

CHARTER OF THE TOWN OF ERWIN, TENNESSEE<sup>1</sup>

## CHAPTER NO. 297

House Bill No. 558

(By Robbins)

AN ACT to provide a new Charter for the Town of Erwin, in Unicoi County, Tennessee, and to embrace the entire Charter in one Act, and to incorporate the said Town of Erwin under such new Charter; and to repeal all laws or parts of laws in conflict with the provisions of this Act.

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<sup>1</sup>Chapter 297, Private Acts of 1947, is the present basic charter act for the Town of Erwin. As set out herein all of its amendments have been incorporated through the 2015 session of the Tennessee General Assembly. Where a section of the charter has been amended or added, the citation of the official act or acts making such change is carried at the end of the section so amended or added.

A catchline has been added for each section and a table of contents has been added by the compiler to facilitate reference to the charter. Otherwise it is set out herein exactly as enacted and amended by the General Assembly of the State of Tennessee.

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ARTICLE I

General

SECTION 1. Incorporation. Be it enacted by the General Assembly of the State of Tennessee, That the Town of Erwin, in Unicoi County, be, and the same is, hereby incorporated under and by this Act.

SECTION 2. Name and general powers. Be it further enacted, That the inhabitants of the Town of Erwin, in the County of Unicoi, within the present limits of the Town of Erwin, as hereinafter described, be and they are hereby constituted a body politic and corporate under the name and style of "Town of Erwin," and as such shall have perpetual succession, shall sue and be sued, implead and be impleaded in all Courts of law and equity, and in all actions whatsoever; may, for municipal purposes, purchase, receive and hold property, be the same real, personal, or mixed, either within or beyond the limits of the Town, and may sell, lease or dispose of such property for the benefit of the Town, and may do all other acts touching the same as may natural person, may have and may use a common seal, and may change it at pleasure; and may exercise all the rights, powers and privileges set forth in the following sections of this Act.

SECTION 3. Assets and liabilities of old corporation assumed. Be it further enacted, That the right, title and ownership of all property of the Town of Erwin, and all its uncollected taxes, assessments, dues, fines, costs, claims, judgments, choses in action and all its rights of every character whatsoever, shall immediately and forthwith become and are hereby vested in the municipal corporation created by this Act; and the said new corporation shall be and is hereby burdened, charged with, and made liable to all legal debts, contracts, bonds and obligations of the old corporation which it succeeds, in the same manner and form and to the same extent as the said prior municipal corporation was, under the existing laws.

SECTION 4. Existing ordinances, resolutions, etc., continued. Be it further enacted, That all laws, ordinances, and resolutions lawfully enacted by the governing body of the Town, under any preceding Charter, shall be and remain in full force and effect, under this new Charter until such time as the governing body of the said Town created under and by this Act shall elect to amend, modify, or repeal the same.

ARTICLE II

Boundaries<sup>1</sup>

SECTION 1. Description of corporate boundaries. Be it further enacted, That the boundaries of the Town of Erwin, under the preceding Article, shall be as follows:

As the boundaries of the Town of Erwin stood fixed and existed on December 31, 1946, by preceding Acts of the General Assembly, and particularly Chapter No. 267, House Bill No. 628, of the General Assembly of the State for the year 1923, which defines the boundaries as follows:

Beginning at the south corner of the Erwin Manufacturing Company's property in the Fifth Civil District of Unicoi County; thence a southeasterly direction to a stake at the southeast corner of the Mrs. Hannah McNabb lot near the road leading to Rock Creek from Erwin; then a southwest course to the McInturff Spring; thence a south course

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<sup>1</sup>The corporate boundaries as herein set forth have been extended by the following annexation ordinances of record in the recorder's office:

<u>342</u>	<u>344</u>	<u>369</u>	<u>404</u>	<u>465</u>	<u>482</u>	<u>515</u>	<u>520</u>	<u>522</u>	<u>524</u>
<u>530</u>	<u>541</u>	<u>545</u>	<u>550</u>	<u>553</u>	<u>568</u>	<u>589</u>	<u>600</u>		

to the northerly side of Shawnee Street; thence with Shawnee Street in an easterly direction to the east side of the first alley east of Alabama Street; thence with the said alley to Love Street; thence a southwest course to an apple tree now marked by an iron monument in the lane leading from Martins Creek Road to the tenant house on the H. A. Jones 76 acre tract of land, and which the Holston Corporation now owns; thence a southwest course to a sycamore tree now marked by an iron monument in the south corner of the lot where H. A. Jones lived in 1909; thence a northwest direction over the little mountain to the mouth of North Indian Creek; thence up and with the meanderings of the creek in a northerly direction to the west corner of the said Erwin Manufacturing Company property line; thence with the property line of the said Company to the point of beginning.

SECTION 2. Ward boundaries. Be it further enacted, That the territory described and bounded in Section 1 of this Article shall be divided into such wards as may be prescribed by ordinances enacted by the governing body of the said Town so created under this Act.

### ARTICLE III

#### Corporate Powers

SECTION 1. Enumeration of ordinance powers. Be it further enacted, That the said municipal corporation, in addition to the powers, rights, and authority vested in it by the preceding sections and general law, shall have power by ordinance, to-wit:

(1) To assess in the manner hereinafter provided and to levy and collect taxes for the general and special purposes of the Town, on all subjects or objects of taxation and privileges, taxable under and by the laws of the State, County or Town; however, in taxing polls and property, the same ratio between them shall be observed by the municipality as is observed and pursued in State taxation. In no event shall the municipal tax exceed the amount levied by the State for State purposes, other than real property as hereinafter provided for.

(2) To adopt such classification of subjects or objects of taxation as may not be contrary to the law.

(3) To make special assessments for local improvements.

(4) To contract and be contracted with.

(5) To anticipate the annual revenue by borrowing money to meet the payment of interests or interest on the bonded debt of the Town, or other budgeted obligations; provided, the amount borrowed in any one year shall not exceed two-thirds of the yearly tax levy for that year, which money so borrowed shall be repaid out of such tax collections.

(6) To issue and exchange, sell, pledge, or in any manner dispose of negotiable interest bearing or non-interest bearing refunding bonds, fix the interest rate and maturity date thereof, to refinance or extend the existing bonded indebtedness of the Town, upon the credit of the Town, or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the Town, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more such credits.

(7) To issue and sell any new interest bearing or non-interest bearing bonds for any purpose permitted by this Act or permitted by statutes of the State of Tennessee, to fix interest rates and maturity dates of such bonds and to issue the same upon the credit of the Town, or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the Town, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more of such credits.

(8) To expend the money of the Town for any and all lawful purposes.

(9) To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge, or otherwise dispose of property, real or personal, or any estate or interest therein, within or without the Town or State.

(10) To condemn property, real or personal, or any easement, interest or estate or use therein, either within or without the Town, for present or future public use, such condemnation to be made and effected in accordance with the terms and provisions of Sections 3109 through 3132 of the Code of Tennessee, or in such other manner as may be provided by law.

(11) To take and hold property within or without the Town or State, upon trust; and to administer trusts for the public benefit.

(12) To acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of, public utilities or any interest therein, or any other utility of service to the Town, and the inhabitants thereof; or service or services to the inhabitants of the environs of the Town. The words "environs of the Town," as used in this section, shall include but not necessarily be limited to any part of Unicoi County not embraced in any other incorporated municipality of the County; provided, however, that nothing in this section shall preclude a public utility owner or operated by the Town of Erwin from serving another incorporated municipality or its inhabitants, with the consent of such other municipality.

(13) To grant to any person, firm, association or corporation franchises for public utilities and public services to be furnished the Town and those therein, and to grant rights-of-way through the Town's streets, avenues, ways, alleys, parks, places, and over any bridges and viaducts of the Town, for the use of the public and quasi-public utilities; provided, further, that such new franchise shall not destroy the terms of any existing franchise. Franchises may be granted for a period of twenty years or less, but no longer. Franchises may be their terms apply to the territory within the corporate limits of the Town at



the date of the franchises, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys and other thoroughfares that thereafter may be opened.

