a period of time that is
      less than ten (10) hours; or
   (c) Allows a tenant or occupant of a sleeping room to subrent
      the room for a period of time that is less than ten (10) hours.
(5) "Adult motion picture theater" means a commercial establishment
where, for any form of consideration, films, motion pictures, video cassettes,
slides, or similar photographic reproductions are regularly shown which are
characterized by the depiction or description of "specified sexual activities" or
"specified anatomical areas."
(6) "Adult theater" means a theater, concert hall, auditorium, or similar
commercial establishment which regularly features persons who appear in a
state of nudity or semi-nude, or live performances which are characterized by
the exposure of "specified anatomical areas" or by "specified sexual activities."
(7) "Employee" means a person who performs any service on the
premises of a sexually oriented business on a full-time, part-time or contract
basis, whether or not the person is denominated an employee, independent
contractor, agent or otherwise and whether or not said person is paid a salary;
wage or other compensation by the operator of said business. Employee does not
include a person exclusively on the premises for repair or maintenance of the
premises or equipment on the premises, or for delivery of goods to the premises.
"Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

"Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

"Establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;
(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
(c) The additions of any sexually oriented business to any other existing sexually oriented business; or
(d) The relocation of any sexually oriented business.

"Licensee" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

"Nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Tennessee or a college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
(b) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
(c) Where no more than one nude or semi-nude model is on the premises at any one time.

"Nudity" or a "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

"Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

"Semi-nude" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its
highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(16) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(17) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(18) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
(b) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(19) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(b) For which:

(i) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two
or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(iv) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(20) "Specified sexual activities" means any of the following:
   (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
   (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
   (c) Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

(21) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this chapter takes effect.

(22) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:
   (a) The sale, lease, or sublease of the business;
   (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
   (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #567, May 1998)

9-703. Classification. Sexually oriented businesses are classified as follows:
   (1) Adult arcades;
   (2) Adult bookstores, adult novelty stores, or adult video stores;
   (3) Adult cabarets;
   (4) Adult motels;
   (5) Adult motion picture theaters;
   (6) Adult theaters;
   (7) Escort agencies;
   (8) Nude model studios; and
   (9) Sexual encounter centers. (Ord. #567, May 1998)

9-704. License required. (1) It is unlawful:
   (a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town pursuant to this chapter.
   (b) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not
licensed as a sexually oriented business employee by the town pursuant to this chapter.

(c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(2) An application for a license must be made on a form provided by the town clerk.

(3) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the town to determine whether the applicant meets the qualifications established in this chapter.

(4) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20) percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

   (i) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;

   (ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

   (iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state

   (i) The sexually oriented business's fictitious name, and

   (ii) Submit the required registration documents.

(c) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
(d) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(e) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

(f) The single classification of license for which the applicant is filing.

(g) The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

(h) The applicant's mailing address and residential address.

(i) A recent photograph of the applicant(s).

(j) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number.

(k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 1,000 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises,
in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-714.

(6) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the town the following information:

(a) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
(b) Age, date, and place of birth;
(c) Height, weight, hair and eye color;
(d) Present residence address and telephone number;
(e) Present business address and telephone number;
(f) Date, issuing state and number of driver's permit or other identification card information;
(g) Social Security number; and
(h) Proof that the individual is at least eighteen (18) years of age.

(7) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each. (Ord. #567, May 1998)

9-705. Issuance of license. (1) Upon the filing of said application for a sexually oriented business employee license, the town shall issue a temporary license to said applicant. The application shall then be referred to the
appropriate town departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the town shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) The applicant is under the age of eighteen (18) years;

(c) The applicant has been convicted of a "specified criminal activity" as defined in this chapter.

(d) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

(e) The applicant has had a sexually oriented business employee license revoked by the town within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in § 9-710.

(2) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the town that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-706.

(3) Within 30 days after receipt of a completed sexually oriented business application, the town shall approve or deny the issuance of a license to an applicant. The town shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) An applicant is under eighteen (18) years of age.

(b) An applicant or a person with whom applicant is residing is overdue in payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

(c) An applicant or a person with whom applicant is residing is overdue in payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

(d) An applicant or a person with whom the applicant is residing has been denied a license by the town to operate a sexually oriented business within the preceding twelve (12) months or whose
license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(e) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.

(f) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.

(g) The license fee required by this chapter has not been paid.

(h) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(4) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to § 9-703. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(5) The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the town.

(6) A sexually oriented business license shall be issued for only one classification as found in § 9-703. (Ord. #567, May 1998)

9-706. Fees. (1) Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a one thousand dollar ($1,000.00) non-refundable application and investigation fee.

(2) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the town an annual non-refundable license fee of five hundred dollars ($500.00) within thirty (30) days of license issuance or renewal.

(3) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual one thousand dollar ($1,000) non-refundable application, investigation, and license fee. (Ord. #567, May 1998)

9-707. Inspections. (1) An applicant or licensee shall permit representatives of the police department, health department, fire department, building inspection department, or other town departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business. (Ord. #567, May 1998)

9-708. Expiration of license. (1) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 9-704. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(2) When the town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final. (Ord. #567, May 1998)

9-709. Suspension. The town shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

(1) Violated or is not in compliance with any section of this chapter.

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter. (Ord. #567, May 1998)

9-710. Revocation. (1) The town shall revoke a license if a cause of suspension in § 9-709 occurs and the license has been suspended within the preceding twelve (12) months.

(2) The town shall revoke a license if it determines that:

(a) A license gave false or misleading information in the material submitted during the application process;

(b) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(c) A licensee has knowingly allowed prostitution on the premises;

(d) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

(e) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(f) A licensee is delinquent in payment to the town, county, or state for any taxes or fees past due.

(3) When the town revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the town finds that the basis for the revocation has
been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(4) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #567, May 1998, as amended by Ord. #966, Jan. 2002)

9-711. Transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #567, May 1998)

9-712. Location of sexually oriented business. (1) A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than in an M-1 (Industrial) Zoning District as defined by the Town of Erwin Comprehensive Zoning Ordinance.

(2) A person commits an offense if the person operates or causes to be operated a sexually oriented business within one thousand (1000) feet of:

   (a) The property line of a church, cemetery, funeral home, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

   (b) A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

   (c) A boundary of a residential district as defined in the Erwin Municipal Zoning Code;

   (d) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, wilderness areas, or other similar public land within the town which is under the control, operation, or management of the town park and recreation authorities;

   (e) The property line of a lot devoted to a residential use as defined in the zoning code;

   (f) An entertainment business which is oriented primarily towards children or family entertainment; or

   (g) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the state and town.
A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

For the purpose of subsection (2) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (2). Presence of a town, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

For purposes of subsection (3) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Any sexually oriented business lawfully operating on April 1, 1998 that is in violation of subsection (1) through (6) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is/are nonconforming. (Ord. #567, May 1998)

Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.
(3) For purposes of subsection (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. #567, May 1998)

9-714. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The town may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the town.

(d) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at
least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view area specified in subsection (e) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a) of this section.

(g) No viewing room may be occupied by more than one person at any time.

(h) The premises shall be lighted with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level.

(i) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48) inches of the floor.

(2) A person having a duty under subsection (a) through (n) of subsection (1) above commits a misdemeanor if he knowingly fails to fulfill that duty. (Ord. #567, May 1998)

9-715. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of 18 years.

(2) A person commits an offense if the person acts an escort or agrees to act as an escort for any person under the age of 18 years. (Ord. #567, May 1998)

9-716. Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of 18 years.
(2) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

(3) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. #567, May 1998)

9-717. Additional regulations concerning public nudity. (1) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

(2) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer. (Ord. #567, May 1998)

9-718. Prohibition against children in a sexually oriented business. A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business. (Ord. #567, May 1998)

9-719. Hours of operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays. No sexually oriented business may remain open at any time between the hours of 1:00 A.M. Sunday and midnight Sunday. (Ord. #567, May 1998)

9-720. Exemptions. It is a defense to prosecution under § 9-717 that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the State of Tennessee; a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
(3) In a structure:
   (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
   (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
   (c) Where no more than one nude model is on the premises at any one time. (Ord. #567, May 1998)

9-721. Violations and penalty. Any violation of this chapter shall subject the offender to a penalty under the general penalty provision of this municipal code. Each day a violation is allowed to continue shall constitute a separate offense.
TITLE 10

ANIMAL CONTROL

CHAPTER 1
1. IN GENERAL.
2. DOGS.

CHAPTER 1

IN GENERAL

SECTION
10-102. Permit required for keeping.
10-103. Pen or enclosure to be kept clean.
10-104. Adequate food, water, and shelter, etc., to be provided.
10-105. Keeping in such manner as to become a nuisance prohibited.
10-106. Cruel treatment prohibited.
10-107. Seizure and disposition of animals.
10-108. Inspections of premises.

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, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1976 Code, § 3-101)

10-102. Permit required for keeping. No person shall keep any animals or fowls enumerated in the preceding section without a permit from the recorder. The recorder shall issue a permit only when the health officer, after an inspection, finds that the keeping of such animals or fowls, under the circumstances as set forth in the application for the permit, will not injuriously affect the public health. (1976 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. (1976 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 and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1976 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 noise, odor, contagious disease, or other reason. (1976 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. (1976 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 board of mayor and aldermen.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (1976 Code, § 3-107)

10-108. Inspections of premises. For the purpose of making inspections to insure 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. (1976 Code, § 3-108)

10-109. Revocation of permits. When any permittee is convicted of violating any provision of this chapter and fails to correct the offending situation within a reasonable period of time the recorder shall revoke his permit and promptly notify him of such revocation. (1976 Code, § 3-109)
CHAPTER 2

DOGS

SECTION

10-201. Rabies vaccination and registration required.
10-203. Running at large prohibited.
10-204. Vicious dogs to be securely restrained.
10-205. Noisy dogs prohibited.
10-207. Seizure and disposition of dogs.
10-208. Establishment and duties of rabies control officer.

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 through 68-8-114) or other applicable law. (1976 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. (1976 Code, § 3-202)

10-203. Running at large prohibited. 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. (1976 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 provide reasonably for the protection of other animals and persons. (1976 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. (1976 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 rabies control officer, health officer

\[^1\] State law reference
or chief of police may cause such dog to be confined or isolated, at the owner's expense, for such time as the officer deems reasonably necessary to determine if such dog is rabid. (1976 Code, § 3-206, as amended by Ord. #496, July 1987)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the rabies control officer, the health officer, or any similarly appointed officer or 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, in accordance with a schedule approved by the board of mayor and aldermen, 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 evidencing such vaccination placed on its collar.

When reasonably necessary in order to retrieve or capture a dog running at large, the impounding officer may use any humane means such as a "snare," "dart gun," or other similar equipment. Neither the officer nor the Town of Erwin shall be held liable if a dog running at large is accidentally injured or destroyed in the process of being impounded. (Ord. #496, July 1987)

10-208. Establishment and duties of rabies control officer. There is hereby created in the Town of Erwin the position of rabies control officer. Said rabies control officer shall have all authority and powers given to "health officers," under "The Tennessee Anti-Rabies Law," Tennessee Code Annotated, §§ 68-8-101 through 68-8-114. (Ord. #496, July 1987)
TITLE 11

MUNICIPAL OFFENSES

CHAPTER
1. ALCOHOL.
2. FORTUNE TELLING, ETC.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.

CHAPTER 1

ALCOHOL

SECTION
11-101. Drinking beer, etc., on streets, etc.
11-102. Minors in beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground, or other public place unless the place has an appropriate permit and license for on premises consumption. (1976 Code, § 10-230)

---

1Municipal code references
Housing and utility codes: title 12.
Fireworks and explosives: title 7.
Traffic offenses: title 15.
Streets and sidewalks (non-traffic): title 16.

2Municipal code reference
Sale of alcoholic beverages, including beer: title 8.

State law reference
See Tennessee Code Annotated § 68-24-203 (Arrest for Public Intoxication, cities may not pass separate legislation).
11-102. **Minors in beer places.** No person under eighteen (18) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1976 Code, § 10-223)
CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

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. (1976 Code, § 10-235)
CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION
11-301. Disturbing the peace.
11-302. Anti-noise regulations.

11-301. 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. (1976 Code, § 10-202)

11-302. 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, truck, 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, particularly during the hours between 11:00 P.M. and 7:00 A.M., 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, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or 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, truck, 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 town 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 town, 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.

(1976 Code, § 10-234)
CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION
11-401. Impersonating a government officer or employee.
11-402. False emergency alarms.

11-401. Impersonating a government officer or employee. No person other than an official police officer of the town 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 town. Furthermore no person shall deceitfully impersonate or represent that he is any government officer or employee. (1976 Code, § 10-211)

11-402. False emergency alarms. It shall be unlawful for any person intentionally to 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 as act. (1976 Code, § 10-218)
CHAPTER 5

FIREARMS, WEAPONS AND MISSILES

SECTION
11-501. Air rifles, etc.
11-502. Throwing of missiles.
11-503. Weapons and firearms generally.

11-501. Air rifles, etc. It shall be unlawful for any person in the town 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. (1976 Code, § 10-213)

11-502. Throwing of missiles. It shall be unlawful for any person to throw any stone, snowball, bottle, or any other missile maliciously upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1976 Code, § 10-214)

11-503. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the town. (1976 Code, § 10-212, modified)
CHAPTER 6
TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION
11-601. Trespassing.
11-602. Trespassing on trains.
11-603. Interference with traffic.

11-601. 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 leave promptly the private premises of any person who requests or directs him to leave. (1976 Code, § 10-227)

11-602. 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 in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1976 Code, § 10-222)

11-603. 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. (1976 Code, § 10-233)
CHAPTER 7

MISCELLANEOUS

SECTION

11-701. 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. (1976 Code, § 10-224)

11-702. 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. (1976 Code, § 10-232)

11-703. 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 legally authorized to do so. (1976 Code, § 10-228)

11-704. 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 or to appear on or in any public way or place while having a substantial portion of the face painted or blackened so as to hinder the proper identification of such person. 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. (1976 Code, § 10-236, as amended by Ord. #486, Oct. 1986)
11-705. **Trick or treating.** The practice of going in and upon private property or residences in the Town of Erwin by pranksters or others, twelve (12) years of age or over, for the purpose of making petty or trifling requests, jests, or threats, or to vex, annoy, or irritate the owner or occupant with petty or trifling requests or threats, or by jests or raillery, or to make threats for the procurement of a treat, without the invitation or consent of the owner or occupant, is hereby declared to be a nuisance and a misdemeanor and punishable as such.

Any person convicted of perpetrating such nuisance or misdemeanor as described and prohibited herein shall be punishable under the general penalty clause for this municipal code. (1976 Code, § 10-237, as amended by Ord. #486, Oct. 1986)

11-706. **Throwing of food objects.** It shall be unlawful for any person to throw any food object, including, but not limited to, eggs, tomatoes, pumpkins, watermelons etc., maliciously upon or at any vehicle, building, tree or other public or private property or upon or at any person.

The possession on or about any person, or in or about any vehicle, in a place or places where individuals would not customarily be expected to carry food objects, of

1. Loose eggs or other loose food objects, or
2. Only eggs with no other groceries usual and customary for the normal operation of a household, shall give rise to a prima facie rebuttable presumption that the individual or the owner of any vehicle in or about which any of these items are found is in violation of this section. (Ord. #486, Oct. 1986, as amended by Ord. #499, Oct. 1987)
TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER
1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE.
6. AMUSEMENT DEVICE CODE.
7. SWIMMING POOL CODE.
8. UNSAFE BUILDING ABATEMENT CODE.
9. MECHANICAL CODE.
10. EXISTING BUILDINGS CODE.

CHAPTER 1

BUILDING CODE

SECTION
12-102. Modifications.
12-103. Available in recorder's office.
12-104. Violations.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the Standard Building Code,\(^2\) 1997 edition, as prepared and adopted by the Southern Building Code Congress, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code. In the event that any

\(^1\)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.
matters in said building code are contrary to any existing ordinances of the Town of Erwin, the building code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (1976 Code, § 4-101, as amended by Ord. #576, April 1999)

12-102. Modifications. Within said building code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said building code shall be deemed to be the responsible official insofar as enforcing the provisions of said building code are concerned. (Ord. #576, April 1999)

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, three (3) copies of the building code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-103)

12-104. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. (1976 Code, § 4-104)
CHAPTER 2

PLUMBING CODE

SECTION
12-201. Plumbing code adopted.
12-203. Available in recorder's office.
12-204. Violations.
12-205. Permit required.
12-206. Permit exemptions.
12-207. Permit application.
12-208. Permit fees.
12-209. Contractor to be state certified.
12-210. Homeowner may obtain permit after passing test.
12-211. Required inspections.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the town, when such plumbing is or is to be connected with the municipal water or sewerage system, the Standard Plumbing Code, 1997 edition, as prepared and adopted by the Southern Building Code Congress, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code. In the event that any matters in said plumbing code are contrary to any existing ordinances of the Town of Erwin, the plumbing code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (1976 Code, § 4-201, as amended by Ord. #576, April 1999)

12-202. Modifications. Within said plumbing code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official

1Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

2Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
in said plumbing code shall be deemed to be the responsible official insofar as enforcing the provisions of said code are concerned.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the board of mayor and aldermen to administer and enforce the provisions of the plumbing code. Section 111 of the plumbing code is hereby deleted. (1976 Code, § 4-202, as amended by Ord. #576, April 1999)

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the plumbing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-203)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1976 Code, § 4-204)

12-205. Permit required. Any owner, authorized agent or contractor who desires to construct, enlarge, alter, move, or replace any plumbing system, the installation of which is regulated by the Standard Plumbing Code, or to cause any such work to be done, shall first make application to the code official and obtain a plumbing permit before commencing the work. (Ord. #587, Nov. 2000)

12-206. Permit exemptions. The following work may be done by an owner or plumbing contractor without obtaining a permit:

(1) The stopping of leaks in drains, water, soil, waste or vent pipes.
(2) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of plumbing fixtures, provided such repairs do not involve or require the replacement or rearrangement of drains, vents or water supply lines. (Ord. #587, Nov. 2000)

12-207. Permit application. Each application for a permit, with the required fee, shall be filed with the Building Department at the Erwin Town Hall. Construction documents, engineering calculations, diagrams and other such data shall be submitted with each application for permit. (Ord. #587, Nov. 2000)

12-208. Permit fees. Fees charged shall be according to the fee schedule adopted by the town. (Ord. #587, Nov. 2000)

12-209. Contractor to be state certified. It shall be the duty of every contractor who enters into contracts for the installation or repair of plumbing systems for which a permit is required to be a state certified plumber. This requirement shall become effective exactly one year following the date of the
third (3rd) and final reading and passage of this ordinance.  (Ord. #587, Nov. 2000)

12-210. Homeowner may obtain permit after passing test. A homeowner wanting to be his own plumbing contractor on his own property may be issued a permit without a state plumbers license after passing a general knowledge test given at Erwin Town Hall by the building official. All plumbing must still comply with the provisions of the Standard Plumbing Code. (Ord. #587, Nov. 2000)

12-211. Required inspections. (1) Rough in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and all sanitary, storm and water distribution piping is roughed-in, and prior to the installation of wall or ceiling membranes.

(2) Final inspection shall be made after the building is complete, all plumbing fixtures are in place and properly connected and the structure is ready for occupancy. (Ord. #587, Nov. 2000)
CHAPTER 3

ELECTRICAL CODE

SECTION
12-301. Electrical code adopted.
12-302. Available in recorder's office.
12-303. Permit required for doing electrical work.
12-304. Violations.
12-305. Enforcement.
12-306. Fees.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 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,\(^2\) 1971 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. (1976 Code, § 4-301)

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the electrical code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-302)

12-303. Permit required for doing electrical work. No electrical work shall be done within the town until a permit therefor has been issued by the electrical inspector. 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. (1976 Code, § 4-303)

12-304. 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. (1976 Code, § 4-304)

---

\(^1\)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.
12-305. **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 electrical equipment and wiring, etc., as are necessary to insure 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. (1976 Code, § 4-305)

12-306. **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. (1976 Code, § 4-306)
CHAPTER 4

GAS CODE

SECTION
12-401. Title and definitions. This chapter and the code herein adopted by reference shall be known as the gas code of the town 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 mayor.