(14) To make contracts with any person, firm, association or corporation for public utilities and public services to be furnished the Town and those therein. Such contracts may be entered into for the period of twenty years or less, but no longer. The Board of Aldermen may prescribe in each such contract entered into the rates, fares, charges and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the Town at the date of the contract, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys, ways and thoroughfares, and to any such streets, alleys and other thoroughfares that thereafter may be opened.

(15) To prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, and compel, from time to time, reasonable extensions of facilities for such service.

(15A)<sup>1</sup> To establish and maintain a fire department, with the necessary or proper employees, fire-fighting apparatus and equipment for the prevention and suppression of fires within the city.

The Board of Commissioners may, by proper resolution spread on its minutes, authorize the fire department to answer calls to suppress or extinguish fires in the area adjacent to the city and within a reasonable distance outside the city's boundaries.

(16) To establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, close, abandon, sprinkle, and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, places, bridges, viaducts, sewers and drains within and without the corporate limits of the Town, and to regulate the use thereof within the corporate limits, and property may be taken and appropriated therefor under the provisions of the general law.

(17) To construct, improve, reconstruct and reimprove, by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining, or otherwise improving any street, highway, avenue, alley or other public place within the corporate limits, and to assess a portion of the cost of such improvement upon the property abutting upon or adjacent to such streets, highways, alleys or public places, under and as provided by Sections 3408 through 3493 of the Code of Tennessee, or any general law of the State now or hereafter effected.

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<sup>1</sup>Subsection 15A was added by Priv. Acts 1955, ch. 277.

(18) To assess against abutting property within the corporate limits the cost of removing from the sidewalks all accumulations of ice and earth, cutting and removing obnoxious weeds and rubbish; the lighting of streets; the cleaning and rendering sanitary, or removal, abolishing and prohibiting of closets and privies, in such manner as may be provided by general law, or by ordinance of the Board of Aldermen.

(19) To acquire, purchase, provide for, construct, regulate and maintain, markets and do all things consistent with law and public interest relating to all market places, public buildings, bridges, sewers and other structures, works and improvements.

(20) To collect and dispose of drainage, sewage, offal, ashes, garbage, and refuse, by discharging the same into streams and rivers, or otherwise, or license and regulate such collection and disposal.

(21) To impose a license tax upon any animal, thing, business, vocation, pursuit, privilege, or calling, not prohibited by law.

(22) To define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, uses of property and all other things whatsoever detrimental or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the Town, and to exercise general police powers.

(23) To prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people, may lawfully be established, conducted or maintained.

(24) To inspect, test, measure and weigh any article for consumption or use within the Town and to charge reasonable fees therefor; and to provide standards of weights, tests, and measures; and may require articles usually sold by dry measure to be sold by weight within the corporate limits of the Town.

(25) To establish, regulate, license and inspect weights and measures.

(26) To regulate the location, bulk, occupancy, area, lot, location, height, construction, and materials of all buildings, lands and places as to their condition for health, cleanliness, safety, and, when necessary, prevent use thereof and require any alteration or change necessary to make them healthful, clean or safe.

(27) To provide and maintain charitable, educational, curative, detention or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services.

(28) To purchase or construct, maintain and establish a workhouse or farm colony for confinement and detention of any person convicted in the Town Court of offenses against the laws and ordinances of the Town, who fail to secure the fine and cost imposed upon such malefactor, to contract with Unicoi County to keep such persons in the workhouse or County jail, and to provide by said contract and by ordinance for the commitment of such persons to the workhouse so provided, until such fines and costs shall have been fully paid.