(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. (1976 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
12-9

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 1997 edition, which is hereby incorporated by reference and made a part of this chapter as if fully set forth herein. Three (3) copies of the gas code shall be kept on file in the office of the city recorder for the use and inspection of the public. In the event that any matters in said gas code are contrary to any existing ordinances of the Town of Erwin, the gas code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (1976 Code, § 4-402, as amended by Ord. #576, April 1999)

12-403. Modifications. Within said gas code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said gas code shall be deemed to be the responsible official insofar as enforcing the provisions of said gas code are concerned. (Ord. #576, April 1999)

12-404. 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. (1976 Code, § 4-403)

12-405. 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 recorder a good and sufficient bond in the penal sum of $10,000, 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 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 recorder a nontransferable license which shall run until

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
the first day of January next succeeding its issuance, unless sooner revoked. The person obtaining a license shall pay any applicable license fees to the recorder.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, 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. (1976 Code, § 4-404)

12-406. **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. (1976 Code, § 4-405)

12-407. **Powers and duties of inspector.** (1) The inspector is authorized and directed to enforce all of the provisions of the gas code. Upon presentation of proper credentials, he may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations 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. (1976 Code, § 4-406)

12-408. **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 gas inspector; however,
permits will not be required for setting or connecting other gas appliances, or 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) Except when work in a public street or other public way is involved 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. (1976 Code, § 4-407)

12-409. 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 (6) inches 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 tests shall be furnished by the installer of such piping. (1976 Code, § 4-408)

12-410. 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. (1976 Code, § 4-409)

12-411. Fees. (1) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) shall be one dollar and fifty cents ($1.50) for one to four outlets, inclusive, and fifty cents (50¢) for each outlet above four (4).

(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. (1976 Code, § 4-410)

12-412. Violations and penalties. Section 114 of the gas code is hereby deleted. 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. (1976 Code, § 4-411)

12-413. Nonliability. This chapter shall not be construed as imposing upon the town 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 town, 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. (1976 Code, § 4-412)
CHAPTER 5

HOUSING CODE

SECTION
12-503. Available in recorder's office.
12-504. Violations.

12-501. Housing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of securing the public safety, health, and general welfare through structural strength, stability, sanitation, adequate light, and ventilation in dwellings, apartment houses, rooming houses, and buildings, structures, or premises used as such, the Standard Housing Code, 1 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 housing code. In the event that any matters in said housing code are contrary to any existing ordinances of the Town of Erwin, the housing code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (1976 Code, § 4-501, as amended by Ord. #576, April 1999)

12-502. Modifications. Within said housing code, when reference is made to the duties of a certain official named therein, the designated official of Town of Erwin who has duties corresponding to those of the named official in said housing code shall be deemed to be the responsible official insofar as enforcing the provisions of the housing code are concerned. Section 109 of the housing code is deleted. (1976 Code, § 4-502, as amended by Ord. #576, April 1999)

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, three (3) copies of the housing code have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (1976 Code, § 4-503)

12-504. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the housing code as herein adopted by reference and modified. (1976 Code, § 4-504)

1 Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
CHAPTER 6

AMUSEMENT DEVICE CODE¹

SECTION
12-601. Amusement device code adopted.
12-602. Modifications.

12-601. Amusement device code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 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. In the event that any matters in said amusement device code are contrary to any existing ordinances of the Town of Erwin, the amusement device code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (Ord. #576, April 1999)

12-602. Modifications. Within said amusement device code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said amusement device code shall be deemed to be the responsible official insofar as enforcing the provisions of said amusement device code are concerned. (Ord. #576, April 1999)

¹Municipal 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.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
CHAPTER 7

SWIMMING POOL CODE

SECTION
12-701. Swimming pool code adopted.
12-702. Modifications.

12-701. Swimming pool code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 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,1 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 swimming pool code. In the event that any matters in said swimming pool code are contrary to any existing ordinances of the Town of Erwin, the swimming pool code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (Ord. #576, April 1999)

12-702. Modifications. Within said swimming pool code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said swimming pool code shall be deemed to be the responsible official insofar as enforcing the provisions of said swimming pool code are concerned. (Ord. #576, April 1999)

1Municipal 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.

2Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
CHAPTER 8
UNSAFE BUILDING ABATEMENT CODE

SECTION
12-801. Unsafe building abatement code adopted.
12-802. Modifications.

12-801. Unsafe building abatement code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 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. In the event that any matters in said unsafe building abatement code are contrary to any existing ordinances of the Town of Erwin, the unsafe building abatement code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (Ord. #576, April 1999)

12-802. Modifications. Within said unsafe building abatement code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said unsafe building abatement code shall be deemed to be the responsible official insofar as enforcing the provisions of said unsafe building abatement code are concerned. (Ord. #576, April 1999)

1Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
CHAPTER 9

MECHANICAL CODE\(^1\)

SECTION
12-901. Mechanical code adopted.
12-902. Modifications.

12-901. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the installation of mechanical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and/or appurtenances thereto, including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy-related systems, the Standard Mechanical 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 mechanical code. In the event that any matters in said mechanical code are contrary to any existing ordinances of the Town of Erwin, the mechanical code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (Ord. #576, April 1999)

12-902. Modifications. Within said mechanical code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said mechanical code shall be deemed to be the responsible official insofar as enforcing the provisions of said mechanical code are concerned. (Ord. #576, April 1999)

---

\(^1\)Municipal code references
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

\(^2\)Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
CHAPTER 10

EXISTING BUILDINGS CODE

SECTION
12-1002. Modifications.

12-1001. Existing buildings code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 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. In the event that any matters in said existing buildings code are contrary to any existing ordinances of the Town of Erwin, the existing buildings code shall prevail and any sections or subsections of any existing Town of Erwin ordinances that are inconsistent therewith, are hereby repealed in that respect only. (Ord. #576, April 2000)

12-1002. Modifications. Within said existing buildings code, when reference is made to the duties of a certain official named therein, the designated official of the Town of Erwin who has duties corresponding to those of the named official in said existing buildings code shall be deemed to be the responsible official insofar as enforcing the provisions of said existing buildings code are concerned. (Ord. #576, April 1999)

1Municipal 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.

2Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.
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 town. (1976 Code, § 8-101)

13-102. 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 town and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1976 Code, § 8-104)

13-103. 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

---

1\textsuperscript{Municipal code references}

Littering streets, etc.: § 16-107.
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. (1976 Code, § 8-105)

13-104. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1976 Code, § 8-106)

13-105. 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 and deemed to be a nuisance 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 (1) foot.

When any owner or tenant does not abate such nuisance within a reasonable time after notice thereof, the Town of Erwin, acting through and by its street committee, may abate it. In such event, the cost and expense thereof shall be and stand assessed as a lien against the property involved and shall be immediately due and payable. (1976 Code, § 8-107)

13-106. 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. (1976 Code, § 8-108)

13-107. 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. (1976 Code, § 8-109)

13-108. Junk yards. All junk yards within the corporate limits shall be operated and maintained subject to the following regulations:

---

Municipal code reference
Junked motor vehicles: title 13, chapter 2.
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).
(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 junk yards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be so built as that it will be impossible for stray cats and/or stray dogs to have access to such junk yards.

(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. (1976 Code, § 8-111)
CHAPTER 2

JUNKED MOTOR VEHICLES

SECTION
13-201. Definitions.
13-203. Order to remove.
13-204. Removal by town.
13-205. Exemptions.

13-201. Definitions. A junked motor vehicle is any motor vehicle the condition of which is any one or more of the following:
(1) Wrecked;
(2) Dismantled;
(3) Inoperative;
(4) Abandoned; or
(5) Discarded.

A motor vehicle, for all purposes hereunder, is defined as any vehicle which is self propelled and any device in, upon, or by which any person or property is or may be transported or drawn from one location to another, except devices moved only by human power or used exclusively upon stationary rails or tracks. (1976 Code, § 8-501)

13-202. Presence of junked motor vehicles a public nuisance. The location or presence of any junked motor vehicle on a lot, tract, or parcel of land, or portion thereof, occupied, improved, or unimproved, within the Town of Erwin, Tennessee, shall be deemed a public nuisance, and it shall be unlawful for any person or other legal entity to cause, maintain, or permit such public nuisance by wrecking, dismantling, rendering inoperative, abandoning, or discarding a motor vehicle or vehicles on the property of another, or to suffer, permit or allow the same to be placed, located, maintained, or to exist upon real property belonging to such party. However, this section shall not apply to the following:
(1) Any junked motor vehicle in a completely enclosed building.
(2) Any junked motor vehicle in an appropriate storage place or depository maintained in an officially designated place and manner by the Town of Erwin. (1976 Code, § 8-502)

---

1Municipal code reference
Junk yards: § 13-111.
13-203. Order to remove. Whenever any junked motor vehicle is found within the Town of Erwin in violation of this chapter, the city recorder or the chief of police or his duly authorized representative shall cause the owner or occupant of the premises on which such vehicle is located to be served with an order to remove such vehicle within ten (10) days after service of such order. It shall be unlawful for the owner or occupant of the premises to fail, neglect, or refuse to obey such order within ten (10) days after service of same. (1976 Code, § 8-503)

13-204. Removal by town. If the premises on which a junked motor vehicle is located contrary to this chapter are unoccupied and the owner or agent thereof cannot be found, or by permission of the owner of the premises, the city recorder or the chief of police shall abate such public nuisance by entering upon the property and impounding and taking into custody the motor vehicle in question and disposing of same in accordance with and as authorized by Tennessee Code Annotated, §§ 55-16-101 to 55-16-109, inclusive. Such impoundment and disposition shall not relieve any person or party from liability for penalty upon conviction for violating other provisions of this chapter, but is in addition to any other penalty. (1976 Code, § 8-504)

13-205. Exemptions. The provisions of this chapter shall not apply to the following:

(1) Motor vehicles in operable condition and specifically adapted or constructed for racing or operation on privately owned drag strips or raceways.
(2) Motor vehicles retained by the owner for bona fide antique collection purposes rather than for salvage or transportation.
(3) Motor vehicles stored, with the permission of the property owner, by a member of the armed forces of the United States who is on active duty assignment. (1976 Code, § 8-505)
CHAPTER 3

SLUM CLEARANCE

SECTION

13-301. Findings of board.
13-304. Initiation of proceedings; hearings.
13-305. Orders to owners of unfit structures.
13-306. When public officer may repair, etc.
13-307. When public officer may remove or demolish.
13-308. Lien for expenses; sale of salvage materials; other powers not limited.
13-309. Basis for a finding of unfitness.
13-310. Service of complaints or orders.
13-311. Enjoining enforcement of orders.
13-312. Additional powers of public officer.
13-313. Powers conferred are supplemental.

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

13-302. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the Town of Erwin, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

1State law reference

Tennessee Code Annotated, title 13, chapter 21.
(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.

(7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the city or state relating to health, fire, building regulations, or other activities concerning structures in the city.

(8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101, et seq.

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the town, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector.

13-304. 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 city 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 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.

13-305. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation 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 can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or

(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 (not to exceed fifty percent [50%] of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.

13-306. 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 as specified in the preceding section hereof, 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 dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."

13-307. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.

13-308. 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 assessed against the owner of the property, and shall upon the filing of the notice with the office of the register of deeds of Unicoi County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been
joined in one (1) action shall not be considered by the court as a misjoinder of parties. 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 of Unicoi County 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. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Erwin to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

13-309. **Basis for a finding of unfitness.** The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions 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 or users of neighboring structures or other residents of the Town of Erwin. 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; or uncleanness.

13-310. **Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are 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 a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on 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 Unicoi County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.

13-311. **Enjoining enforcement of orders.** Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.
The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer.

13-312. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structures in the city 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 entry 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 this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate.

13-313. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-314. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.
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 five (5) members; two (2) of these shall be the mayor and an aldermen selected by the board of mayor and aldermen; the other three (3) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the three (3) members appointed by the mayor shall be for three (3) years each. The three (3) members first appointed shall be appointed for terms of one (1), two (2), and three (3) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1976 Code, § 11-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13. (1976 Code, § 11-102)
CHAPTER 2

ZONING ORDINANCE

SECTION
14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the Town of Erwin shall be governed by Ordinance #383, titled "Zoning Ordinance, Erwin, Tennessee," and any amendments thereto.¹

¹Ordinance #383, and any amendments thereto, are published as separate documents and are of record in the office of the recorder.

The town's subdivision regulations are also published as a separate document which is of record in the recorder's office.
CHAPTER 3

MOBILE HOME PARKS

SECTION

14-301. Permit required.
14-302. Definitions.
14-303. General plan requirements.
14-305. Permits.
14-306. Inspection of mobile home parks.
14-308. Responsibilities of the management.

14-301. Permit required. It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of Erwin, Tennessee, unless mobile home parks are a permitted use within the district and a valid permit is issued by the building inspector in the name of such person for the specific construction, alteration or extension proposed. (1976 Code, § 5-601)

14-302. Definitions. (1) "Accessory structure." Any structural addition to the mobile home which includes awnings, cabanas, carports, Florida rooms, porches, storage cabinets, and similar appurtenant structures.
(2) "Buffer strip." Shall mean a plant material or other material as may be approved by the Erwin Planning Commission which will provide a screen not less than six (6) feet in height.
(3) "Building inspector." Shall mean the building inspector of Erwin, Tennessee, or his authorized representative.
(4) "Electrical inspector." Shall mean the electrical inspector of Erwin, Tennessee, or his authorized representative.
(5) "Health officer." Shall mean the health officer of Erwin, Tennessee, or his authorized representative.
(6) "Lot area." The total area reserved for exclusive use of the occupants of a mobile home.
(7) "Lot line." The total area reserved for exclusive use of the occupants of a mobile home.
(8) "Mobile home." A detached single-family unit with all of the following:
(a) Designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.
14-303. **General plan requirements.** The owner or lessee of the property proposed for a mobile home park shall submit a plan for development to the Erwin Planning Commission for approval. All applications shall contain the following:

(1) Name and address of applicant.
(2) Location and dimensions of proposed park.
(3) The park plan, drawn to scale, showing the following:
   (a) The number, location, and size of all mobile home lots.
   (b) The location and widths of roadways and walkways.
   (c) The location of water and sewer lines.
   (d) The location and dimensions of any proposed service buildings.
   (e) The location of all equipment and facilities for refuse disposal and other park improvements.
   (f) A plan for drainage of the park.
   (g) The location and details of lighting and electrical systems.
   (h) A certificate of accuracy signed by the surveyor or engineer that the engineering work is correct.
   (i) Certificates and signatures of the health officer and buildings, housing, electrical, plumbing, and fire inspectors.
   (j) A certificate for planning commission approval.
(k) Any other information deemed pertinent by the planning commission.
When upon review of the application, the planning commission is satisfied that the proposed plan meets the requirements of this chapter, a permit shall be issued.  (1976 Code, § 5-603)

14-304. Development standards.  (1) General.  (a) Location.  A mobile home park shall be located only within a district designated for the use by the zoning ordinance.
(b) Physiography.  Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors, or other adverse influences, and no portion subject to predictable sudden flooding or erosion shall be used for any purpose which would expose persons or property to hazards.
(2) Objectives.  (a) Site planning improvements. Site planning improvements shall provide for facilities and amenities appropriate to the needs of the occupants.
(b) Conditions.  Safe, comfortable, and sanitary use by the occupants under all weather conditions.
(3) Recreation area.  Not less than ten (10) percent of the gross site area shall be devoted to recreational facilities, generally provided in a central location.
(4) Buffer strips.  The planning commission may require buffer strips along the side, rear, and front lot lines of the park.
(5) Density.  The mobile home park shall contain not more than eight (8) individual mobile home spaces per gross acre, provided, however, all other standards are met.
(6) Driveways. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.
(7) Entrance drives. Entrances to mobile home parks shall have direct connections to a public street and shall be designed to allow movement of traffic. No parking shall be permitted on the entrance street for a distance of one hundred (100) feet from its point of beginning. The location and design of entrance streets shall be approved by the planning commission.
(8) Pavement widths. Twenty-eight (28) foot width, or where two off-street parking spaces are provided for each lot.
(a) Entrance drives. Twenty-four (24) foot width where two (2) off-street parking spaces are provided for each lot.
(b) Collector drives. Twenty-four (24) foot width.
(c) Minor drives. Twenty (20) feet.
(d) Loop or cul-de-sac serving 15 lots or less. Twenty (20) feet.
Improvements. All streets shall have at least a double bituminous surface, well drained under normal weather conditions.

Walks. Where walkways are planned or required by the planning commission, they shall be safe, convenient, and shall provide an adequate access for pedestrian traffic.

(a) Common walkways. Shall have a minimum width of three feet.

(b) Individual walkways. Minimum width of two (2) feet.

Service buildings. Shall be of permanent construction, adequately ventilated and lighted, and built in conformity to all city codes and ordinances. All service buildings shall be convenient to the spaces which they solely serve and shall be maintained in a clean and sanitary condition.

Water and sanitary sewers. Connections shall be provided to each mobile home space. Piping and connections shall be as specified and approved by the plumbing inspector.

Landscaping. Any part of the park area not used for building or other structures, parking, or access ways shall be landscaped with grass, trees, and shrubs.

Lighting. The park shall be adequately lighted.

Required setbacks. Each mobile home shall be set back a minimum of thirty (30) feet from any public street and a minimum of fifteen (15) feet from all property lines.

Parking. Each mobile home park shall provide at least one (1) off-street parking space for each mobile home unit plus an additional space for every four (4) mobile home units for guest parking and two (2) car tenants and for delivery and service vehicles. The parking spaces shall be located for convenient access to mobile home units. Insofar as practicable, one (1) car space shall be located on each lot and the remainder located in adjacent parking bays.

Permits. (1) Valid permit. It shall be unlawful for any person to operate a mobile home park within the limits of Erwin, Tennessee, unless he holds a valid permit issued annually by the building inspector. All applications for a permit shall be made to the building inspector, who shall issue a permit upon compliance by the applicant with provisions of this chapter.

(2) Property transfer. Every person holding a permit shall give notice in writing to the building inspector within seventy-two (72) hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park.

(3) Original permit. Application for an original permit shall be in writing and have the approval of the planning commission and shall be accompanied by a permit fee of twenty-five dollars ($25.00). The application shall contain:
14-306. Inspection of mobile home parks. The building inspector is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter. However, an inspection is required prior to the issuance of a renewal permit. (1976 Code, § 5-606)

14-307. Enforcement. (1) Enforcement officer. These regulations shall be enforced by the building inspector.

(2) Violations. Any person or persons who shall willfully neglect or refuse to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined under the general penalty clause for this municipal code of ordinances. (1976 Code, § 5-607)

14-308. Responsibilities of the management. (1) Supervision. The person to whom a mobile home park permit is issued shall provide adequate supervision to maintain the park in compliance with this chapter and to keep its facilities and equipment in good repair and in a clean and sanitary condition.

(2) Notification of duties and responsibilities. The management shall notify the park residents of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter.

(3) Placement of mobile home. The management shall supervise the placement of each mobile home on its mobile home lot which includes securing its stability and installing all utility connections.

(4) Register. The management shall maintain a register containing the names of all park residents identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.