(29) To enforce any ordinance, rule or regulations by means of fines,

forfeiture, penalties and imprisonment, or by action or proceedings in any Court of competent jurisdiction, or by any one or more of such means, and to impose costs as part thereof, but no fine, forfeiture or penalty shall exceed Fifty Dollars, and no imprisonment shall exceed ninety days.

(30) To establish schools, to purchase or otherwise acquire land for schoolhouses, play grounds, and other purposes connected with the schools; to purchase or erect all necessary buildings, and to do all other acts necessary to establish, maintain and operate a complete educational system within the City, to determine the necessary school officers and teachers and fix their compensations.

(31) To regulate, tax, license or suppress the keeping or going at large of any animal or fowl within the Town, to impound the same, and, in default of redemption, to sell, dispose of or kill the same.

(32) If any person or corporation required by law to pay privilege taxes to the Town, or to obtain a license before engaging in the same, presume to sell goods or exercise a privilege without first obtaining a license as required by law, the Recorder or collecting officer shall issue to the Town Marshall, Sheriff, or any Constable, a distress warrant, commanding him to levy, in cast of privilege tax, double the highest tax imposed upon any such privilege, and in other cases double the highest tax imposed upon any similar business, together with the costs and charges, by distressing and selling so much of the delinquent's goods and chattels as shall be sufficient for the purpose.

The officer having seized the goods and chattels of the delinquent shall give ten days' notice of the time and place of sale, which he shall make at the time specified, unless the owner, at or before the time of sale, produce the Recorder's or collecting officer's receipt for the tax, costs and charges, in which case the officer shall redeliver the goods to the owner.

(33) The governing body of the Town is hereby empowered annually to levy a special tax not to exceed two (2) Cents on each One Hundred Dollars valuation on the annual aggregate, for the purposes of establishing and maintaining a fund for advertising the commercial, social, agricultural, industrial, points of interest, scenic, historical and educational advantages of the Town, and other interests and attractions, and for such other purposes as the aforesaid body, in its discretion, believe will increase the population, value of taxable property and the general business prospects, and the general welfare of the Town.

The fund so created shall be used and expended under the direction and control of the governing body of the Town, or through such agency or agencies as it may prescribe, and under such rules and regulations as said governing body may deem proper.

(34) All fines and forfeitures imposed by the ordinances of the Town may be recovered by action of debt in the name of the Town.

(35) That the Town of Erwin may take advantage of any Act of congress now or hereafter enacted for the aid or relief of municipalities or their

inhabitants, including the provisions for Federal grants and loans to municipalities, or to enter into contracts with any Federal agency for such purposes, and to meet all conditions and requirements of the Federal law relating to such contracts.

(36) To require every person, firm, association or corporation operating taxicabs in the Town of Erwin to apply for and receive from the Board of Mayor and Aldermen of the Town of Erwin a permit therefor, and to prescribe the terms and conditions under which permits may be granted, and to provide for the revocation or suspension of such permits for violation by such operators, in the operation of taxicabs, of State laws and Town ordinances; to regulate and supervise and control the operation of the business of operating taxicabs, and to require the payment by such operators of a permit fee and/or fees for the inspection, control and supervision of the business, equipment, service and acts of taxicab operators, which fees may be required in addition to Town automobile identification tag fee, and all other fees and charges, assessed by law against such operators; to fix the rate to be charged for the carriage of persons by any taxicab owner or operator, and to require indemnity bonds or indemnity insurance policies to be filed with the Town by the owner or operator of any taxicab or taxicabs, for the protection of the Town or any person against loss by injury to person or property. The term "taxicab" as used in this subsection shall mean every motor vehicle operated for the transportation of passengers for hire, serving or offering to serve the public, the principal operation of which being confined to the corporate limits of the Town, and which does not operate over a fixed route.