(5) Rental period. No space shall be rented for residential use of a mobile home in any such park except for a period of thirty (30) days or more. (1976 Code, § 5-608)
SECTION
14-401. Location restricted; defined.
14-402. Application and general procedure.
14-403. Preliminary plan.
14-405. Use regulations.
14-406. Height regulations.
14-407. Limitations.
14-408. Approved general plan.
14-409. Permits and licenses.
14-410. Enforcement, violations, and penalties.

14-401. Location restricted; defined. No shopping center shall be developed unless located in a district permitting shopping centers. A shopping center is defined as a group of commercial establishments planned, developed, owned, and managed as a unit, with off-street parking provided on the property. (1976 Code, § 5-701)

14-402. Application and general procedure. The owner or lessee of any tract of land comprising an area of not less than two (2) acres may submit to the board of mayor and aldermen and planning commission a preliminary plan for the use and development of all or part of the tract for the purpose of, and meeting the requirements set forth in, this chapter. This preliminary plan shall be referred to the planning commission for study and recommendation. If the planning commission approves the preliminary plan in accordance with the provisions of § 14-408, which shall then be submitted to the board of mayor and aldermen for consideration and action. The approval and recommendations of the planning commission may be accompanied by a report stating the reasons for approval and that the application meets the requirements of this chapter. (1976 Code, § 5-702)

14-403. Preliminary plan. The preliminary plan submitted shall be drawn to scale and shall show all roads and drainage, existing and proposed, drives and parking areas, building lines enclosing the portion of the tract within which buildings are to be erected, typical groups of buildings which might be erected within the building lines shown, boundaries of tracts, and proposed use of land and buildings. The relation of the project to the street system and the surrounding property and to surrounding use districts shall also be shown. (1976 Code, § 5-703)
14-404. **Minimum standards.** The plan for a shopping center shall meet, as a minimum, the following specifications and requirements:

1. The aggregate of all buildings proposed shall not exceed thirty percent (30%) of the entire lot area of the project. All buildings shall be set back not less than sixty (60) feet from all streets bounding the project area.

2. There shall be customer parking facilities as follows:
   - (a) For recreation or amusement buildings, restaurants, or other establishments serving food or drinks: One (1) parking space for each one hundred (100) square feet of total floor space in the building.
   - (b) Theater or any place of public assembly: One (1) parking space for each six (6) seats.
   - (c) Clinic, or medical or dental offices: Five (5) parking spaces for each professional occupant.
   - (d) Hotel and motel: One (1) parking space for each guest room.
   - (e) Other permitted uses: One (1) parking space for each two hundred (200) square feet of retail floor space in the building.
   - (f) Each mercantile establishment shall provide one (1) space ten (10) by fifty (50) feet, for truck loading and unloading, for each ten thousand (10,000) square feet, or fraction thereof, in the building; provided, however, that a loading space adjacent and accessible to two (2) buildings may be used to serve both buildings if the aggregate area of both does not exceed ten thousand (10,000) square feet.

3. The streets, parking areas, and walks shall be paved with hard surface material meeting applicable specifications of the town engineer.

4. Any part of the project area not used for buildings or other structures, parking, loading, and access ways, shall be landscaped with grass, trees, shrubs, or pedestrian walks.

5. The shopping center buildings shall be designed as a whole unified and single project, or in stages following the approved general plan, as described in § 14-408, and separate building permits may be taken out for separate portions of said property. (1976 Code, § 5-704, as amended by Ord. #424, ____)

14-405. **Use regulations.** A building or premises may be used only for the following purposes:

1. Stores and shops conducting retail business.
2. Personal, business, and professional services.
3. Offices, hotels, motels, and restaurants.
4. Amusements and recreation.
5. Business signs, provided they are erected flat against the front or side wall of a building or within eighteen (18) inches thereof. Such signs shall have no flashing, intermittent, or moving illumination and shall not project above the building, and no sign which faces a dwelling district shall be illuminated.
(6) One (1) detached business sign advertising the shopping center may be erected provided the location, height, size, illumination, and description of such sign has been set forth in the application, approved, and shown on the plan. (1976 Code, § 5-705)

14-406. **Height regulations.** No building shall exceed three (3) stories or thirty-five (35) feet in height, except by permission of the Erwin Planning Commission, provided that this limitation shall not apply to:

1. Chimneys.
2. Cooling towers.
3. Ornamental towers and spires.
4. Radio and television towers, antennae or aerials.
5. Stage towers or scenery lofts.

14-407. **Limitations.** Before recommending approval of a plan within the appropriate district, the planning commission may make reasonable additional requirements concerning, but not limited to, the limitation of uses, landscaping, lighting, signs, and advertising devices, screening or planting, setback and height of buildings, paving and location of drives and parking areas, drainage, and the location of access ways, taking into consideration the character of the surrounding area so as to protect adjoining residentially zoned lots or residential uses, to provide for public safety and prevent traffic congestion. (1976 Code, § 5-707)

14-408. **Approved general plan.** A general plan embodying all additional requirements imposed by the planning commission shall be prepared and submitted by the applicant in the same manner as a plan of a subdivision. This plan, to be known as the approved general plan, shall be drawn to scale and shall show, in addition to requirements set forth in §§ 14-403 and 14-704, the boundaries of the entire district and a certificate by an engineer or surveyor that said boundaries have been surveyed and are correct. In addition, said plan shall bear a form for certificate of approval by the board of mayor and aldermen and a certificate of the owner and trustee of the mortgagee, if any, that they adopt said plan and that the premises are not encumbered by delinquent taxes. After approval by the board of mayor and aldermen, said plans shall be placed on record with the town engineer.

Provided further, that the public health, safety, morals, and general welfare of the city shall be taken into full consideration, by the planning commission, and/or the board of mayor and aldermen in any action coming before it in regard to the matters herein set forth. (1976 Code, § 5-708)

14-409. **Permits and licenses.** The boundaries of the shopping center district shall be established upon approval by the board of mayor and aldermen.
14-11

However, no building permit, use and occupancy permit, nor license to operate a business on the premises, shall be issued until after the approval by the board of mayor and aldermen of the plan for the shopping center or that portion thereof upon which said permit or license is sought. (1976 Code, § 5-709)

14-410. **Enforcement, violations, and penalties.** All things shown on the approved general plan, upon final approval by the board of mayor and aldermen, become part of the zoning regulations of the district, and nothing in conflict therewith shall be done on the premises shown on the plan. Enforcement and penalties for violation shall be as herein provided as to other zoning regulations. (1976 Code, § 5-710)
Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

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, § 55-50-504; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.
15-114. Damaging pavements.
15-118. Projections from rear of vehicles.
15-120. Vehicles and operators to be licensed.
15-121. Passing.
15-122. Motor driven cycles, motorcycles, etc.
15-123. Truck route designated.
15-124. Compliance with financial responsibility law required.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits 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. (1976 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. (1976 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. (1976 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. (1976 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 town 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. (1976 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. (1976 Code, § 9-111)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane or center line 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. (1976 Code, § 9-112)

15-108. Miscellaneous traffic-control signs, etc. 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 town 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. (1976 Code, § 9-113)

15-109. General requirements for traffic-control signs, etc. Pursuant to Tennessee Code Annotated, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, and shall be uniform as to type and location throughout the town. (1976 Code, § 9-114, modified)

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

---

¹For the latest revision of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, et seq.
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. (1976 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 authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1976 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. (1976 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. (1976 Code, § 9-118)

15-114. Damaging pavements. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1976 Code, § 9-119)

15-115. 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. (1976 Code, § 9-120)

15-116. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicles 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. 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. (1976 Code, § 9-121)
15-117. **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. (1976 Code, § 9-122)

15-118. **Projections from 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 (½) hour after sunset and one-half (½) 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 (200) feet from the rear of such vehicle. (1976 Code, § 9-123)

15-119. **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. (1976 Code, § 9-124)

15-120. **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." (1976 Code, § 9-125)

15-121. **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
15-122. Motor driven cycles, motorcycles, etc. (1) A motor driven cycle is any two (2) or three (3) wheel vehicle of no more than five (5) horsepower.

(2) A motorcycle is any two (2) or three (3) wheel vehicle of more than five (5) horsepower.

(3) When riding a motor driven cycle or motorcycle, rider must have crash helmet, lights front and rear, eye protection or windshield, and exhaust muffler, muffler cutouts prohibited. No person shall drive a motor driven cycle or motorcycle on any road, street or highway in the Town of Erwin, other than any U.S. Highway or state road located within the Town of Erwin, unless such cycle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. Any person operating a motor driven cycle or motorcycle on any road, street, or highway in the Town of Erwin, other than any U.S. Highway or state road located within the Town of Erwin, must submit to a yearly inspection (April 1-10) by the Town of Erwin Police Department; and purchase a permit for a fee of two dollars ($2.00). All persons making new purchases are required to obtain a permit within ten (10) days.

(4) All the rules, regulations, and violations governing the operation of motorcycles, motor scooters and motorbikes as contained in Tennessee Code Annotated, title 59, are adopted and ratified in full by the Town of Erwin as to the operation of motorcycles, motor scooters and motorbikes within the Town of Erwin, Tennessee.

(5) Anyone violating any of the provisions of this section shall be guilty of a misdemeanor and shall be subject to a penalty under the general penalty clause for this code of ordinances. Any parent or guardian who permits or suffers his or her child under the age of sixteen (16) years to violate the provisions of this section shall be subject to a fine under the general penalty clause for this code of ordinances. In addition to the liability of the parent or guardian, the delinquent minor shall be guilty of a misdemeanor subject to the jurisdiction of the Juvenile Court of Unicoi County, Tennessee. (1976 Code, § 9-127)

15-123. Truck route designated. The operator of any motor, or self-propelled vehicle using the streets or ways of the Town of Erwin for the purpose of transporting or moving freight or any other commodity through the Town of Erwin, and having a maximum gross weight in excess of 11,250 pounds with or without its load, shall confine the movement of such vehicle to the route, streets, alleys, or thoroughfares selected and designated as a part of the state or federal highway system.

It shall be unlawful for the operator of any self-propelled vehicle, or combination thereof, having a maximum gross weight in excess of 11,250 pounds with or without its load, to operate or move such vehicle, or combination thereof,
upon or over any street or way within the corporate limits of the Town of Erwin, excepting only such streets or ways as are designated as a part of the state or federal highway system. Provided, however, that this section shall not apply to motor vehicles making deliveries of merchandise or commodities consigned to merchants, business houses, or some specific address within the Town of Erwin. (1976 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 Tennessee Financial Responsibility Law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of the Erwin Municipal Code; or at the time of an accident for 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 purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an 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, compiled 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, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, 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 owner's consent.

(4) Civil offense. 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 dollars ($50). 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 Town of Erwin Municipal Code.

(5) Evidence of compliance after violation. On or before the court date, the person charged 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. (Ord. #594, March 2002)
CHAPTER 2

EMERGENCY VEHICLES

SECTION
15-201. Authorized emergency vehicles defined.
15-203. Following emergency vehicles.
15-204. Running over fire hoses, etc.

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. (1976 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 light visible under normal atmospheric conditions from a distance of five hundred (500) feet 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 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. (1976 Code, § 9-103)

1Municipal code reference
15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred (500) feet or drive or park any vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1976 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 fireman or policeman. (1976 Code, § 9-105)
CHAPTER 3

SPEED LIMITS

SECTION
15-301. Citywide speed limits.
15-302. At intersections.
15-304. In congested areas.

15-301. Citywide speed limits. 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, or to operate or drive a motor vehicle upon any alley at a rate of speed in excess of fifteen (15) miles per hour, except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. No alley in the city shall be construed as a through street. (1976 Code, § 9-201, as amended by Ord. #562, Oct. 1996)

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. (1976 Code, § 9-202)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1976 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 town. (1976 Code, § 9-204)
CHAPTER 4

TURNING MOVEMENTS

SECTION
15-402. Right turns.
15-403. Left turns on two-way roadways.
15-404. Left turns on other than two-way roadways.

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. (1976 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. (1976 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 center line thereof and by passing to the right of the intersection of the center lines of the two roadways. (1976 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one 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. (1976 Code, § 9-304)


---

1State law reference
Tennessee Code Annotated, § 55-8-143.
CHAPTER 5

STopping AND YIELDING

SECTION
15-502. When emerging from alleys, etc.
15-503. To prevent obstructing an intersection.
15-504. At railroad crossings.
15-505. At "stop" signs.
15-506. At "yield" signs.
15-507. At traffic-control signals generally.
15-508. At flashing traffic-control signals.
15-509. At pedestrian control signals.
15-510. Stops to be signaled.

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, 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. (1976 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. (1976 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. (1976 Code, § 9-403)

¹Municipal 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 (15) feet 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 fifteen hundred (1500) feet 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. (1976 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. (1976 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. (1976 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 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.
15-15

(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. (1976 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 in the city 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. (1976 Code, § 9-408)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:
   (1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
(2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1976 Code, § 9-409)

15-510. Stops to be signalled. 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. (1976 Code, § 9-410)

¹State law reference
Tennessee Code Annotated, § 55-8-143.
CHAPTER 6

PARKING

SECTION
15-603. Occupancy of more than one space.
15-604. Where prohibited.
15-605. Loading and unloading zones.
15-606. Presumption with respect to illegal parking.

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 town shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the town 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 (18) inches 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 seventy-two (72) 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. (1976 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the town 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 (24) feet. (1976 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 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. (1976 Code, § 9-503)
15-604. **Where prohibited.** No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection or within fifteen (15) feet thereof.
4. Within fifteen (15) feet of a fire hydrant.
5. Within a pedestrian crosswalk.
6. Within fifty (50) feet of a railroad crossing.
7. Within twenty (20) feet 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 (75) feet 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 town.
12. On any street or highway designated by the Town of Erwin to be a fire lane.
13. In any area in a shopping center which has been designated by the Town of Erwin as a fire lane. (1976 Code, § 9-504, as amended by Ord. #441, Aug. 1979, and Ord. #521, Nov. 1989)

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 town as a loading and unloading zone. (1976 Code, § 9-505)

15-606. **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. (1976 Code, § 9-506)
CHAPTER 7

ENFORCEMENT

SECTION
15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Impoundment of vehicles.

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. (1976 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. (1976 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 ten (10) days during the hours and at a place specified in the citation.

The offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of fifteen dollars ($15.00) for illegally parking in a handicap zone or ten dollars ($10.00) for any other illegal parking, provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued his fine shall be twenty dollars ($20.00) for illegally parking

¹State law reference
in a handicap zone or fifteen dollars ($15.00) for any other illegal parking. (1976 Code, § 9-603, as amended by Ord. #488, Nov. 1986)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars ($5.00) and the storage cost shall be one dollar ($1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1976 Code, § 9-604)

TITLE 16

STREETS AND SIDEWALKS, ETC

CHAPTER
1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. HOUSE AND BUSINESS NUMBERING.
4. RAILROADS REGULATED.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. Littering streets, alleys, or sidewalks prohibited.
16-108. Obstruction of drainage ditches.
16-109. Abutting occupants to keep sidewalks clean, etc.
16-110. Parades, etc., regulated.
16-111. Animals and vehicles on sidewalks.
16-112. Use of skateboards, roller skates, etc., on streets, sidewalks, etc.
16-113. Fires in streets, etc.
16-114. Street acceptance policy.

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. (1976 Code, § 12-101)

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 at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1976 Code, § 12-102)

1Municipal code reference
Related motor vehicle and traffic regulations: title 15.
16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful and a nuisance for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. When such property owner or occupant fails to abate such nuisance after reasonable notice and order to do so, the Town of Erwin, acting through and by its street committee, may abate such nuisance, and remove such obstruction. The cost and expense thereof shall be and stand assessed as a lien against the property involved and shall be immediately due and payable. (1976 Code, § 12-103)

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 (1976 Code, § 12-104)

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 after a finding that no hazard will be created by such banner or sign. (1976 Code, § 12-105)

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. (1976 Code, § 12-106)

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. (1976 Code, § 12-107)

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. (1976 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean.

¹Municipal code reference
Building code: title 12, chapter 1.
Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1976 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or 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 clean up the resulting litter immediately. (1976 Code, § 12-110)

16-111. 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 unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1976 Code, § 12-112)

16-112. Use of skateboards, roller skates, etc., on streets, sidewalks, etc. It shall be unlawful to operate skateboards, roller skates, scooters, coasters, bicycles, wagons or other toys of like kind, by whatever name called, upon the streets, sidewalks, avenues and other public places within the central business district (B-3) and the supporting central business district (B-4) of the Town of Erwin, Tennessee, and within that portion of the arterial business district (B-2) of the Town of Erwin, Tennessee, which lies adjacent to North Main Avenue in the Town of Erwin, Tennessee; provided however, it shall not be unlawful to operate bicycles having wheels each of which equals or exceeds twenty (20) inches in diameter, and which meets all other specifications of any applicable laws or ordinances, upon the streets and avenues within said specified districts of the Town of Erwin, Tennessee. (Ord. #504, Jan. 1988)

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. (1976 Code, § 12-114)

16-114. Street acceptance policy. In order to provide for adequate street improvements, elimination of traffic congestion, and the health, safety, and general welfare of the citizens of the Town of Erwin, the board of mayor and aldermen shall not accept as a public street any recorded right-of-way until it has met the minimum standards herein described.

(1) The proposed street shall have a right-of-way width of at least fifty (50) feet unless the requirement would cause undue hardship.
(2) All roadway improvements of proposed streets shall meet the roadway standards as outlined in article IV, section A, subsections a, b, c and d of the Erwin, Tennessee, Subdivision Regulations,\(^1\) said subdivision regulations adopted by the Erwin Planning Commission on November 18, 1968.

(3) Prior to final acceptance of a proposed street as the public street, the Erwin Planning Commission shall study a plat of the proposed street and make its approval or disapproval known to the board of mayor and aldermen. (1976 Code, § 12-115)

\(^1\)Subdivision regulations for the Town of Erwin, Tennessee are of record in the office of the city recorder.
CHAPTER 2

EXCAVATIONS AND CUTS

SECTION
16-201. Permit required.
16-203. Fee.
16-204. Deposit or bond.
16-205. Manner of excavating--barricades and lights--temporary sidewalks.
16-206. Restoration of streets, etc.
16-207. Insurance.
16-208. Time limits.
16-209. Supervision.

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. (1976 Code, § 12-201)

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

---

1State 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. (1976 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars ($2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five (25) feet in length; and twenty-five cents ($.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. (1976 Code, § 12-203)

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 insure 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 said cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town 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 town if the applicant fails to make proper restoration. (1976 Code, § 12-204)

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. (1976 Code, § 12-205)

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 this town shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, 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 town 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 town, 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. (1976 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure 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 $100,000 for each person and $300,000 for each accident, and for property damages not less than $25,000 for any one (1) accident, and a $75,000 aggregate. (1976 Code, § 12-207)

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 town if the town 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. (1976 Code, § 12-208)

16-209. Supervision. The recorder 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 town 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. (1976 Code, § 12-209)

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 (35) feet 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 (10) feet in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1976 Code, § 12-210)
CHAPTER 3
HOUSE AND BUSINESS NUMBERING

SECTION
16-301. City recorder's responsibility.
16-302. Placement of numbers.
16-303. Size of numbers.
16-304. Approval.

16-301. City recorder's responsibility. The city recorder shall be responsible for determining the correct number of properties located within the corporate limits of the Town of Erwin. (Ord. #502, Oct. 1987)

16-302. Placement of numbers. All numbers shall be placed conspicuously above, on, or at the side of the proper door of each building, or each unit of the building which has as outside entrance, so that the number can be plainly seen from the street line. Should the distance from the street line to the door inhibit discernment of numbers placed on the building, then the numbers should be placed upon a gate post, fence post or other appropriate place easily seen from the street line. (Ord. #502, Oct. 1987)

16-303. Size of numbers. All numbers placed on buildings shall be at least three (3) inches high. (Ord. #502, Oct. 1987)

16-304. Approval. No final approval of the remodeling or construction of buildings shall be granted by the city building inspection department or the city recorder until conspicuous numbers have been place thereon. (Ord. #502, Oct. 1987)
SECTION
16-401. Annual information statement required.
16-402. Signal lights at crossings.
16-403. Railroads to provide adequate crossings.
16-404. Lowering of crossing gates.
16-405. Lowering of two crossing gates thereby blocking traffic.
16-406. Blowing whistles or horns.

16-401. Annual information statement required. Any railroad operating within the corporate limits of the Town of Erwin shall submit an annual information form to the town, said form listing the address of the railroad's local office, the railroad's corporate headquarters, telephone numbers of both offices, and the names of contact persons at both offices. This form shall be due within thirty (30) days after being mailed to railroads operating within the town. No fee shall be charged for the filing of this information return. Failure to complete and file the annual information return in a timely manner shall be considered a violation of this chapter. (Ord. #551, Nov. 1995)

16-402. Signal lights at crossings. All railroad crossings of public streets within the town shall be controlled as required by state law. (Ord. #551, Nov. 1995)

16-403. Railroads to provide adequate crossings. It shall be the duty of the railroad companies operating within the town to provide a good and substantial crossing at its intersection with public streets, to the result and effect that motor vehicles may cross the tracks in safety and without damage. It shall be the duty of railroad companies to adequately pave at its own expense any portion of a public street which lies within its railroad right-of-way. (Ord. #551, Nov. 1995)

16-404. Lowering of crossing gates. It shall be unlawful for any railroad company, employee, officer, agent, or servant, to keep the gates at a crossing to be down in such a manner as to prevent or prohibit the use of any street for purposes of vehicular travel for a continuous period of time longer than ten (10) minutes. (Ord. #551, Nov. 1995)

16-405. Lowering of two crossing gates thereby blocking traffic. It shall be unlawful for any railroad company, employee, officer, agent, or servant, to allow the gates at two (2) railroad crossings to be lowered or activated in such
a manner as to hold or "entrap" any vehicle at any time between two (2) sets of railroad crossing tracks. (Ord. #551, Nov. 1995)

16-406. Blowing whistles or horns. It shall be unlawful for any railroad company, employee, officer, agent, or servant, to blow the whistle or horn on an engine, from 10:00 P.M. in the evening until 6:00 A.M. in the morning, within the corporate limits of the Town of Erwin, unless inclement weather or an emergency exists, or unless the use of said whistle or horn is necessary to prevent personal injury, an accident, or the imminent loss of life. (Ord. #551, Nov. 1995)

16-407. Enforcement. When a police or municipal officer observes a violation of this chapter, he or she shall complete a citation form showing the date and time of said violation, and such other pertinent information as may be necessary and shall sign the citation. The citation shall not be issued to any employee of the railroad, but shall be issued to the violating railroad company. The citation shall be mailed to the railroad company's local office (if any), with a copy mailed to the railroad's corporate headquarters shown on the annual information return. The notice shall contain a date and time for the railroad company or its authorized agent or representative to appear and answer the charge. Each violation shall be considered a separate charge. The fine imposed may be up to the maximum permitted by law. (Ord. #551, Nov. 1995)
TITLE 17

REFUSE AND TRASH DISPOSAL

CHAPTER 1

REFUSE

SECTION

17-101. Premises to be kept clean. All persons, firms, and corporations within the corporate limits of the Town of Erwin 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. (1976 Code, § 8-201)

17-102. Definitions. (1) "Ashes." The term "ashes" shall include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

---

1 Municipal code reference
   Property maintenance regulations: title 13.
(2) "Building materials." "Building materials" are defined as materials of any type, kind or description, such as those customarily used in the construction, remodeling or demolition of any dwelling or part thereof, or any outbuilding, such as garages or tool sheds. The terms "refuse," "garbage" and "rubbish" as provided in this chapter shall not include building materials.

(3) "Collector." The term "collector" shall mean any person, firm, or corporation, that collects, transports, or disposes of any refuse within the corporate limits of Erwin.

(4) "Garbage." The term "garbage" shall include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal carcasses of dead animals, but excluding recognizable industrial by-products from all public and private residences and establishments.

(5) "Health officer." The term "health officer" shall mean the health authority of the Town of Erwin or his authorized representative.

(6) "Refuse." The term "refuse," as hereinafter referred to in this chapter, shall include garbage, rubbish, ashes, and all other putrescible and nonputrescible, combustible and noncombustible, materials originating from the preparation, cooking, and consumption of food; market refuse; and waste from the handling and sale of produce and other similar unwanted materials; but shall not include sewage, body wastes, or recognizable industrial by-products from all residences and establishments public and private.

(7) "Rubbish." The term "rubbish" shall include all nonputrescible waste materials except ashes from all public and private residences and establishments. (1976 Code, § 8-202, as amended by Ord. #511, May 1988)

17-103. Accumulation 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 Town of Erwin 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 type approved by the health officer, for the storage of such refuse. Such containers shall be constructed of plastic or metal, be strong and durable, not readily corroducible, rodent and insect-proof, of a capacity not exceeding thirty (30) gallons and not less than ten (10) gallons, except that the maximum capacity shall not apply in cases where the collector 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 the container from collecting water during rains. The lid or cover shall be kept in place at all times except when refuse is being deposited therein or removed therefrom by an official collector. Such storage containers shall be placed in such convenient, accessible location for trucking as may be designated by the official refuse collection agency.
Wet garbage or refuse must be drained of all liquids and wrapped in paper or other equivalent material prior to placing it into the storage receptacle. The 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. (1976 Code, § 8-203)

17-104. Confiscation of unsatisfactory storage containers. The official refuse collecting agency of the town is herein authorized to confiscate or to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when at the discretion of the health officer such containers are not suitable for the unhealthful 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. (1976 Code, § 8-204)

17-105. No refuse to be collected unless properly stored. In no case will it be the responsibility of the refuse collecting agency of the town 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 this chapter or of a type and design which will meet with the approval of the health officer and the requirements of the official refuse collecting agency. (1976 Code, § 8-205)

17-106. Collection of garbage and refuse. (1) 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 container, for any purpose whatsoever, who does not possess a permit to do so from the appropriate authority of the Town of Erwin. 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 upon the violation of any of the terms of this chapter.

(2) 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. Provision shall be made to prevent the scattering of refuse over the streets and thoroughfares by effective coverings or closed truck beds. (1976 Code, § 8-206)

17-107. Disposal of garbage and refuse. The disposal of refuse in any quantity by any individual, householder, establishment, firm, or corporation in any place, public or private, other than at the site or sites designated by the constituted authority of the Town of Erwin is expressly prohibited. All disposal
of refuse and garbage shall be by methods approved by the department of health, and provided that such methods shall include the maximum practical rodent, insect, and nuisance control at the place of disposal, and provided that no garbage shall be fed to swine unless said garbage has first been heated to at least 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 Chapter 94 of the Public Acts of 1953. Provided further that 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. (1976 Code, § 8-207)

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 Town of Erwin. (1976 Code, § 8-208)

17-109. 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 and to require that such violations be corrected within the time specified by the health officer. (1976 Code, § 8-209)

17-110. Additional definitions. The following additional definitions shall apply in the interpretation and application of this chapter:
(1) "Apartment house." A building or buildings where three (3) or more dwellings exist.
(2) "Class I." Retail business--as defined per Business Tax Act of 1971.
(3) "Class II." Persons engaged in making sales--as defined per Business Tax Act of 1971.
(4) "Class III." Barbers, beauty salons, shoe shines, veterinarians--as defined per Business Tax Act of 1971.
(5) "Class IV." Exterminators and contractors" as defined per Business Tax Act of 1971.
(6) "Dwelling." A building designed or used as the permanent living quarters for one (1) or more families.
(7) "Family." One or more persons occupying a premise and living together as a single house-keeping unit.
(8) "Industry." Any industrial or manufacturing business concerned with the production of consumable goods or services.
(9) "Institutions." Any educational, religious, recreational groups, or associations functioning within the corporate limits of Erwin who are not taxable under the Business Tax Act.
(10) "Mobile home park." Any plot of ground containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or intended to be located.

(11) "Professional services." Any professional service such as lawyers, doctors, dentists, insurance, banking, etc., who are not taxable under the Business Tax Act.

(12) "Public utilities." Public utilities operating within the corporate limits of Erwin and not taxable under the Business Tax Act.


17-111. Collection service provided by town. The following solid waste collection service herein stated shall be provided by the town through one or more private contractors:

(1) Dwellings. One weekly service to all dwellings provided said dwellings' solid waste is stored in heavy-duty bags provided by the contractors.

(2) Apartment houses. One containerized service per week in the event the solid waste generated exceeds _______ cubic yards per week. As deemed necessary by the board of mayor and aldermen.

(3) Mobile home parks. One containerized service per week in the event the solid waste generated exceeds _______ cubic yards per week or as deemed necessary by the board of mayor and aldermen.

(4) Class I. One containerized service per week except for high volume food stores as deemed high volume by the board of mayor and aldermen, and then up to five (5) containerized services would be applicable.

(5) Class II. Two containerized services weekly per _______ cubic yard container and further providing for the grouping of Class II business in the central business district as recommended and approved by the board of mayor and aldermen.

(6) Class III. One containerized service per week when solid waste generated exceeds the capacity of three (3) thirty-two (32) gallon heavy-duty bags and/or is deemed necessary by the board of mayor and aldermen, except, however, where consumable food service is involved, then there shall be up to five (5) services as deemed necessary by the board of mayor and aldermen, and/or the public health officer.

(7) Class IV. One containerized service per week as deemed necessary by the board of mayor and aldermen.


(9) Professional service. No service, however the sharing of containers with Classes I, II, III, and IV is permissible with the approval of the board of mayor and aldermen.

(10) Institutions. No service.

(11) Industry. No service.
17-112. Placement of containers. It shall be the responsibility of each business, apartment house, or mobile home park to provide the containers in such size as deemed necessary by the board of mayor and aldermen. Further, the purchase and or lease of the container specified shall be from the contractor and adaptable to his mechanical system. Further, the geographic location of these containers shall be as deemed necessary by the board of mayor and aldermen to insure a highly mechanized and functional system. (1976 Code, § 8-212)

17-113. Trespassing on dumpsters. (1) All garbage disposal dumpsters located within the Town of Erwin are hereby set aside as depositories for garbage, refuse, etc., which accumulates from businesses being operated within said town.

(2) All residents of the Town of Erwin are hereby prohibited from using dumpsters located within the town limits of the town as depositories for garbage, refuse, etc., which accumulates on the premises where they reside.

(3) All persons residing and/or operating businesses outside the town limits of Erwin, Tennessee, are hereby prohibited from using dumpsters located within the town limits of the town as depositories for garbage or refuse of any kind. (1976 Code, § 8-213)

17-114. Burning regulated. It shall be unlawful for any person, firm, or corporation to burn upon any lot or parcel of land any paper, rags, rubber, or any other refuse or garbage, by whatever name called, nearer than one hundred fifty (150) feet to any business building.

However, this section shall not apply where such paper, rags, rubber, or other refuse or garbage is burned in wire baskets or wire retainers so as to prevent the scattering of same. (1976 Code, § 8-214)

17-115. Collection service provided by the town for building materials. The following regulations apply to the collection of building materials by the town:

(1) No building materials created by the work of a contractor under a contract or other work arrangement with the property owner and/or occupant will be collected. It is the responsibility of the property owner and/or occupant to contract with his or her contractor or with another individual for the removal of any such building materials.

(2) No building materials will be collected from any property unless and until the proper building permits are obtained and paid for by the property owner or occupant.

(3) Only those building materials which are properly containerized in cans as provided in this chapter or in strong cardboard boxes each having a
maximum weight of fifty (50) pounds and a maximum length of four (4) feet shall be collected.

(4) In no event will the town pick-up roofing materials or shingles, aluminum or board siding, wire fencing, plywood or other types of sheeting, or any other material unless properly containerized as provided herein, and at no time will the town pick-up anything that has to be shoveled from the ground. (Ord. #511, May 1988)
TITLE 18

WATER AND SEWERS¹

CHAPTER
1. SEWAGE AND HUMAN EXCRETA DISPOSAL.
2. WATER DEPARTMENT RULES AND REGULATIONS.
3. SEWER REGULATIONS.
4. PRETREATMENT REGULATIONS.
5. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL

SECTION
18-102. Places required to have sanitary disposal methods.
18-103. When a connection to the public sewer is required.
18-104. When a septic tank shall be used.
18-105. Registration and records of septic tank cleaners, etc.
18-106. Use of pit privy or other method of disposal.
18-107. Approval and permit required for septic tanks, privies, etc.
18-108. Owner to provide disposal facilities.
18-109. Occupant to maintain disposal facilities.
18-110. Only specified methods of disposal to be used.
18-111. Discharge into watercourses restricted.
18-112. Pollution of ground water prohibited.
18-113. Enforcement of chapter.
18-114. Carnivals, circuses, etc.
18-115. Violations.

18-101. 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 one hundred (100)

¹Municipal code references
   Board of public utilities: title 2, chapter 1.
   Building, utility and housing codes: title 12.
   Plumbing code: title 12, chapter 2.
   Refuse disposal: title 17.
feet of any boundary of said property measured along the shortest available right-of-way;

(2) "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 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 Environment and Conservation as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. 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 (5) feet. 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;

(3) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent;

(4) "Human excreta." The bowel and kidney discharges of human beings;

(5) "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;

(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) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments;

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1976 Code, § 8-301)

18-102. 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. (1976 Code, § 8-302)

18-103. 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 premise accessible to the sewer no other method of sewage disposal shall be employed. (1976 Code, § 8-303)

18-104. 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. (1976 Code, § 8-304)

18-105. 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. (1976 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1976 Code, § 8-306)

18-107. 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. (1976 Code, § 8-307)

18-108. 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 § 18-102, or the agent of the owner to provide such facilities. (1976 Code, § 8-308)

18-109. 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.  (1976 Code, § 8-309)

18-110. 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.  (1976 Code, § 8-310)

18-111. 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.  (1976 Code, § 8-311)

18-112. Pollution of ground water 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 ground water.  (1976 Code, § 8-312)

18-113. 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 insure 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 forty-five (45) 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.  Failure to remove such menace immediately shall be punishable under the general penalty clause for this code.  However, such person shall be allowed the number of days herein provided within which to make permanent correction.  (1976 Code, § 8-313)

18-114. 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 forty-five (45) days provided for in the preceding section.  (1976 Code, § 8-314)
18-115. 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. (1976 Code, § 8-315)
CHAPTER 2
WATER DEPARTMENT RULES AND REGULATIONS

SECTION
18-201. Definitions.
18-203. Application and contract for service.
18-204. Deposits.
18-205. Service charges for temporary service.
18-206. Tapping main and making service connections.
18-207. Meters.
18-208. Meter tests.
18-209. Charges for water service.
18-211. Adjustment of billing.
18-212. Water turned on by customer.
18-213. Discontinuance of service, refusal to connect service.
18-214. Termination of service by customer.
18-216. Reconnection charge.
18-218. Right of access.
18-220. Customer's piping and fixtures--standards.
18-221. Inspectors.
18-222. Notice of trouble.
18-223. Customers not to supply water to others.
18-224. Restricted use of water.
18-225. Multiple services through one meter.
18-226. Standby and resale service.
18-227. Service charges for temporary service.
18-228. Water for construction purposes.
18-229. Charges for sprinkler systems.
18-230. Private fire lines and fire hydrants.
18-231. Water taken from fire hydrants for purposes other than fire fighting.
18-232. Limited use of unmetered private fire lines.
18-234. Interruption of service.
18-235. Damage to property due to water pressure.

1Municipal code reference
   Erwin Board of Public Utilities: title 2, chapter 1.
18-201. Definitions. (1) "Billing period" Bills will be rendered monthly and shall be paid within ten (10) days from date of the bill at the office of the distributor. Water bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date. In the event bills are not paid on or before the discount date, service may be discontinued without notice to the customer and not again resumed until all bills are paid, and the distributor shall not be liable for damages on account of discontinuing service at any time after the discount date, even though payment of such bills may be made on the same day either before or after service is actually discontinued.

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 distributor reserves the right to render an estimated bill based on the best information available.

(2) "Board" means the Erwin Board of Public Utilities and shall include the Town of Erwin, where the context so admits or requires.

(3) "Customer" means any person who receives water service from the distributor under either an express or implied contract requiring such person to pay the distributor for such service.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is expressly required by the rules, regulations, and rate schedules, or by an agreement approved by the distributor. The discount date is the last date upon which water bills can be paid at net rates. Should the final date of payment of a bill at the net rate fall on a Sunday or a holiday, the business day next following the final date will be held as the last day to obtain the net rate. Net remittances received by mail after the time limit for payment of said net rates will be accepted by the distributor if the incoming envelope bears a United States Post Office date stamp of the final date for payment of the net amount, or any date prior thereto.

No customer shall be entitled to pay any bill at the net rate while such customer is delinquent in the payment of any obligation owed the distributor by such customer.

(5) "Distributor" means the Erwin Board of Public Utilities and its duly authorized officers and agents.

(6) "Dwelling" means any single residential unit or house occupied for residential purposes. Each separate apartment unit, duplex unit or other multiple dwelling unit shall be considered a separate dwelling.
"Household" means any two or more persons living together as a family group.

"Hydrant rental fee" shall mean the term applied to the annual or monthly charges made for fire protection provided by fire hydrants owned and maintained by the distributor for the use of the Town of Erwin, firms, corporations, or individuals.

"Main" designates the water lines of the distributor of all sizes, with service lines excluded, laid in or on the public streets or highways, alleys, or on easements acquired by the distributor for the Town of Erwin for the installation of the distributor's water lines on, under, over, across or through private property.

"Person" includes firms and corporations, as well as individuals.

"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 dwelling.

"Rules and regulations," as used herein, shall include addenda, attachments, supplements, and interpretations adopted from time to time by the board.

"Service line" shall consist of the installed pipe line, meter box, and meter, extending from any water main of the distributor 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 distributor's water main, to and including the meter and meter box.

"Tapping fee" shall designate the charge made by the distributor to a customer or prospective customer for the tap of the main and the installation of the service line. The "tapping fee" so collected is a contribution in aid of construction, and the customer acquires no legal title to nor equity in the facilities installed by reason of the payment therefor.

Where the context shall admit or require, words used herein in the singular shall include the plural, words used in the plural shall include the singular, words used in the masculine shall include the feminine, and words used in the feminine shall include the masculine. (1976 Code, § 13-201, modified)

18-202. Obtaining service. A formal application for either original or additional water service must be made at the office of the distributor or with a duly appointed employee of the distributor and be duly approved before connection or meter installation orders will be issued and work performed. (1976 Code, § 13-202)

18-203. Application and contract for service. (1) Each prospective customer desiring water service will be required to sign the distributor's standard form of contract before service is supplied.
(2) Customers requiring the installation of special equipment by the distributor may be required to sign a form of contract guaranteeing a minimum charge for such period of time as may be agreed upon between the distributor and the customer.

(3) If, for any reason, customer, after signing a contract for water service, does not take the service by reason of not occupying the premises or otherwise, he shall reimburse the distributor for the expense incurred by reason of its endeavor to furnish said service.

(4) The receipt by the distributor of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the distributor to render the service applied for. If the service applied for cannot be supplied in accordance with the distributor's rules, regulations, and general practice, the liability of the board to the applicant for such service shall be limited to the return of any deposit made with the distributor by such applicant.

(5) When an application is made for service to premises concerning which the distributor knows there is a dispute as to the ownership or the right of occupancy, and one or more of the claimants attempts to prevent such service being furnished, the distributor reserves the right to either one (1) of the following two (2) alternative courses:

(a) To treat the applicant in actual possession of the premises to be served as being entitled to such service, irrespective of the rights or claims of other persons.