(37) That for the purpose of maintaining good and substantial sidewalks in the Town, and securing uniformity in the construction thereof, the Board of Mayor and Aldermen, whenever it is deemed necessary by it, for the public welfare, may require by resolution, the owner of any lot or part of lot in the Town, fronting upon any public street, to construct and keep in repair a good and substantial sidewalk or foot pavement along the whole street frontage along his lot or lots, and of width and material prescribed by the Board. When so instructed by the Board of Mayor and Aldermen, the Recorder of the Town shall give the owner of the lot or lots written notice stating the action of the Board, and specifically setting forth the work to be done, and the length of time within which the same must be done, provided that the time fixed shall not be less than fifteen days, or such additional time as the Board may fix.

If the owner of the lot or lots shall fail or refuse to construct said sidewalks or foot pavements within the time required by said notice, and agreeable thereto, the Board of Mayor and Aldermen, acting through its proper officials, may construct or contract for the construction of the same, and shall pay the cost thereof out of the general funds, and the amount so paid shall be a lien upon such lot or lots of property, and may be enforced by attachment at law or in equity; or the amount may be recovered against the said owner or owners by suit before any Court of competent jurisdiction; and the Town Attorney is

authorized to proceed to enforce such lien. The said lien thereby created shall be superior to all other liens except those of the State and County, and Town, for taxes, and except the liens, if any there be, theretofore fixed against the property in favor of the Town for the construction and improvement of streets and ways. The construction and repair of that portion of the sidewalks extending into the street intersections shall be chargeable to the Town. The construction and repair of sidewalks in front of property between street intersections shall chargeable to the abutting property in front of which the sidewalks is constructed, and/or the owner of such abutting property as hereinbefore provided.

(38) That the said Town shall have power and authority to do any and all such other acts and things as may be necessary or proper for the welfare of the inhabitants of the Town.

(39) The enumeration of particular powers in this Charter is not exclusive of and does not exclude others, nor restrictive of general words and phrases granting powers, nor shall a grant or failure to grant power in this article impair a power granted in any other part of this Charter and whether powers, objects or purposes are expressed, conjunctively or disjunctively, they shall be construed so as to permit the Town to exercise freely any one or more such powers as to any one or more such objects for any one or more such purposes. [As amended by Priv. Acts 1955, ch. 277]

## ARTICLE IV

### Officers and Corporate Authority

SECTION 1. Be it further enacted, that the governing body of the Town of Erwin shall be vested in a Mayor and City Council to be designated as the Board of Mayor and Aldermen consisting of one (1) Mayor and (5) Aldermen.

The term of office for said Mayor and Aldermen, following the special election procedures and dates set out herein, shall be for four (4) years. The present Mayor and Aldermen shall serve the remainder of their respective terms for which they were elected.

On June 26, 2001, such date being the fourth Tuesday of June and the date of the regular city election, the following shall be elected: a Mayor, whose term shall expire at midnight on November 30, 2004, and two (2) Aldermen, whose terms shall expire at midnight on November 30, 2004.

On June 25, 2002, such date being the fourth Tuesday of June and the date of the regular city election, three (3) Aldermen shall be elected, whose terms shall expire at midnight on November 30, 2006.

Beginning in November 2004, city elections shall be held on the first Tuesday following the first Monday in November of all even-numbered years. In November 2004, a Mayor and two (2) Aldermen shall be elected. Terms of office for the Mayor and Aldermen elected in November 2004, and any

succeeding election, shall begin on December 1 following their respective election and shall expire at midnight on November 30, four (4) calendar years after their election.

In November 2006, on the first Tuesday following the first Monday in November, three (3) Aldermen shall be elected. Terms of office for the Aldermen elected in November 2006, and any succeeding election, shall begin on December 1 following their respective election and shall expire at midnight on November 30, four (4) calendar years after their election.

The Board of Mayor and Aldermen shall have power and authority to elect one (1) of its members to act as Vice-Mayor. The Vice-Mayor shall, in the absence of the Mayor, preside at meetings of the Board<sup>1</sup>. In the absence of both the Mayor and Vice-Mayor at any regular meeting, the Board may elect one (1) of its members to act as Mayor pro tem at such meeting.