(b) To withhold service, pending a judicial or other settlement of the rights of the various claimants. (1976 Code, § 13-203)

18-204. Deposits. The customer, when called upon by the distributor, shall deposit with it such reasonable sums of money as may be required by the distributor as continuing security for the performance of the obligations contracted for by the customer and failure to make such deposit upon demand of the distributor will give the distributor the right to declare the contract forfeited and to refuse or to discontinue service.

Upon termination of the service, the deposit may be applied by the distributor against any obligations of the customer to the distributor, regardless of whether such obligations arose in connection with water service or otherwise. Any part of the deposit which is not so applied will be refunded to the customer, upon demand.

No deposit shall be transferable or assignable by a customer. No interest will be paid on deposits held by the distributor. (1976 Code, § 13-204)

18-205. Service charges for temporary service. Customers requiring temporary service may be required to pay all costs as determined by the distributor for connections and disconnections incidental to the supplying and removing of service in addition to the regular charge for water used. This rule
applies to circuses, carnivals, fairs, temporary construction, and other temporary requirements. (1976 Code, § 13-205)

18-206. Tapping main and making service connections. (1) Service lines will be laid by the distributor from the water main to the property line at the expense of the applicant for service in keeping with the schedule in subsection (2) below. The location of such lines will be determined by the distributor.

The owner or consumer will install all pipes and fixtures on his side of the property line and keep same in good repair at his expense.

In the case of new installations, if within the corporate limits of Erwin, all such piping and fixtures shall be installed in accordance with the applicable requirements and specifications of the plumbing code.

(2) Tapping fees for service connections, both inside and outside the corporate limits of the town:

A new service line sized to carry the projected peak demand for water without excessive pressure loss will be laid by the distributor only upon receipt of the tapping fee based on the service line size as follows:

<table>
<thead>
<tr>
<th>Service Line Size (inches)</th>
<th>Inside Corporate Limits</th>
<th>Outside Corporate Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>¾</td>
<td>$300.00</td>
<td>$450.00</td>
</tr>
<tr>
<td>1</td>
<td>450.00</td>
<td>675.00</td>
</tr>
<tr>
<td>1 ½</td>
<td>1,000.00</td>
<td>1,500.00</td>
</tr>
<tr>
<td>2</td>
<td>1,200.00</td>
<td>1,800.00</td>
</tr>
<tr>
<td>3</td>
<td>4,000.00</td>
<td>6,000.00</td>
</tr>
<tr>
<td>4</td>
<td>6,600.00</td>
<td>9,900.00</td>
</tr>
<tr>
<td>6</td>
<td>8,600.00</td>
<td>12,900.00</td>
</tr>
</tbody>
</table>

When any service line indicated above is completed, the distributor shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the distributor. The remaining portion of the service line beyond the meter and meter box (even though such remaining portion is not located within the customer's property line) shall belong to and be the responsibility of the customer. Notwithstanding anything elsewhere herein provided, the distributor shall not be responsible for the maintenance and up-keep of any service line located within the property line of the customer, even though the distributor's meter and meter box are located within said property line. (Ord. #525, May 1990)
18-207. Meters. All meters used for billing purposes by the distributor shall be furnished, owned, and maintained by the distributor as shall the meter installations and meter boxes in which the distributor's meters are located.

No one shall do anything which will in any way interfere with or prevent the proper registration of a meter. No one shall tamper with or work on a water meter without the written permission of the distributor. No one shall install any pipe or other device which will cause water to pass through a line or meter without such water being registered fully by the meter.

Each customer will be supplied through a separate meter. In most cases where a building under one ownership has a number of apartments, businesses, or offices under one roof and the owner of such building desires that the distributor deal directly with the individual tenants, the distributor will install for each tenant a separate meter, provided the owner of the building lays to the property line at the location selected by the distributor a service line for each individual tenant. It is the purpose of the above provisions of the rules and regulations that each regular tenant in such building shall be a customer and shall be subject to all the applicable rules and regulations and schedule of rates and charges.

Meters and meter installations must be accessible at all times and not covered with rubbish and/or material of any kind. No one other than an authorized agent of the distributor shall be permitted to repair, adjust, remove, or replace any meter or any part thereof.

The customer shall be responsible for damage to the meter and meter installation through which he is served if such damage is caused by carelessness or negligence of the customer or his agent or employee, or any member of his family. Such customer shall be billed for actual costs of repairs or replacements, and such bills shall be paid within ten (10) days from the date of mailing thereof. Failure to pay for damage to a meter or meter installation as outlined above within a reasonable time may be taken as grounds for discontinuing water service by the distributor.

The distributor may discontinue furnishing water to any customer who refuses permission for the distributor to remove a meter from his premises. (1976 Code, § 13-207)

18-208. Meter tests. The distributor will, at its own expense, make periodical tests and inspections of its meters in order to maintain high standards of accuracy. Meters shall be deemed to be accurate when registering within four (4) percent of one hundred (100) percent accuracy.

When a customer requests an additional meter test, within a period of twenty-four (24) months after previous tests by the distributor which showed the meter to be accurate, the customer shall pay for such tests if the tests show that the meter does not register more than two (2) percent fast or two (2) percent slow. In case the test shows the meter to register in excess of two (2) percent, fast or slow, appropriate adjustments will be made by the distributor.
The charges to customers for meter tests under this section shall be those given below:

**METER TEST CHARGES**

<table>
<thead>
<tr>
<th>Meter Size</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/8 inch</td>
<td>$2.00</td>
</tr>
<tr>
<td>3/4 inch</td>
<td>2.00</td>
</tr>
<tr>
<td>1 inch</td>
<td>3.00</td>
</tr>
<tr>
<td>2 inch</td>
<td>5.00</td>
</tr>
<tr>
<td>Larger than 2</td>
<td>12.00</td>
</tr>
</tbody>
</table>

These charges do not apply to inspections of meters and meter installations, the checking and verification of meter readings, etc., made at the customer's request and carried out while the meters are being maintained in actual service. (1976 Code, § 13-208)

18-209. **Charges for water service.** Charges for water service shall be established by the board of public utilities (board) based on the following criteria:

1. Charges for water service shall be billed on a monthly basis.
2. Customers outside the corporate limits of the Town of Erwin, except utility districts, shall pay 1 ½ times the cost for water service inside the corporate limits.
3. Utility districts shall pay 1 ½ times the cost for water service inside the corporate limits.
4. Charges shall be divided into two (2) parts: A fee to cover the operation and maintenance (including replacement) costs and a fee to cover capital expenditures and debt services.
   a. The fee for operation and maintenance (including replacement) shall be subdivided into two (2) parts: A fixed charge and a variable charge.
      i. The fixed charge shall be calculated based on the annual customer billing costs and the number of water customer units, to be assessed on a monthly basis per customer unit. There shall be one customer unit for each residential, commercial, industrial, or institutional unit receiving water service either through a single or multiple service meter.
      ii. The variable charge shall be calculated based on the total volume of water used annually by all water customers and the total annual operating and maintenance (including replacement) costs, less the annual customer billing costs incurred
by the board, to be assessed on the basis of water used per one thousand (1,000) gallons.

(b) The monthly fee to cover capital expenditures and debt service shall be a variable charge calculated based on the total volume of water used annually by all water customers and the total annual capital expenditures plus the annual debt service requirement incurred by the board, to be assessed on the basis of water used per one thousand (1,000) gallons.

(5) The fixed monthly charge shall be referred to as the "customer charge," and the sum of the variable monthly charges shall be referred to as the "user charge."

(6) For fiscal year ending June 30, 1989, the monthly charges are:

<table>
<thead>
<tr>
<th>Inside Corporate Limit</th>
<th>Outside Corporate Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer* Charge</td>
<td>$2.78 per month</td>
</tr>
<tr>
<td></td>
<td>$4.17 per month</td>
</tr>
<tr>
<td>User Charge</td>
<td>$0.54 per 1,000 gallons</td>
</tr>
<tr>
<td></td>
<td>$0.81 per 1,000 gallons</td>
</tr>
</tbody>
</table>

*All customers shall pay one customer charge per month per water meter, except where a single meter serves more than one residential, commercial, industrial, or institutional customer unit, in which case, the customer shall pay one (1) customer charge per month for each customer unit.

(7) The customer's monthly bill shall be calculated as follows:

\[
\text{Monthly Bill} = \text{Customer Charge} \times \text{Number of Customer Units} + \text{User Charge} \times \text{Water Used in 1,000 Gallons}
\]

(8) The board shall review every year the total water usage, the total cost of operation and maintenance (including replacement), and the total capital expenditures and debt service requirements of the water system. Based on this review, the board shall revise the charges for water service to accomplish the following:

(a) Maintain a proportionate distribution of operation and maintenance costs among customers of the same class;

(b) Generate sufficient revenue to pay all capital expenditures, debt service requirements, to pay the total operation and maintenance costs (including minor replacements) of the water system, and to maintain a reasonable reserve fund, not to exceed $500,000;

(c) Apply excess revenues collected to adjust future rates accordingly.
(9) The board will publish at least annually in the local newspaper the rates attributable to the operation and maintenance and those attributable to other costs.

(10) Due date for payment of bills will be not less than fifteen (15) days after the day the bill is mailed to the customer.

(11) Payments made after the due date will be subject to a late payment charge. The late payment charge will be computed as a charge of five (5) percent on the first two hundred fifty dollars ($250.00) of the unpaid portion of the water bill, plus one (1) percent of the unpaid portion exceeding two hundred fifty dollars ($250.00), excluding other charges and sales tax.

(12) Should the due date of the bill fall on Saturday, Sunday, or a holiday for Erwin Utilities' employees, the business day next following the due date will be held as a day of grace for delivery of payment.

(13) Remittances received by mail will not be subject to a late charge provided the postmark on the envelope is no later than the due date.

(14) Size and location of connection will be at the discretion of the distributor.

(15) Standard water service shall be served through a 5/8" x 3/4" meter with a minimum bill equal to the customer charge.

(16) Customers requiring service through larger than a 5/8" x 3/4" meter shall make application in writing therefor, and shall pay not less than the following minimum monthly bills:

<table>
<thead>
<tr>
<th>Size</th>
<th>Inside</th>
<th>Outside</th>
</tr>
</thead>
<tbody>
<tr>
<td>¾&quot; Meter</td>
<td>$3.25</td>
<td>$4.88</td>
</tr>
<tr>
<td>1&quot; Meter</td>
<td>5.00</td>
<td>7.50</td>
</tr>
<tr>
<td>1 ½&quot; Meter</td>
<td>10.00</td>
<td>15.00</td>
</tr>
<tr>
<td>2&quot; Meter</td>
<td>12.00</td>
<td>18.00</td>
</tr>
<tr>
<td>3&quot; Meter</td>
<td>25.00</td>
<td>37.50</td>
</tr>
<tr>
<td>4&quot; Meter</td>
<td>50.00</td>
<td>75.00</td>
</tr>
<tr>
<td>6&quot; Meter</td>
<td>100.00</td>
<td>150.00</td>
</tr>
</tbody>
</table>

The above minimum charges shall be reviewed by the board from time to time and shall be adjusted, either up or down, if deemed necessary by the board.

(17) Facility charge for Town of Erwin fire hydrants shall be four dollars and fifty eight cents ($4.58) per hydrant per month.

(18) All water service shall be subject to the rules and regulations of the board. (Ord. #514, Aug. 1988)

18-210. Bills for water service. Bills for water service must be paid on or before the discount date shown thereon to obtain the net rate, otherwise, the gross rate shall apply. Failure to receive a bill will not relieve a customer from payment obligations, nor extend the discount date.
In the event bills are not paid by the discount date, service may be discontinued without notice to the customer and not again resumed until all bills are paid, and the distributor shall not be liable for any damages on account of discontinuance of service any time after the discount date, even though payment of such bills is made on the same day either before or after the service is actually discontinued.

Should the date for final payment of a bill at the net rate fall on a Sunday or a holiday, the business day next following the final date will be held as the last day to obtain the net rate. Net remittances received by mail after the time limit of said net rate will be accepted by the distributor if the incoming envelope bears the United States Post Office date stamp of the final date of payment of the net amount or any date prior thereto.

No customer shall be entitled to pay any bill at the net rate while such customer is delinquent in the payment of any obligations owed the distributor by such customer.

If a meter fails to register properly, or if the meter is removed to be tested and repaired, or if water is received other than through a meter, the distributor reserves the right to render and collect an estimated bill based on the best information available. (1976 Code, § 13-210)

18-211. Adjustment of billing. The distributor may at its option make adjustments in water bills where excessive billing is directly traceable to hidden leaks, with the adjustment being made on the basis of the distributor absorbing, or writing off, no more than one-half (½) of the overage directly traceable to such hidden leaks with the customer paying the normal billing plus at least one-half (½) of the overage traceable to such hidden leaks. Hidden leaks are herein defined as those leaks which the customer could not have reasonably been expected to find until a bill for excessive consumption indicated the presence of such leaks. Leaks in interior plumbing, leaking or dripping faucets, leaking or dripping yard hydrants, leaks in commodes, or other loss through failure of customer to provide cut-off, water lost due to frozen pipes and water used to keep pipes from freezing are specifically sited as examples of leaks which will not be termed as "hidden leaks" for the purpose of this section. No adjustment in billing shall be made where premises are vacated without a notice to discontinue service having been given to the distributor. (1976 Code, § 13-211)

18-212. Water turned on by customer. If the distributor discontinues water service for non-payment of a bill, or for any other reason, and the water is turned on without authority of the distributor, the distributor shall have the right to discontinue service, remove the meter and charge a fee of five dollars ($5.00) for reinstalling or reconnecting the meter. The distributor will not be required to again furnish service until all charges against the customer or owner, as the case may be, have been fully paid. (1976 Code, § 13-212)
18-213. Discontinuance of service, refusal to connect service. The distributor shall have the right to discontinue service or to refuse to connect service for a violation or a failure to comply with any provisions of these rules and regulations and the applicable schedule of rates and charges. Such right to discontinue service shall apply to all service received through a single service, even though more than one customer or tenant is furnished therefrom, and even though a delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the distributor for any cause stated in these rules and regulations shall not release the customer from liability for payment for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's contract.

The distributor shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, company, or firm to which such service is to be furnished is in default on the payment of any obligations to the distributor or has previously had his service discontinued because of a violation of the rules and regulations of the distributor.

If the distributor shall, for any reason, begin to render service to an applicant to whom the distributor has a good and valid reason for refusing to render such service, the distributor shall have the right to discontinue such service at any time within one (1) year after such service has begun, even though such customer does nothing to justify the discontinuance of service during the time such service is being rendered. (1976 Code, § 13-213)

18-214. Termination of service by customer. Under no circumstances will the continuance or discontinuance of water be used as a means of forcing an occupant of any premises to surrender possession thereof.

Where water service is being furnished to an occupant of the premises under a contract not in the occupant's name, the distributor reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

Written notice of the customer's desire for such service to be discontinued may be required; and the distributor shall have the right to continue such service for a period not to exceed ten (10) days after receipt of such written notice, during which time the customer will be responsible to the distributor for all charges for such service. If the distributor should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible to the distributor for charges for any service further furnished after the expiration of such ten (10) day period. (1976 Code, § 13-214)

18-215. Temporary discontinuance of service for exclusive benefit of customer. The customer shall pay all costs for discontinuance of service, for temporary repairs, and for other purposes for the customer's exclusive benefit,
with the minimum charge for such discontinuance being two dollars ($2.00) per call. (1976 Code, § 13-215)

18-216. Reconnection charge. Whenever service has been discontinued as provided for above, or for non-payment of bills, a reconnection charge of not less than two dollars ($2.00) may be collected by the distributor before service is restored. (1976 Code, § 13-216)

18-217. Liability for cut-off failure. (1) The distributor's liability shall be limited to the forfeiture of the right to charge the customer for water that is not used but is received from a service connection under any of the following circumstances:
   (a) After receipt of at least ten (10) days written notice to discontinue the water service, the distributor has failed to discontinue such service.
   (b) The distributor has attempted to discontinue service but such service has not been completely cut off.
   (c) The distributor has completely cut off service, but subsequently the cut-off develops a leak or is turned on again by representatives of the distributor so that water enters the customer's pipes from the distributor's mains.
(2) Except to the extent stated above, the distributor shall not be liable for any loss or damage resulting from cut-off failures. If a customer wishes to avoid possible damage for cut-off failures, the customer shall rely exclusively on privately-owned cut-offs and not on the distributor's cut-offs. Also the customer (and not the distributor) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1976 Code, § 13-217)

18-218. Right of access. The distributor's properly identified employees and agents shall have access to customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing, and changing any or all equipment belonging to the distributor. (1976 Code, § 13-218)

18-219. Customer's responsibility for distributor's property. All meters, service connections, and other equipment furnished and maintained by the distributor shall be, and remain, the property of the distributor. Customers shall exercise proper care to protect the property of the distributor on its premises and in the event of loss or damage to distributor's property, arising from the failure of the customer to take proper care of the same, the cost of necessary repairs or replacements shall be paid by the customer. (1976 Code, § 13-219)
18-220. Customer's piping and fixtures--standards. All water piping beyond the meter shall be installed and maintained at the expense of the customer. In the case of new installations, if within the corporate limits of Erwin, all such piping fixtures shall be installed in accordance with the applicable requirements and specifications of the plumbing code.

By furnishing service to a customer, the distributor assumes no responsibility for seeing that the customer's piping and/or plumbing fixtures comply with the requirements set forth herein. (1976 Code, § 13-220)

18-221. Inspectors. The distributor shall have the right, but shall not be obligated, to inspect any installation before water is introduced at a later time. The distributor reserves the right to refuse service or discontinue service to any piping or plumbing installations not in accordance with the ordinances of the Town of Erwin, or which are not in accordance with special contracts, or these rules and regulations, or other requirements of the distributor; but any failure to exercise this right shall not render the distributor liable or responsible for any loss or damage resulting from defects in installations or piping or plumbing fixtures or from violation of the plumbing code, town ordinances, or the provisions of any special contract or from accidents which may occur on the customer's premises.

The distributor shall not be obligated to connect and render water service to new buildings or to buildings or premises not now approved for water service until such time as a certificate of approval has been rendered by the town inspector charged with the duty of issuing such a certificate if the premises are located within the corporate limits. (1976 Code, § 13-221)

18-222. Notice of trouble. Customers shall notify the distributor immediately should the water service be unsatisfactory for any reason, or should there be any defects, trouble, or accidents affecting the supply of water. Such notices, if verbal, should be confirmed by writing. (1976 Code, § 13-222)

18-223. Customers not to supply water to others. Customers shall not supply water, or allow water to be carried or run through a hose or pipe, or otherwise, to any premises other than that described in the application, agreement, or contract, without first having received written permission from the distributor. (1976 Code, § 13-223)

18-224. Restricted use of water. In times of emergency, or in times of water shortage, the distributor reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which the customer may use during such periods. (1976 Code, § 13-224)

18-225. Multiple services through one meter. Residences, commercial, or industrial establishments, where more than one (1) household, commercial,
or industrial establishment uses water through a single meter, will be charged
in accordance with the schedule set forth in § 18-209 of this code. (1976 Code,
§ 13-225, modified)

18-226. Standby and resale service. All purchased water used on the
premises of the customer shall be supplied by the distributor and the customer
shall not directly or indirectly sell, sublet, assign, or otherwise dispose of the
water so purchased. Customers shall not supply water, nor allow water to be
carried or run through a hose or pipe to any premises other than that described
in the application, agreement, or contract, without first having received written
permission from the distributor. (1976 Code, § 13-226)

18-227. Service charges for temporary service. Customers requiring
temporary service may be required to pay all costs as determined by the
distributor for connection and disconnection of facilities incidental to the
supplying of service in addition to the regular charge for water used. This rule
applies to circuses, carnivals, fairs, trailers, temporary construction and other
applications requiring temporary service. (1976 Code, § 13-227)

18-228. Water for construction purposes. The distributor may issue
permits for the use of water for building or construction purposes or for other
temporary purposes, provided the applicant pays for tapping the main and
installing the necessary facilities and complies with all other requirements of
the distributor.

The distributor may, in exceptional cases, issue permits for the use of
unmetered water for building, construction, or other temporary purposes
provided all other requirements of the distributor are met with the exception of
the condition that water purchases must be metered. In such exceptional cases
of unmetered water service the water so used must be discharged from a hose
or pipe directly into the mortar beds or barrels and under no circumstances shall
it be discharged upon the ground or into or through a ditch, or trench, or into the
gutter. In case of such temporary connections, the hose connection through
which the water is taken must be properly protected and in no case must the
distributor's curb cock be used for controlling the flow of water. (1976 Code,
§ 13-228)

18-229. Charges for sprinkler systems. Facilities installed for providing
water for sprinkler systems shall be owned and maintained by the customer and
charges for water service for such installations shall be in keeping with the
charges outlined in the schedule of rates and charges. (1976 Code, § 13-229)

18-230. Private fire lines and fire hydrants. Private fire lines and fire
hydrants will be installed at the expense of the customer and the construction
will be made in accordance with the specifications of the distributor. Such
facilities shall be owned and maintained by the customer and the charges for such service shall be those charges outlined in the schedule of rates and charges. (1976 Code, § 13-230)

18-231. Water taken from fire hydrants for purposes other than fire fighting. When water is taken from fire hydrants for any other purpose than fire fighting, such as sprinkling of streets, construction purposes, or other temporary uses, the hydrant from which the water is so taken must have a reducing appliance attached to the nozzle of the fire hydrant with an independent valve capable of regulating the supply. The main valve of the fire hydrant must be opened fully at the beginning of each work day and remain open until the close of work at night. The supply is to be regulated by independent valves. The fire hydrant shall be operated only by a wrench of a type which must be approved by the distributor. When taking water from a fire hydrant for any purposes other than fire fighting, permission must be obtained from the distributor. No wastage will be tolerated. (1976 Code, § 13-231)

18-232. Limited use of unmetered private fire lines. Where private fire lines are not metered, no water will be used from such line or from any fire hydrant thereon, except to fight fire or while being inspected in the presence of an authorized agent of the distributor.

All private fire hydrants shall be sealed by the distributor, and shall be inspected at regular intervals to see that they are in proper condition and no water shall be used therefrom in violation of the distributor's rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall give the distributor written notice of such occurrence as soon as possible.

No customer taking water from an unmetered service shall use any device requiring or allowing a continuous flow of water unless such use has been approved in writing by the distributor. (1976 Code, § 13-232)

18-233. Cross connections. No cross connections of any kind shall be permitted between the water supply from the distributor's mains and the water supply from any other source.

A cross connection is defined as any physical connection whereby the distributor's water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such a manner that a flow of water into the distributor's water supply is possible, either through a manipulation of valves or because of any defective check or back pressure valves, or by any other arrangement. (1976 Code, § 13-233)

18-234. Interruption of service. The distributor will use reasonable diligence in attempting to provide a regular and uninterrupted supply of water,
but in case the supply of water should be interrupted for any cause, the
distributor shall not be liable or charged for damages resulting therefrom. (1976
Code, § 13-234)

18-235. **Damage to property due to water pressure.** The distributor shall
not be liable for any damage to a customer's plumbing or property, which
damage may be caused by high pressure or by low pressure, or by fluctuations
in pressure in the distributor's water mains.

The distributor's facilities are not designed for furnishing normal water
service above elevation 1830 feet from the O'Brien storage tanks and 2000 feet
from the East Erwin storage tank. Customers living in sections of Erwin and
surrounding areas higher than these elevations above sea level, must provide
or maintain, at their expense, booster pumps designed to provide adequate
water service for normal needs and depending on the storage tank at the
discretion of the distributor from which the customer or applicant would need
to be served. (1976 Code, § 13-235)

18-236. **Fire hydrant installations for town.** The number and location of
the fire hydrants for fire fighting purposes for the Town of Erwin shall be
determined by the board of mayor and aldermen and its duly authorized officers
and agents, and shall not be a responsibility or prerogative of the board, its
officers, and agents. (1976 Code, § 13-236)

18-237. **Scope.** This schedule of rules and regulations is a part of all
contracts for receiving water service from the distributor and applies to all
service rendered by the distributor whether the service is based upon contract,
agreement, signed application, or otherwise. (1976 Code, § 13-237)

18-238. **Filing and posting.** A copy of these rules and regulations shall
be kept open to inspection at the offices of the distributor. (1976 Code, § 13-238)

18-239. **Extension of mains.** The distributor will extend a main within
the corporate limits along an accepted street to the property of an applicant at
the expense of the distributor, except where the applicant’s property is located
in excess of fifty (50) feet from an adequate existing main as measured along the
accepted street. The distributor will extend such main the remaining distance
along an accepted street which is in excess of fifty (50) feet at the expense of the
applicant; however, such extension made at the expense of the applicant may be
applicable to terms set forth in the following paragraph.

The distributor will extend a main along an accepted street within a
subdivision within the corporate limits and along an accepted street or highway
outside the corporate limits a distance of fifty (50) feet for the benefit of each
customer who has property abutting on the street along which the main is being
extended, and whose property, after the extension, will be contiguous to said
main. Such extension, up to a length of fifty (50) feet for each consumer to be served immediately upon completion of the extension, shall be made at the distributor's expense. Extensions beyond fifty (50) feet per consumer (subject to the above conditions) will be made on applications of one or more consumers and after the applicant has made a deposit equal to the estimated cost of the extension beyond the fifty (50) feet as herein provided. All extensions beyond fifty (50) feet per consumer shall be at the expense of the applicant.

The size of the main to be installed shall be exclusively within the discretion of the distributor.

Upon completion of installation of the extension, the entire cost of such installation shall be determined by the distributor and due credit given thereon for the fifty (50) feet of main per consumer and any excess in the balance of cost over the amount of deposit shall be paid immediately to the distributor by the applicant. If the amount deposited is in excess of such balance of the cost, such excess shall be refunded to the applicant.

Annually, as of July 1st of each year, for the first three (3) years after the completion of such extensions, the distributor shall ascertain the number of additional consumers who have been connected to such main during the previous twelve (12) month period and shall within ninety (90) days thereafter make reimbursement to the original applicant of an amount equal to the cost of fifty (50) feet of such extension for such additional consumer. If more than one party joined in the application for, and contributed to the cost of construction of such extension, the refund shall be made on a basis proportioned to the respective payments of such contributions on the cost of construction.

In no event shall the total amount of reimbursement exceed the amount paid as a contribution on the construction cost.

No reimbursement shall be made for additional consumers connected to such main after such three (3) year period.

Temporary connections to said extension will not be considered as consumers in connection with this section.

The distributor may connect a main to, or extend a main from, any other main which has previously been installed in accordance with the above terms without obligation to the applicant of said previously installed main. Connections for such extensions will not be considered as being a consumer connection as applicable under the terms of this section.

Title to any part and all of said water main extensions, as and when constructed, shall be vested in the distributor and shall become a part of the system of the distributor, subject to its control. (1976 Code, § 13-239)

18-240. Fluoridation of water supply. The water department is hereby authorized and instructed to make plans for the fluoridation of the water supply of the town; to submit such plans to the Department of Environment and Conservation of the State of Tennessee for approval; and upon approval to add
such chemicals as fluoride to the water supply in accord with such approval as
will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be born by the revenues of the water
department. (1976 Code, § 13-240, modified)
CHAPTER 3

SEWER REGULATIONS

SECTION
18-301. Definitions.
18-302. Use of public sewers required.
18-303. Private sewage disposal.
18-304. Building sewers and connections.
18-305. Use of the public sewers.
18-306. Protection from damage.
18-308. Violations.
18-309. Sewer tapping fees and service line regulations.
18-310. Sewer use fees and surcharges.
18-311. Water department rules and regulations.

18-301. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

(1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C. expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(5) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(6) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

---

1Municipal code references
   Erwin Board of Public Utilities: title 2, chapter 1.
   Plumbing code: title 12, chapter 2.
   Pretreatment regulations: title 18, chapter 4.
(7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.
(9) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
(10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.
(11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and controlled by public authority.
(12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
(13) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
(14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.
(15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
(16) "Sewer" shall mean a pipe or conduit for carrying sewage.
(17) "Shall" is mandatory; "may" is permissive.
(18) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
(19) "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
(20) "Superintendent" shall mean the superintendent of sewage works and/or of water pollution control of the town, or his authorized deputy, agent, or representative.
(21) "Suspended solids" shall mean solids that are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
(22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently. (1976 Code, § 13-301)

18-302. Use of public sewers 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 town, or in any area under its jurisdiction, any human or animal excrement, garbage, or other objectionable waste.
(2) It shall be unlawful to discharge to any natural outlet within the town, or in any area under its jurisdiction, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the town, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line. (1976 Code, § 13-302)

18-303. Private sewage disposal. The disposal of sewage by means other than the use of the sanitary sewage system shall be in accordance with local and state laws. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the sanitary sewage system is not available. (1976 Code, § 13-303)

18-304. Building sewers and connections. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

(2) There shall be two (2) classes of building sewer permits:

(a) For residential and commercial service, and
(b) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the utility board. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent.

(3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(4) A separate and independent building sewer shall be provided for every building; except where one 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, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(6) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(8) No person shall make connection of roof downspouts, exterior foundation drains, areaway 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.

(9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(10) The applicant for the building sewer permit 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.

(11) All excavations for building sewer installations 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 town. (1976 Code, § 13-304)

18-305. Use of the public sewers. (1) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(2) 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 Tennessee Stream Pollution Control Board. Industrial cooling water or unpolluted process waters may be discharged, on approval of
the Tennessee Stream Pollution Control Board, to a storm sewer, or natural outlet.

(3) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
   (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
   (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.
   (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
   (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
   (a) Any liquid or vapor having a temperature higher than one hundred fifty (150)° F (65° C).
   (b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100 mg/l) or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150)° F (0 and 65° C).
   (c) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.
(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, cyanide, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent and/or the Division of Sanitary Engineering, Tennessee Department of Environment and Conservation, for such materials.

(f) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(h) Any waters or wastes having a pH in excess of 9.5.

(i) Materials which exert or cause:
   (i) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
   (ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
   (iii) Unusual BOD (above 300 mg/l), chemical oxygen demand, or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works.
   (iv) Unusual volume of flow or concentration of wastes constituting "slugs" and defined herein.

(j) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(k) Waters or wastes containing suspended solids in excess of 300 mg/l.

(5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (4) of this section, and which in the judgment of the superintendent, and/or the Division of Sanitary Engineering, Tennessee Department of Environment and Conservation, may have a deleterious effect upon the sewage works, processes, equipment, or receiving
waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(a) Reject the wastes;
(b) Require pretreatment to an acceptable condition for discharge to the public sewers;
(c) Require control over the quantities and rates of discharge, and/or
(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection (10) of this section.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and the Tennessee Department of Environment and Conservation, and subject to the requirements of all applicable codes, ordinances, and laws.

(6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be so located as to be readily and easily accessible for cleaning and inspection.

(7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(8) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(9) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituent upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular
analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

(10) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor, by the industrial concern. (1976 Code, § 13-305, modified)

18-306. Protection from damage. No unauthorized person shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provisions shall be subject to immediate arrest under charge of disorderly conduct. (1976 Code, § 13-306)

18-307. Powers and authority of inspectors. (1) The superintendent and other duly authorized employees of the utility board bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in subsection (1) of this section the superintendent or duly authorized employees of the utility board 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 board's employees and the utility board shall indemnify the company against loss or damage to its property by board's employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by § 18-205(8).

(3) The superintendent and other duly authorized employees of the utility board bearing proper credentials and identification shall be permitted to enter all private properties through which the town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly
negotiated easement pertaining to the private property involved. (1976 Code, § 13-307)

18-308. Violations. (1) Any person found to be violating any provision of this chapter except § 18-206 shall be served by the board with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in subsection (1) of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined under the general penalty clause for this municipal code of ordinances.

(3) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation. (1976 Code, § 13-308)

18-309. Sewer taping fees and service line regulations. (1) Sewer service lines will be laid by Erwin Utilities from the sewer main to the property line at the expense of the applicant for service in keeping with the schedule in subsection (3) below. The location of such lines will be determined by Erwin Utilities.

(2) The owner or customer will install all pipes and fixtures on his side of the property line and keep same in good repair at his expense. All such piping and fixtures shall be installed in accordance with the applicable requirements and specifications of the Erwin Utilities. Unless otherwise approved by the Erwin Utilities, all pipe and fittings shall be not less than four (4) inch PVC conforming to ASTM specification D-3034 and have a standard dimension ratio (SDR) of 35. Said pipe must not be covered by the property owner or installer until inspected and approved by an authorized representative of the Erwin Utilities.

(3) Tapping fees for sewer service connections, both inside and outside the corporate limits of the town:

<table>
<thead>
<tr>
<th>Case I</th>
<th>Inside</th>
<th>Outside</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main line extension not required</td>
<td>$500.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Case II</td>
<td>$1,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Main line extension required</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(4) In Case II where a main line extension is required, the tapping fee shall include the cost of the service line and main line extension, provided however, when the estimated cost of said service line and main line extension
exceeds the tapping fee by more than twenty-five (25) percent, the tapping fee will be the actual cost of construction plus applicable overhead.

(5) For the first five (5) years after customer pays for a main line extension in excess of the standard tapping fee, any additional customer connecting to said main line extension shall pay, in addition to the tapping fee, their fair share of the main line extension cost, to be determined by Erwin Utilities, which will be used to reimburse the original customer for that part of said line extension chargeable to said additional customer. (Ord. #526, May 1990)

18-310. Sewer use fees and surcharges. (1) Fees for sewer service shall be made and billed in compliance with the "User Charge System for the Wastewater Facilities of the Board of Public Utilities of the Town of Erwin, Tennessee" dated March, 1986, which was prepared in accordance with regulations promulgated by the United States Environmental Protection Agency (EPA) in 40 CFR 35.2140, revised as of July 1, 1984. Said user charge system was approved by the Tennessee Department of Health and Environment, Division of Construction Grants and Loans on May 7, 1986. The user fees shall be divided into two (2) main parts: a fee to cover the operation and maintenance costs and a fee to cover capital expenditures and debt service.

(2) The fee for operation and maintenance (including replacement) shall be divided into two (2) parts: a fixed charge and a variable charge.

(a) The fixed charge shall be calculated based on the annual customer billing costs and the number of sewer customers, to be assessed on a monthly basis per water meter or customer unit in accordance with subsection (7) hereof.

(b) The variable charge shall be calculated based on the total volume of water used annually by all sewer customers, less any adjustments in accordance with subsection (8) hereof, and the total annual operating and maintenance (including replacement) costs, less the annual customer billing costs incurred by the board of public utilities (board), to be assessed on the basis of water used per one thousand (1,000) gallons.

(3) The monthly fee to cover capital expenditures and debt service shall be divided between customers inside the corporate limits and customers outside the corporate limits. Each of these fees shall be further divided into a fixed charge and a variable charge.

(4) The sum of the fixed monthly charges shall be referred to as the "customer charge," and the sum of the variable monthly charges shall be known as the "user charge."

(5) The total charge for sewer service to customers outside the corporate limits shall be fifty (50) percent higher than the total charge for customers inside the corporate limits.

(6) For fiscal year ending June 30, 1988, the monthly charges are:
(7) All customers shall pay one customer charge per month per water meter, except where a single meter serves more than one residential, commercial, industrial, or institutional unit, in which case, the customer shall pay one (1) customer charge per month per said unit.

(8) The user charge shall apply to the total amount of water used each month as shown by water meter readings excepting, however, industrial customers who do not discharge all industrial wastewater into the public sewer system, and as to such industrial customers, the user charge shall be applied only to such amount of wastewater discharged into the public sewer system provided that said industrial customer installs and maintains, at his own expense, the necessary metering equipment to properly account for all wastewater discharged into the public sewer.

(9) Any user who discharges any toxic pollutants or other constituents which cause an increase in the cost of managing the effluent or the sludge of the treatment works shall be required to pay for such increased costs.

(10) The board shall review every year the wastewater contribution of users, the total costs of operation and maintenance of the treatment works, and the total capital expenditures and debt service requirements in accordance with the approved user charge system. Based on this review, the board shall revise the fees for sewer service to accomplish the following:

   a) Maintain the proportionate distribution of operation and maintenance costs among users;

   b) Generate sufficient revenue to pay all capital expenditures, debt service requirements, and to pay the total operation and maintenance costs necessary for the proper operation and maintenance (including minor replacement) of the treatment works; and

   c) Apply excess revenues collected to adjust future rates accordingly.

(11) The board will notify each user at least annually in conjunction with a regular bill or other mailing of the rate attributable to the operation and maintenance and those attributable to other costs.

(12) The user charge system shall take precedence over any terms or conditions of agreements or contracts between the board and existing users which are inconsistent with the requirements of section 204(b)(1)(A) of the Act and 40 CFR, part 35, revised as of July 1, 1984.
(13) A surcharge for extra strength sewage from industries shall be added to the monthly bill. The surcharge for BOD and suspended solids in excess of 200 mg/l for fiscal year ending June 30, 1988 shall be:
   (a) 9.9¢ per lb. of BOD.
   (b) 10.9¢ per lb. of suspended solids.

(14) Appropriate and reasonable sampling and analytical testing costs that the board incurs in evaluating compliance by industries of the requirements of this section can be charged to that industry for payment.

(15) The board may adopt additional charges and fees which may include:
   (a) Fees for reimbursement of costs of setting up and operating the board's pretreatment program;
   (b) Fees for monitoring, inspections, and surveillance procedures;
   (c) Fees for reviewing accidental discharge procedures and construction;
   (d) Fees for permit applications;
   (e) Fees for consistent removal (by the board) of pollutants otherwise subject to federal pretreatment standards;
   (f) Other fees as the board may deem necessary to carry out the requirements contained herein.

(16) Bills will be rendered monthly and shall be paid at the office of the Erwin Utilities. Failure to receive a bill will not release customer from payment obligation. Bills paid after the due date shown on the bill will be subject to a five (5) percent late charge.

(17) The above rates shall be applied to all customers alike and are subject to the rules and regulations of Erwin Utilities. (Ord. #508, April 1988)

18-311. Water department rules and regulations. The water department rules and regulations set forth in the preceding chapter of this title shall also apply to the sewage disposal system in all instances where the context shall admit or may be reasonably required. (1976 Code, § 13-311)
CHAPTER 4

PRETREATMENT REGULATIONS\(^1\)

SECTION
18-401. General provisions.
18-402. Regulations.
18-403. Fees.
18-404. Administration.
18-405. Enforcement.
18-406. Penalty--costs.

18-401. General provisions. (1) Purpose and policy. This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Erwin, Tennessee, and enables the town to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and General Pretreatment Regulations (40 CFR, part 403).

(2) The objectives of this chapter are:
   (a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
   (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
   (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
   (d) To provide for equitable distribution of the cost of the municipal wastewater system.

This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assures that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter shall apply to the Town of Erwin, Tennessee, and to persons outside the town who are, by contract or agreement with Erwin Utilities, users of the Erwin POTW. This chapter is a supplement to title 18 of the Erwin

---

\(^1\)Municipal code reference
Sewer regulations: title 18, chapter 3.
Municipal Code, as amended. Except as otherwise provided herein, the manager of the Erwin Utilities shall administer, implement, and enforce the provisions of this chapter.