Upon nomination by the Mayor, the Board of Mayor and Aldermen shall have and hereby is granted, the power and authority to elect one (1) person as Recorder of the town, and such Board shall have power and authority to fix the salary of the Recorder at such figure as the Board may deem proper. The Recorder shall be appointed to an indefinite term of office based on continued competent performance and absent any malfeasance, misfeasance or other sufficient cause for termination. The Recorder shall enjoy the same retention rights and benefits accorded all employees enumerated in Ordinance No. 570, as amended. Termination of the Recorder or other disciplinary actions shall be in accordance with Section V of the "Town of Erwin Personnel Rules and Regulations" contained in Ordinance No. 570, as amended.

Upon nomination by the Mayor, the Board of Mayor and Aldermen shall have and is hereby granted, the power and authority to elect one (1) person as Chief of Police. The number of subordinate policemen shall be determined by the Board of Mayor and Aldermen. the Chief of Police shall determine the organization of the police department in consultation with, and concurrence by, the Mayor. The Chief of Police shall be appointed to an indefinite term based on continued competent performance and absent any malfeasance, misfeasance or other sufficient cause for termination. Termination of the Chief of Police or other disciplinary actions shall be in accordance with Section V of the "Town of Erwin Personnel Rules and Regulations" contained in Ordinance No. 570, as amended.

In the event of death, removal or resignation of any of the said officers of said Town, the remaining members of said Board of Mayor and Aldermen shall have, and is hereby granted, the power and authority to fill such vacancies for the unexpired term of such officer or officers so vacating office. In the event of a vacancy through death, removal or resignation of the Mayor, the said Board

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<sup>1</sup>See also § 9 in this article for provisions relating to the vice-mayor and mayor pro tem.

shall elect one (1) of its members to fill the unexpired term of such office. In the event a majority of Board of Aldermen shall resign or such offices become vacant through death or removal, then and in that event, the County Board of Election Commissioners shall, in the manner prescribed for general elections, call a special election to fill such vacancies, for the unexpired terms. [As replaced by Priv. Acts 2001, ch. 25]

SECTION 2. Mayor and aldermen must be qualified voters, free holders, and residents. Be it further enacted, That any qualified voter of the Town, who is also a freeholder of the Town, and who is a citizen of and actually resides and lives in the Town and has his or her domicile within the boundaries of the Town of Erwin, shall be eligible to have his or her name on the ballot for and to be elected to the office of Mayor or Alderman, provided further that a failure to continue to actually reside and live in and have his or her domicile within said boundaries shall vacate said office. [As amended by ch. 41, Priv. Acts 1955; and Priv. Acts 1988, ch. 203, § 1]

SECTION 3. Mayor and aldermen must not have been convicted of malfeasance, bribery, etc. Be it further enacted, That no person shall become Mayor or Alderman of the Town who shall have been convicted of malfeasance in office, bribery, or other corrupt practice, or of violating any of the provisions of Section 11332 of the Code of Tennessee in reference to elections, and if any such officer be convicted for any such offense he or she shall forfeit his or her office.

SECTION 4. Salaries of mayor and aldermen. Be it further enacted, That the salary of the Board of Mayor and Aldermen shall be fixed by ordinance duly passed by the Board of Mayor and Aldermen of the Town.

SECTION 5. Board of mayor and aldermen's general powers. Be it further enacted, That the legislative and all other powers, except as otherwise provided by this Charter, are delegated to and vested in the Board of Mayor and Aldermen; and the Board of Mayor and Aldermen may, by ordinance or resolution not inconsistent with this Charter, prescribe the manner in which the powers of the Town shall be exercised, provide all means necessary or proper therefor, and do all things needful within or without the Town or State to protect the rights and interests of the Town.

SECTION 6. Board to exercise its powers only as a body. Be it further enacted, That the said Board shall exercise its powers in session duly assembled, and no member or group of members thereof shall exercise the powers conferred upon the Board except through proceedings adopted at some regular or special session.