(3) **Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(a) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(b) "Approval authority." The Director of the Division of Water Management of the Department of Health and Environment of the State of Tennessee.

(c) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(i) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(ii) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(iii) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(d) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20°C centigrade expressed in terms of weight (lbs.) and concentration (milligrams per liter [mg/l]).

(e) "Building sewer." A sewer conveying wastewater from the premises of a user to the POTW.

(f) "Categorical standards." See National Categorical Pretreatment Standards or pretreatment standard.

(g) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(h) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinafore; or the manager of Erwin Utilities if the town has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(i) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(j) "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 said agency.
(k) "Grab sample." A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(l) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(m) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(n) "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).

(o) "Interference." The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the town's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345), or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(p) "Manager." The manager of the Erwin Utilities designated by the Erwin Utilities Board to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this municipal code, or his duly authorized representative.

(q) "National categorical pretreatment standard" or "pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(r) "National prohibitive discharge standard" or "prohibitive discharge standard." Any regulation developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

(s) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any
source, the construction of which is commenced after the date of promulgation of the standard.

(t) "National pollutant discharge elimination system" or "NPDES permit." A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

(u) "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, the singular shall include the plural where indicated by the context.

(v) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(w) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(x) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(y) "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 the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 CFR section 403.6(d).

(z) "Pretreatment requirements." Any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

(aa) "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 town. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the town limits of the Town of Erwin, Tennessee, who are, by contract or agreement with the Erwin Utilities, users of the town's POTW.

(bb) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(cc) "Shall" is mandatory; "may" is permissive.
(dd) "Significant industrial user." Any industrial user of the town's wastewater disposal system who
   (i) Has a discharge flow of 25,000 gallons or more per average work day, or
   (ii) Has a flow greater than five (5) percent of the flow in the town's wastewater treatment system, or
   (iii) Has in his wastes toxic pollutants as defined pursuant to section 307 of the Act or the State of Tennessee statutes and rules, or
   (iv) Is found by the Erwin Utilities, the Tennessee Division of Water Management or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(ee) "State." State of Tennessee.


(gg) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(hh) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(ii) "Town." The Town of Erwin, Tennessee, or the Board of Mayor and Aldermen for the Town of Erwin, Tennessee.

(jj) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(kk) "User." Any person who contributes, causes or permits the contribution of wastewater into the town's POTW.

(ll) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(mm) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(nn) "Wastewater contribution permit." As set forth in § 18-404(2) of this chapter.

(4) **Abbreviations.** The following abbreviations shall have the designated meanings:

(a) **BOD.** Biochemical Oxygen Demand.
(b) **CFR.** Code of Federal Regulations.
(c) **COD.** Chemical Oxygen Demand.
(d) **EPA.** Environmental Protection Agency.
(e) l. Liter.
(f) mg. Milligrams.
(g) mg/l. Milligrams per liter.
(h) **NPDES.** National Pollutant Discharge Elimination System.
(i) **POTW.** Publicly Owned Treatment Works.
(j) **SIC.** Standard Industrial Classification.
(k) **SWDA.** Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
(l) **USC.** United States Code.
(m) **TSS.** Total Suspended Solids. (Ord. #473, April 1985)

18-402. **Regulations.** (1) **General discharge prohibitions.** No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(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 POTW or to the operation of the POTW. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the Erwin Utilities, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) 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 such as, but not limited to: grease, garbage with particles greater than one-half (½) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or
marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing toxic pollutants 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 or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitations 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.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW 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 POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, 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.

(g) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C (104° F).

(j) Any pollutants, including oxygen demanding pollutants (BOD etc.) released at a flow rate and/or pollutant concentration which a user knows or has a reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average
二十-四 (24) 项浓度、数量，或在正常操作。

(k) 任何含放射性废物或半衰期或浓度可能超过设定的任何等控制的管理，在遵守适用的州或联邦法规时。

(l) 任何造成危害或公众扰乱的废水。

(2) 当管理人确定任何用户对 POTW 造成影响时，管理人应：

(a) 告知用户其贡献对 POTW 的影响；和

(b) 制定出水限制，以纠正对 POTW 的干扰。

(3) 联邦类别预处理标准。当联邦颁布的联邦类别预处理标准对某一工业类别，如果比本章所设定的要求更严格，那么应立即取代本章所设定的要求。管理人应通知所有受影响的用户其适用的报告要求，依照 40 CFR, section 403.12。

(4) 联邦类别预处理标准的修改。当城镇的废水处理系统达到了根据联邦预处理标准设定的污染物的持续消除时，城镇可能向批准的管理机构申请特定限制的修改。"持续消除"应意味着在五十五 (95) 次样本中，按 40 CFR, part 403, section 403.7(c)(2) 的程序测定后的污染物减少。

(5) 联邦预处理标准的修改。联邦预处理标准的修改，如果要求在 40 CFR, part 403, section 403.7, 被满足，并且从批准的管理机构获得了前批准，那么城镇的废水处理系统会修改污染物排放限制。

(5) 当城镇的废水处理系统达到了根据联邦预处理标准设定的污染物的持续消除时，城镇可能向批准的管理机构申请特定限制的修改。"持续消除"应意味着在五十五 (95) 次样本中，按 40 CFR, part 403, section 403.7, 的程序测定后的污染物减少。

(5) 联邦预处理标准的修改。联邦预处理标准的修改，如果要求在 40 CFR, part 403, section 403.7, 被满足，并且从批准的管理机构获得了前批准，那么城镇的废水处理系统会修改污染物排放限制。
<table>
<thead>
<tr>
<th>Pollutants</th>
<th>Sample Type</th>
<th>Daily Max., mg/l</th>
<th>Average Discharge Limits, mg/l</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cadmium</td>
<td>Composite</td>
<td>0.024</td>
<td>0.012</td>
</tr>
<tr>
<td>Total Chromium</td>
<td>Composite</td>
<td>0.564</td>
<td>0.423</td>
</tr>
<tr>
<td>Copper</td>
<td>Composite</td>
<td>0.768</td>
<td>0.384</td>
</tr>
<tr>
<td>Lead</td>
<td>Composite</td>
<td>0.593</td>
<td>0.445</td>
</tr>
<tr>
<td>Nickel</td>
<td>Composite</td>
<td>0.490</td>
<td>0.245</td>
</tr>
<tr>
<td>Silver</td>
<td>Composite</td>
<td>0.076</td>
<td>0.038</td>
</tr>
<tr>
<td>Zinc</td>
<td>Composite</td>
<td>0.493</td>
<td>0.369</td>
</tr>
<tr>
<td>Cyanide</td>
<td>Grab</td>
<td>0.170</td>
<td>0.114</td>
</tr>
<tr>
<td>Phenol</td>
<td>Grab</td>
<td>0.457</td>
<td>0.228</td>
</tr>
<tr>
<td><strong>pH (Standard Units)</strong></td>
<td>Grab</td>
<td><strong>Min. 5; Max. 9</strong></td>
<td>***</td>
</tr>
<tr>
<td>Oil &amp; Grease</td>
<td>Grab</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Toluene</td>
<td>Grab</td>
<td>0.193</td>
<td>0.145</td>
</tr>
<tr>
<td>Benzene</td>
<td>Grab</td>
<td>0.114</td>
<td>0.057</td>
</tr>
<tr>
<td>1,1,1 Trichloroethane</td>
<td>Grab</td>
<td>0.193</td>
<td>0.096</td>
</tr>
<tr>
<td>Ethylbenzene</td>
<td>Grab</td>
<td>0.304</td>
<td>0.152</td>
</tr>
<tr>
<td>Carbon Tetrachloride</td>
<td>Grab</td>
<td>0.150</td>
<td>0.032</td>
</tr>
<tr>
<td>Chloroform</td>
<td>Grab</td>
<td>0.017</td>
<td>0.0084</td>
</tr>
<tr>
<td>Tetrachloroethylene</td>
<td>Grab</td>
<td>0.380</td>
<td>0.190</td>
</tr>
<tr>
<td>Trichloroethylene</td>
<td>Grab</td>
<td>0.030</td>
<td>0.015</td>
</tr>
<tr>
<td>1,2 Trans-Dichloroethylene</td>
<td>Grab</td>
<td>0.380</td>
<td>0.190</td>
</tr>
<tr>
<td>Methylene Chloride</td>
<td>Grab</td>
<td>0.170</td>
<td>0.011</td>
</tr>
<tr>
<td>Naphthalene</td>
<td>Grab</td>
<td>0.076</td>
<td>0.038</td>
</tr>
<tr>
<td>Total Phthalates</td>
<td>Grab</td>
<td>0.935</td>
<td>0.468</td>
</tr>
<tr>
<td>Mercury</td>
<td>Composite</td>
<td>0.0048</td>
<td>0.0024</td>
</tr>
<tr>
<td>Temperature</td>
<td>Grab</td>
<td>Max. 40°F</td>
<td></td>
</tr>
</tbody>
</table>

(6) **State requirements.** State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(7) **Town’s right of revision.** The town reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-401(1) of this chapter.
(8) **Excessive discharge.** No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the town or state. However, dilution may be an acceptable means of complying with some of the prohibitions set forth in § 18-402(1), e.g., the pH prohibition.

(9) **Accidental discharges.** Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Erwin Utilities for review, and shall be approved by the Erwin Utilities before construction of the facility. All existing users shall complete such a plan by January 1, 1986. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Erwin Utilities. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the Erwin Utilities of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(10) **Written notice.** Within five (5) days following an accidental discharge; the user shall submit to the manager a detailed written report describing the cause 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 may be incurred as a result of damage to the POTW, 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 other applicable law.

(11) **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 insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #473, April 1985, as amended by Ord. #575, April 1999)

18-403. **Fees.** (1) **Purpose.** It is the purpose of this chapter to provide for the recovery of costs from user's of the town's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Erwin Utilities' Schedule of charges and fees.
(2) Charges and fees. The Erwin Utilities may adopt charges and fees which may include:
   (a) Fees for reimbursement of costs of setting up and operating the town's pretreatment program;
   (b) Fees for monitoring, inspections and surveillance procedures;
   (c) Fees for reviewing accidental discharge procedures and construction;
   (d) Fees for permit applications;
   (e) Fees for filing appeals;
   (f) Fees for consistent removal (by the Erwin Utilities) of pollutants otherwise subject to federal pretreatment standards;
   (g) Other fees as the Erwin Utilities may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by Erwin Utilities. (Ord. #473, April 1985)

18-404. Administration. (1) Wastewater dischargers. It shall be unlawful to discharge without a permit to any natural outlet within the Town of Erwin, or in any area under the jurisdiction of the Erwin Utilities and/or to the POTW any wastewater except as authorized by the manager in accordance with the provisions of this chapter.

(2) Wastewater contribution permits. (a) General permits. All significant users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Permit application. Users required to obtain a wastewater contribution permit shall complete and file with the Erwin Utilities an application in the form prescribed by the Erwin Utilities and accompanied by a fee of one hundred dollars ($100.00). Existing users shall apply for a wastewater contribution permit within sixty (60) days after the effective date of this chapter and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
   (i) Name, address and location, if different from the address;
   (ii) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
(iii) Wastewater constituents and characteristics including but not limited to those mentioned in § 18-402 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, part 136, as amended;

(iv) Time and duration of contribution;

(v) Average daily and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

(vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged.

(viii) Where known, the nature and concentration of any pollutants in the discharge which are limited by any town, state or federal pretreatment standards, and a statement regarding whether or not the 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 for the user to meet applicable pretreatment standards;

(ix) 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. The completion date in this schedule shall not be later than the compliance date established or the applicable pretreatment standard;

The following conditions shall apply to this schedule:

(A) The schedule shall contain increments of progress 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 e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.

(B) No increment referred to in subsection (A) shall exceed nine (9) months.

(C) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the manager, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not,
the date of which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the manager.

(x) Each product produced by type, amount, process or processes and rate of production;

(xi) Type and amount of raw materials processed (average and maximum per day);

(xii) Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(xiii) Any other information as may be deemed by the Erwin Utilities to be necessary to evaluate the permit application.

The Erwin utilities will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Erwin Utilities may issue a wastewater contribution permit subject to terms and conditions provided herein.

(c) **Permit modifications.** Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit as required by § 18-404(2)(b), the user shall apply for a wastewater contribution permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the manager, within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard, the information required by subsections (viii) and (ix) of § 18-404(2)(b).

(d) **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 Erwin Utilities. Permits may contain the following:

   (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW’s;

   (ii) Limits on the average and maximum wastewater constituents and characteristics;

   (iii) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

   (iv) Requirements for installation and maintenance of inspection and sampling facilities;
(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports or discharge reports (see § 18-404(3);

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Erwin Utilities and affording Erwin Utilities access thereto;

(ix) Requirements for notification of the Erwin Utilities of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(x) Requirements for notification of slug discharges as per § 18-405(2);

(xi) Other conditions as deemed appropriate by the Erwin Utilities to ensure compliance with this chapter.

(e) Permits 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 reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Erwin Utilities during the term of the permit as limitations or requirements as identified in subsection (2) are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(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 approval of the Erwin Utilities. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(3) Reporting requirements for permittees. (a) Compliance date report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the
average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(b) Periodic compliance reports. (i) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the manager during the months of June and December, unless required more frequently in the pretreatment standard or by the manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in § 18-404(2)(b)(v). At the discretion of the manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the manager may agree to alter the months during which the above reports are to be submitted.

(ii) The manager may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act contained in 40 CFR, part 136 and amendments thereto or with any other test procedures approved by the administrator.
Sampling shall be performed in accordance with the techniques approved by the administrator.¹

(4) Monitoring facilities. The Erwin Utilities shall require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but Erwin Utilities may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area 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 expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Erwin Utilities' requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the Erwin Utilities.

(5) Inspection and sampling. The Erwin Utilities shall 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 Erwin Utilities, or their representative, ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The Erwin Utilities, Approval Authority and the 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. 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 the Erwin Utilities, Approval Authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(6) Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance

¹Where 40 CFR, part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, sampling and analysis procedures for screening of industrial effluents for priority pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.
with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the Erwin Utilities shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Erwin Utilities for review, and shall be acceptable to the Erwin Utilities before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Erwin Utilities under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Erwin Utilities prior to the user's initiation of the changes.

The Erwin Utilities shall annually publish in the Erwin Record newspaper a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

(7) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Erwin Utilities that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

When requested by the person furnishing a 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 upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs; 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 Erwin Utilities as confidential shall not be transmitted to any governmental agency or to the general public by the Erwin Utilities until and unless a ten (10) day notification is given to the user. (Ord. #473, April 1985)

18-405. Enforcement. (1) Harmful contributions. The Erwin Utilities may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the
Erwin Utilities in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the town to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of failure of the person to comply voluntarily with the suspension order, the Erwin Utilities shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Erwin Utilities shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Erwin Utilities within fifteen (15) days of the date of occurrence.

(2) Revocation of permit. Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of § 18-405 of this chapter.

(a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
(b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
(d) Violation of conditions of the permit.

(3) Notification of violation. Whenever the Erwin Utilities finds that any user has violated or is violating this chapter, wastewater contribution permit, or any prohibition, limitation or requirements contained herein, the Erwin Utilities may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Erwin Utilities by the user.

(4) Show cause hearing. (a) The Erwin Utilities may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the Erwin Utilities Board (hereinafter "board") why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail return receipt requested at least ten (10) days
before the hearing. Service may be made on any agent or officer of a
corporation.

(b) The board may itself conduct the hearing and take the
evidence, or may designate any of its members or any officer or employee
of the Erwin Utilities to:

(i) Issue in the name of the board notices of hearings
requesting the attendance and testimony of witnesses and the
production of evidence relevant to any matter involved in such
hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing,
including transcripts and other evidence, together with
recommendations to the board for action thereon.

(c) At any hearing held pursuant to this chapter, testimony
taken must be under oath and recorded stenographically. The transcript,
so recorded, will be made available to any member of the public or any
party to the hearing upon payment of the usual charges thereof.

(d) After the board has reviewed the evidence, it may issue an
order to the user responsible for the discharge directing that, following a
specified time period, the sewer service be discontinued unless adequate
treatment facilities, devices or other related appurtenances shall have
been installed on existing treatment facilities, devices or other related
appurtenances and are properly operated. Further orders and directives
as are necessary and appropriate may be issued.

(5) Legal action. If any person discharges sewage, industrial wastes
or other wastes into the town's wastewater disposal system contrary to the
provisions of this chapter, federal or state pretreatment requirements, or any
order of the Erwin Utilities, the Erwin Utilities' attorney may commence an
action for appropriate legal and/or equitable relief in the circuit, chancery or
other appropriate court of this county. (Ord. #473, April 1985)

18-406. Penalty--costs. (1) Civil penalties. Any user who is found to have
violated an order of the board or who willfully or negligently failed to comply
with any provision of this chapter, and the orders, rules, regulations and
permits issued hereunder, shall be fined not less than one hundred dollars
($100.00) nor more than one thousand dollars ($1,000.00) for each offense. Each
day on which a violation shall occur or continue shall be deemed a separate and
distinct offense. In addition to the penalties provided herein, the Erwin Utilities
may recover reasonable attorney's fees, court costs, court reporter's fees and
other expenses of litigation by appropriate suit at law against the person found
to have violated this chapter or the orders, rules, regulations and permits issued
hereunder.

(2) Falsifying information. Any person who knowingly makes any
false statements, representation or certification in any application, record,
report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000.00) or by imprisonment for not more than six (6) months, or by both. (Ord. #473, April 1985)
CHAPTER 5
CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION
18-502. Standards.
18-503. Construction, operation, and supervision.
18-504. Statement required.
18-505. Inspection required.
18-506. Right of entry for inspections.
18-507. Correction of existing violations.
18-508. Use of protective devices.
18-509. Unpotable water to be labeled.
18-510. Violations.

18-501. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

¹Municipal code references
   Plumbing code: title 12, chapter 2.
   Pretreatment regulations: title 18, chapter 4.
   Sewage disposal: title 18, chapter 1.
   Sewer regulations: title 18, chapter 3.
   Water regulations: title 18, chapter 2.
(6) "Public water supply." The waterworks system furnishing water to the town for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation. (Ord. #495, July 1987, modified)

18-502. Standards. The Town of Erwin Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-13-101 through 68-13-104 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #495, July 1987)

18-503. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the manager for the board of public utilities of the town. (Ord. #495, July 1987, modified)

18-504. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or 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 manager for the board of public utilities of the town 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. (Ord. #495, July 1987)

18-505. Inspection required. It shall be the duty of the Erwin Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and re-inspections, based on potential health hazards involved shall be established by the manager for the board of public utilities of the town. (Ord. #495, July 1987)

18-506. Right of entry for inspections. The manager for the board of public utilities or his authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Erwin Public Water Supply for the purpose of inspecting the piping system or systems thereof for cross connections, auxiliary intakes, bypasses, or interconnections. On
request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (Ord. #495, July 1987)

18-507. Correction of existing violations. Any person who now has 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 the time required to complete the work, the amount of time shall be designated by the manager for the board of public utilities of the town. (Ord. #495, July 1987)

18-508. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

1. Impractical to provide an effective air-gap separation;
2. That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply;
3. That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
4. There is a likelihood that protective measures may be subverted, altered, or disconnected; the manager for the board of public utilities of the town, or his designated representative, 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. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the manager for the board of public utilities of the town prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

The department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the manager for the board of public utilities or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

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 or devices. Where only one unit is installed and the continuance of service is critical, the manager for the board of public utilities shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel acceptable to the manager for the board of public utilities of the town. (Ord. #495, July 1987, modified)

18-509. Unpotable water to be labeled. The potable water supply made available on the properties served by the public water supply 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

Minimum acceptable sign shall have black letters one-inch high located on a red background. (Ord. #495, July 1987)

18-510. Violations. Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor. In addition to any other authorized fines and penalties, the manager for the board of public utilities of the town shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or inter-connection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or inter-connection has been discontinued. (Ord. #495, July 1987)
TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]
TITLE 20

MISCELLANEOUS

CHAPTER
1. ERWIN-UNICOI COUNTY CIVIL DEFENSE ORGANIZATION.
2. FAIR HOUSING.
3. MEMORIAL PARK.