SECTION 7. Time and place of regular meetings. Be it further enacted, That the Board of Mayor and Alderman shall, by resolution or ordinance, fix the time and place at which the regular meetings of said Board shall be had, and, until otherwise provided by ordinance or resolution, the regular meetings of the Board shall be held at the date, hour and place heretofore held under resolution of the Board under the old Charter.

SECTION 8. Special meetings. Be it further enacted, That whenever in the opinion of the Mayor, or of two Aldermen, the welfare of the Town demands it, the Mayor or the Recorder shall call a special meeting of the Board of Mayor and Aldermen, upon at least twelve hours written notice to each Aldermen, and if by request of two Aldermen, such notice shall be given to the Mayor as well as the Aldermen. The notice shall be served personally or left at the place of residence of the officer to be so notified.

Each call for special meeting shall set forth the character of the business to be discussed at such meeting, and no other business shall be considered at such meeting.

SECTION 9. Who to preside at meetings.<sup>1</sup> Be it further enacted, That the Mayor, if present, shall preside at all meetings of the Board of Mayor and Aldermen. If the Mayor be absent, the vice-mayor shall preside. If both the Mayor and Vice-Mayor be absent at any regular meeting, then and in such event the Board may elect one of its members to preside at such meeting.

SECTION 10. Quorum; authority to compel attendance of members. Be it further enacted, That a majority of all the members of the Board shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time, and may compel the attendance of the absentees in such manner and under such reasonable penalties as the Board may provide.

SECTION 11. Board's rules of procedure; authority to punish for contempt; subpoena power; limitation on fines and imprisonment; may administer oaths to witnesses; to keep journal of proceedings. Be it further enacted, That the said Board may determine the rules of its proceedings, subject to the provisions of this Charter, and may arrest and punish by fine or imprisonment, or both, any member of other person guilty of disorderly or contemptuous behavior in its presence. It shall have power, and may delegate it to any committee, to subpoena witnesses and order the production of books and papers relating to any subject within its jurisdiction; to call upon its officers

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<sup>1</sup>See also §§ 1 and 15 in this article for provisions relating to the presiding officer for board meetings.



of Chief of Police to execute its process, and to arrest and punish by fine or imprisonment, or both, any person refusing to obey such subpoena or order.

Provided, no fine for any one offense under this section shall exceed Fifty Dollars, nor shall any imprisonment for any one offense exceed ten days, but each day's continuance in any refusal as aforesaid shall be a separate offense.

The presiding officer or chairman of any committee may administer oaths to witnesses. It shall keep a journal of its proceedings, and the yeas and nays on all questions shall be entered thereon.

SECTION 12. Board sessions to be public. Be it further enacted, That all sessions of the Board shall be public, and subject to change of plan in case of emergency.

SECTION 13. Procedure for removal of mayor, alderman, recorder, chief of police, or policeman. Be it further enacted, That the provisions of the statute of Tennessee known as the Act for the "removal of unfaithful officers," being Sections 1877 through 1902 of the Code of Tennessee, shall apply to and be in force as to the Mayor, Aldermen, Recorder, Chief of Police, policemen<sup>1</sup>; and all such officers shall be subject to removal from office under the provisions of said law and for violations thereof.

SECTION 14. Duties, obligations, and bonds of recorder, chief of police, and other officers; judicial powers and responsibilities of the recorder, mayor, and vice-mayor. Be it further enacted, That the duties, obligations and bonds to be required of the Town Recorder, Chief of Police and other subordinate officers of the Town shall be fixed and prescribed by the Board of Mayor and Aldermen by ordinance, and, until such duly be passed, the duties of such officers shall be as prescribed by the existing ordinance and old Charter.

The Recorder, Mayor and Vice-Mayor are hereby vested with full power and authority to try all offenses for the violation of the ordinances of the Town; and all of such officials are hereby vested with concurrent jurisdiction with that of Justices of the Peace, in all cases of violation of the criminal laws of the State, and of ordinances of the Town, within the corporate limits of the Town; and for trying State offenses such officials shall be allowed and entitled to the same fees as are allowed Justices of the Peace in like cases. The Recorder shall keep a docket similar to those used by Justices of the Peace, in which shall be docketed every case tried, showing the amount of all fines and bills of cost.