CHAPTER 1

ERWIN-UNICOI COUNTY CIVIL DEFENSE ORGANIZATION

SECTION
20-102. Authority and responsibilities.
20-103. Office of director, his authority and responsibility.
20-104. Erwin-Unicoi County Civil Defense Corps created.
20-105. No municipal or private liability.
20-106. Expenses of civil defense.

20-101. Erwin-Unicoi County Civil Defense Organization created. There is hereby created the Erwin-Unicoi County Civil Defense Organization, which shall be a joint operation by the Town of Erwin, and the County of Unicoi 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 Unicoi County 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 Erwin-Unicoi County Civil Defense Organization. (1976 Code, § 1-1101)

20-102. Authority and responsibilities. In accordance with federal and state enactments of law, the Erwin-Unicoi 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 emergencies or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, droughts, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Unicoi County. The Erwin-Unicoi

---

1This joint organization was created by ordinance of the Town of Erwin and resolution of Unicoi County pursuant to Tennessee Code Annotated, title 7, chapter 6.
County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The Erwin-Unicoi County Civil Defense Organization is hereby designated the official agency to assist regular forces in time of said emergencies.

The Erwin-Unicoi County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Erwin-Unicoi County, to establish and coordinate emergency plans, forces, means, and resources, and is hereby designated the official agency to establish such emergency plans. (1976 Code, § 1-1102)

20-103. Office of director, his authority and responsibility. The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge, or either, or by higher authority as appropriate.

The director shall have overall responsibility for the preparation of all plans and 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.

The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the town and county.

The director shall be responsible to the chief executive officers of the town and county for the execution of the authorities, duties, and responsibilities of the Erwin-Unicoi County Civil Defense Organization, for the preparation of all plans and administrative regulations, and for recruitment and training of personnel. (1976 Code, § 1-1103)

20-104. Erwin-Unicoi County Civil Defense Corps created. The Erwin-Unicoi County Civil Defense Corps is hereby created. The corps shall be under the direction of 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. (1976 Code, § 1-1104)

20-105. No municipal or private liability. The duties prescribed in this document is an exercise by the town and county of their governmental functions for the protection of the public peace, health, and safety, and neither the Town of Erwin nor Unicoi County, nor the agents and representatives of said town 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 document 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 actual, impending, or practice enemy attack, shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, 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. (1976 Code, § 1-1105)

20-106. Expenses of civil defense. No person shall have the right to expend any public funds of the town or county in carrying out any civil defense activities authorized by this document without prior approval by the governing bodies of the town or county or both; nor shall any person have any right to bind the town or county by contract, agreement, or otherwise without prior and specific approval by the governing body of the town or county or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the town and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the town and county. He shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the town and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the Town of Erwin or Unicoi 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 organizations, such funds becoming liable for audit by the town and county. (1976 Code, § 1-1106)
CHAPTER 2

FAIR HOUSING

SECTION

20-201. Definitions.
20-203. Religious organizations may sell or rent to persons of same religion; exception.
20-204. Unlawful to discriminate in membership of any multiple-listing service, real estate brokers organization, etc.
20-205. Education and conciliation.
20-207. Penalty.
20-208. Person claiming injury by act made unlawful by this chapter protected by Federal Civil Rights Acts.

20-201. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant. (Ord. #502, Oct. 1987)

20-202. Unlawful practice. Subject to the exceptions hereinafter set out it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin or sex.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, color, religion, national origin or sex.
(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, national origin or sex.

(4) To represent to any person because of race, color, religion, national origin or sex that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or sex. (Ord. #502, Oct. 1987)

20-203. Religious organizations may sell or rent to persons of same religion: exception. Nothing in this chapter shall prohibit a religious organization, association, or society, or any non-profit 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 dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or sex. (Ord. #502, Oct. 1987)

20-204. Unlawful to discriminate in membership of any multiple-listing service, real estate brokers organization, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, national origin, or sex. (Ord. #502, Oct. 1987)

20-205. Education and conciliation. The Human Relations Sub-committee of the Erwin Citizens Advisory Committee of Erwin, Tennessee is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purpose of this chapter. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the committee's suggested means of implementing it. The sub-committee shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate town officials on matters of enforcement. The sub-committee may issue reports on such conferences and consultations as it deems appropriate. (Ord. #502, Oct. 1987)

20-206. Injury complaints. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured
by such an act, may file a complaint with the chairman of said sub-committee. A complaint shall be filed within one hundred eighty (180) days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the human relations sub-committee. Upon receipt of a complaint the sub-committee shall promptly investigate it and shall complete its investigation within fifteen (15) days. If a majority of the human relations sub-committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with violations of this chapter refuses to furnish information to said sub-committee, the sub-committee may request the city attorney to prosecute an action in the municipal court against the person charged in the complaint. Such request shall be in writing.

Upon receiving such written request and with the assistance of the aggrieved person and said sub-committee, within fifteen (15) days, after receiving such request the city attorney shall be prepared to prosecute an action in the municipal court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (Ord. #502, Oct. 1987)

20-207. Penalty. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not more than fifty dollars ($50.00) for each. (Ord. #502, Oct. 1987)

20-208. Person claiming injury by act made unlawful by this chapter protected by Federal Civil Rights Acts. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein; nor prevent any such person from seeking relief at any time under the Federal Civil Rights Acts or other applicable legal provisions. (Ord. #502, Oct. 1987)
CHAPTER 3

MEMORIAL PARK

SECTION
20-301. Establishment and purpose.
20-302. Permitted uses.
20-303. Prohibited uses.

20-301. Establishment and purpose. All that strip or parcel of land represented in the triangle enclosed by Ohio Avenue, Unaka Way, and a paved street which if extended would form a part of Catawba Street, is hereby declared, denominated, called, and forever known as "Memorial Park," to be occupied, employed and used for the purposes set forth in the preamble to this ordinance. Provided, however, that this shall not be construed as such dedication of said property as will divest title to the land out of the Town of Erwin, or circumvent it in the supervisory control thereof in conjunction with the United Daughters of the Confederacy to whom certain proprietary rights have been extended by a prior ordinance of the board of mayor and aldermen. (1976 Code, § 12-301)

20-302. Permitted uses. Under the control and with the sanction of the proper authorities, it will be lawful for any person, organization, or patriotic league or association, to plant shrubbery or flowers on said plat of land, and otherwise employ appropriate artificial means to adorn the same, or to set up and erect thereon permanent memorials, monuments, and markers. (1976 Code, § 12-302)

---

The preamble to Ord. #201 provided as follows:
"WHEREAS, the Town of Erwin owns a triangular strip or parcel of land lying between Ohio Avenue, Unaka Way and a paved street, which if extended would form a part of Catawba Street; and
WHEREAS, there has heretobefore been created thereon, with the sanction of the municipal authorities of the town, a monument commemorative of the valor of the Confederate soldiers, and women of the Confederacy, and the soldiers of the World War and the women of the World War; and
WHEREAS, the Town of Erwin wishes to encourage the erection of other memorials on said plat of land, and to adorn and beautify the same, so that it may become a fitting testimonial to the soldiers of the Confederacy, and the women of the Confederacy, and the World War soldiers and the women of the World War."
20-303. Prohibited uses. It is hereby declared to be a misdemeanor for any person to trespass on said property by invading the same for the purpose of committing waste, desecrating the memorials thereon, or defacing the same, or otherwise to deposit trash, refuse, debris, or other foreign matter on said premises, or doing malicious injury to said property, shrubbery, flowers, or other natural or artificial adornments, memorials, or markers. (1976 Code, § 12-303)
APPENDIX A

OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR EMPLOYEES OF THE TOWN OF ERWIN

I. Purpose and coverage.
II. Definitions.
III. Employer's rights and duties.
IV. Employee's rights and duties.
V. Administration.
VI. Standards authorized.
VII. Variance procedure.
VIII. Recordkeeping and reporting.
IX. Employee complaint procedure.
X. Education and training.
XI. General inspection procedures.
XII. Imminent danger procedures.
XIII. Abatement orders and hearings.
XIV. Penalties.
XV. Confidentiality of privileged information.
XVI. Compliance with other laws not excused.

APPENDICES
I. Organizational chart
II. Safety and health organizational chart
III. Employee notification
IV. Program budget
V. Accident reporting procedures

I. Purpose and coverage. The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the Town of Erwin.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The Town of Erwin in electing to update and maintain an effective occupational safety and health program for its employees:

a. Provide a safe and healthful place and condition of employment.

b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.

c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the
Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.

e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the state.

f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.

g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.

h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health. (Ord. #603, June 2003)

II. Definitions. For the purposes of this program, the following definitions apply:

a. "Act" or "TOSHA Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.

b. "Appointing authority" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.

c. "Chief executive officer" means the chief administrative official, county judge, county chairman, mayor, city manager, general manager, etc., as may be applicable.

d. "Commissioner of Labor and Workforce Development" means the chief executive officer of the Tennessee Department of Labor and
Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

e. "Director of occupational safety and health" or "director" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program for the employees of the Town of Erwin.

f. "Employee" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

g. "Employer" means the Town of Erwin and includes each administrative department, board, commission, division, or other agency of the Town of Erwin.

h. "Establishment" or "worksite" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

i. "Governing body" means the County Quarterly Court, board of commissioners, city council, board of governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.

j. "Imminent danger" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

k. "Inspector(s)" means the individual(s) appointed or designated by the director of occupational safety and health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the director of occupational safety and health.

l. "Person" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.

m. "Serious injury" or "harm" means that type of harm that would cause permanent or prolonged impairment of the body in that:

1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially
reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or

2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

n. "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment. (Ord. #603, June 2003)

III. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to, the following provisions:

a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.

c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under section 6 of the Tennessee Occupational Safety and Health Act of 1972.

e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
f. Employer is entitled to protection of its legally privileged communication.

g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.

h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.

i. Employer shall notify all employees of their rights and duties under this program. (Ord. #603, June 2003)

IV. Employee's rights and duties. Rights and duties of employees shall include, but are not limited to, the following provisions:

a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHA Act or any standard or regulation promulgated under the Act.

c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.

d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the director or inspector at the time of the physical inspection of the worksite.
g. Any employee may bring to the attention of the director any violation or suspected violations of the standards or any other health or safety hazards.

h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.

i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.

k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the director within twenty-four (24) hours after the occurrence. (Ord. #603, June 2003)

V. Administration. a. The director of occupational safety and health is designated to perform duties or to exercise powers assigned so as to administer this occupational safety and health program.

1. The director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.

2. The director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the director.

3. The director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.

4. The director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
5. The director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of section 1 of this plan.

6. The director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

7. The director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.

8. The director shall maintain or cause to be maintained records required under section VIII of this plan.

9. The director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.

b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.

1. The administrative or operational head shall follow the directions of the director on all issues involving occupational safety and health of employees as set forth in this plan.

2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the director within the abatement period.

3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the director along with his findings and/or recommendations in accordance with Appendix V of this plan. (Ord. #603, June 2003)

VI. Standards authorized. The standards adopted under this program are the applicable standards developed and promulgated under section VI(6) of
the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. (Ord. #603, June 2003)

VII. Variance procedure. The director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

a. The application for a variance shall be prepared in writing and shall contain:
   1. A specification of the standard or portion thereof from which the variance is sought.
   2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
   3. A statement of the steps the employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
   4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
   5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
1. The employer:
   i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary for construction or alteration of facilities or technology.
   ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
   iii. Has an effective program for coming into compliance with the standard as quickly as possible.
2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.

d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
e. Upon receipt of an application for an order granting a variance, the commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section). (Ord. #603, June 2003)

VIII. Recordkeeping and reporting. a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, Recordkeeping Requirements Under the Occupational Safety and Health Act of 1970, (revised 2003) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.

b. The position responsible for recordkeeping is shown on the Safety and Health Organizational Chart, Appendix V to this plan.

c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by Accident Reporting Procedures, Appendix V to this plan. (Ord. #603, June 2003)

IX. Employee complaint procedure. If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the director of occupational safety and health.

a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will
affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of section 1 of this plan).

b. Upon receipt of the complaint letter, the director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the chief executive officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.

d. The chief executive officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.

e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the director and the chief executive officer or the representative of the governing body.

f. Copies of all complaint and answers thereto will be filed by the director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request. (Ord. #603, June 2003)
X. Education and training. a. Director and/or compliance inspector(s).

1. Arrangements will be made for the director and/or compliance inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

b. All employees (including managers and supervisory personnel).

A suitable safety and health training program for employees will be established. This program will, at a minimum:

1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury (such as falls, electrocution, crushing injuries [e.g., trench cave-ins], and being struck by material or equipment).

2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances (including carbon monoxide and chlorine) in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.

3. Instruct employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in subparts H and M and other applicable subparts of TOSHA Act Standards (1910 and/or 1926).

5. Instruct employees on hazards and dangers of confined or enclosed spaces.

i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or
has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4’) in depth such as pits, tubs, vaults, and vessels.

ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment. (Ord. #603, June 2003)

XI. General inspection procedures. It is the intention of the governing body and the responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desire results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

a. In order to carry out the purposes of this program, the director and/or compliance inspector(s), if appointed, is authorized:

1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;

2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the director or inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.

c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the director or inspector during the physical inspection of any worksite for the purpose of aiding such inspection.

d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.

f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigate techniques.

g. Advance notice of inspections.

1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.

2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees of their authorized representative(s) will also be given notice of the inspection.

h. The director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors of other personnel provided:

1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the director.

2. Records are made of the inspections and of any discrepancies found and are forwarded to the director.

i. The director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative. (Ord. #603, June 2003)
XII. Imminent danger procedures.

a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:

1. The director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.

2. If the alleged imminent danger situation is determined to have merit by the director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.

3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the director or compliance inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the director or compliance inspector and to the mutual satisfaction of all parties involved.

5. The imminent danger shall be deemed abated if:
   i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
   ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

6. A written report shall be made by or to the director describing in detail the imminent danger and its abatement. This report will be maintained by the director in accordance with subsection (i) of section XI of this plan.

b. Refusal to abate.

1. Any refusal to abate an imminent danger situation shall be reported to the director and/or chief executive officer immediately.

2. The director and/or chief executive officer shall take whatever action may be necessary to achieve abatement. (Ord. #603, June 2003)
XIII. **Abatement orders and hearings.**

a. Whenever, as a result of an inspection or investigation, the director or compliance inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the director shall:
   1. Issue an abatement order to the head of the worksite.
   2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

b. Abatement orders shall contain the following information:
   1. The standard, rule, or regulation which was found to be violated.
   2. A description of the nature and location of the violation.
   3. A description of what is required to abate or correct the violation.
   4. A reasonable period of time during which the violation must be abated or corrected.

c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final. (Ord. #603, June 2003)

XIV. **Penalties.**

a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.

b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
   1. Oral reprimand.
   2. Written reprimand.
   3. Suspension for three (3) or more working days.
   4. Termination of employment. (Ord. #603, June 2003)
XV. **Confidentiality of privileged information.** All information obtained by or reported to the director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972. (Ord. #603, June 2003)

XVI. **Compliance with other laws not excused.**

a. Compliance with any other law, statute, ordinance, or executive order, as applicable, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed. (Ord. #603, June 2003)

______________________________________________________

Signature: Director, Occupational Safety and Health/ Date
ORGANIZATIONAL CHART

APPENDIX I

City Hall
211 N. Main Avenue
Erwin, Tennessee 37650
423-743-6231
16 employees

City Garage
110 Church Street
Erwin, Tennessee 37650
NP
14 employees

Fire Department
301 Broad Street
Erwin, Tennessee 37650
423-743-5201
20 employees

Dog Pound
N. Industrial Blvd.
Erwin, Tennessee 37650
NP
1 employee

Erwin Recreation Park
Zane Whitson Park
Erwin, Tennessee 37650
423-743-8618
9 employees

Erwin Linear Park
Industrial Blvd.
Erwin, Tennessee 37650
NP
2 employees

Total Number of Employees: 62
NOTICE TO ALL EMPLOYEES OF THE TOWN OF ERWIN

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as state standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director or mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.
Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before board of mayor and aldermen for assistance in obtaining relief or to file a complaint with the commissioner of labor and workforce development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the employees of the Town of Erwin is available for inspection by any employee at the city recorder's office during regular office hours.

__________________________
Signature: Official          Date
OCCUPATIONAL SAFETY AND HEALTH PLAN
PROGRAM BUDGET

APPENDIX IV

1. Prorated portion of wages, salaries, etc., for program administration and support. $600
2. Office space and office supplies. $100
3. Safety and health educational materials and support for education and training. $100
4. Safety devices for personnel safety and health. $2,000
5. Protective clothing and equipment (personnel). $800
6. Contingencies and miscellaneous. $1,500

TOTAL ESTIMATED PROGRAM FUNDING $5,100

Estimate of Total Budget for: Town of Erwin, Tennessee
Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the director and/or record keeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the director and/or record keeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the director or compliance inspector, if necessary) and will complete a written report on the accident or illness and forward it to the director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the record keeper.
EMPLOYEE ACCIDENT REPORT

NAME ___________________________ SOCIAL SECURITY NO. ________________

ADDRESS ________________________________________________________________

AGE _______ SEX _______ OCCUPATION/JOB TITLE ______________________________

DEPARTMENT __________________________________________________________________

ACCIDENT LOCATION _________________________________________________________

SPECIFIC DESCRIPTION OF WHAT THE EMPLOYEE WAS DOING WHEN INJURED ________

___________________________________________________________________________

___________________________________________________________________________

DESCRIPTION OF THE INJURY OR ILLNESS IN DETAIL AND THE PART OF THE BODY
AFFECTED ___________________________________________________________________

___________________________________________________________________________

NAME OF THE OBJECT OR SUBSTANCE WHICH DIRECTLY INJURED THE EMPLOYEE _______

___________________________________________________________________________

DATE OF INJURY OR DIAGNOSIS ________________ TIME ________ A.M./P.M.

NAME/ADDRESS OF PHYSICIAN ________________________________________________

___________________________________________________________________________

NAME/ADDRESS OF HOSPITAL (IF APPLICABLE) _________________________________

___________________________________________________________________________

DATE OF REPORT ___________________ SUBMITTED BY ____________________________
ORDINANCE NO. 612

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF ERWIN, TENNESSEE.

WHEREAS some of the ordinances of the Town of Erwin are obsolete, and

WHEREAS some of the other ordinances of the city are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Erwin, 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 "Erwin Municipal Code," now, therefore:

"BE IT ORDAINED BY THE TOWN OF ERWIN, AS FOLLOWS:"

Section 1. Ordinances codified. The ordinances of the town 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 "Erwin 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 town or authorizing the issuance of any bonds or other evidence of said town'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 town; 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 or franchise granted by the town; 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 town.

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 fifty dollars ($50.00) 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."¹

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 reproduced 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 revised to reflect such amended, added, or deleted material and shall be distributed to town 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 provision 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 of effect. This ordinance shall take effect upon the expiration of ten (10) days 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.

¹State law reference
For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.
Passed 1st reading, _______April 25________ 2005.
Passed 2nd reading, _______May 23________ 2005.

William Donald Ferrin
Mayor

Rand C. Latta
Recorder