SECTION 15. Mayor's general duties and responsibilities. Be it further enacted, That it shall be the duty of the Mayor to preside at all meetings of the

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<sup>1</sup>For later provisions regulating the procedure for removing policemen, see § 2 in this article.

Board, and to see that all ordinances and resolutions of the Town are duly and properly enforced, respected and observed within the Town, and to call special meetings of the Board of Mayor and Aldermen when he shall deem such proper; to make such recommendations in reference to action of the Board as he may deem proper and most conducive to the best interests and welfare of the Town, and to give orders upon the Recorder, if the Board directs the same to be done, for the payment of money.

SECTION 16. Town attorney, town engineer, and town physician authorized. Be it further enacted, That the Board of Mayor and Aldermen shall have authority, by ordinance, to create the office of Town Attorney, Town Engineer and Town Physician, and fix the duties of such respective offices and the compensation to be paid each.

## ARTICLE V

### Elections

SECTION 1. Law applicable to; notice of; places to be held; wards. Be it further enacted, That the election of Mayor and Aldermen under this Charter shall be held under the same provisions of the State law under which elections are prescribed to be held for such officials as Sheriff or Trustee of Unicoi County, in all things except as to the time and date thereof, upon legal notice thereof published in one or more of the newspapers of the Town, or by posters placed in public places, and as provided by law at the wards prescribed by the Board of Mayor and Aldermen for elections within the corporate limits. In the event no place be prescribed by such Board, then at the places prescribed for the County elections within the corporate limits.

If the Board of Mayor and Aldermen shall by appropriate ordinance divide the Town into wards, so that the residents of each may vote in the ward wherein he lives, the election shall be held in the voted places designated accordingly by the County Election Commissioners.

SECTION 2. Conditions for becoming a candidate. Be it further enacted, That the candidates shall be eligible to have their respective names placed on ballots only on the same conditions and in same manner as is prescribed for placing on the ballot of names of candidates for such office as Trustee and Sheriff of Unicoi County.

SECTION 3. County board of election commissioners to hold elections; qualifications for voting. Be it further enacted, That all Town elections shall be held under the supervision of the County Board of Election Commissioners, and in accordance with the law governing all State and County elections, as hereinbefore set out.

This section may be enforced by appropriate ordinances.

In any election for Mayor or Aldermen, under this Charter, all registered voters, otherwise legally qualified to vote in County and State elections, and who shall have been for sixty days next preceding the election bona fide residents of the Town, shall be entitled to vote.

SECTION 4. Mere informalities do not invalidate elections. Be it further enacted, That no informalities in conducting any elections held under this Charter shall invalidate it if such election is conducted fairly and in substantial conformity with the requirements of this article.

## ARTICLE VI

### Ordinances

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 replace 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 thereof on a bulletin board at the Municipal Building. The said posting shall be at least ten days before the effective date of the ordinance, and, after such publication, the said ordinance shall be in full force and effect.

The said Town may codify, rearrange and publish in book form, under appropriate chapters and sections, all ordinances, and such revisions and codification may be in one ordinance, containing one or more subjects. The publication of such revision and codification in book or pamphlet form, as aforesaid, shall be held to be sufficient publication of the ordinance or several ordinances contained in such codification so published.

Any such publication of a revision or codification of ordinances in a book or pamphlet form shall contain a certificate of the Mayor and Recorder of the correctness of such revision and publication (which certificate may be printed), and shall show the date on which printed and published, and shall be effective from and after such date.

All Town ordinances and resolutions and proceedings of said Board of Mayor and Aldermen may be proved by the seal of the said corporation, attested by the Recorder, and when purporting to be printed and published in book or pamphlet form by authority of the said Town, the same shall be received in evidence of the due enactment of any ordinance or resolution therein, and the date of the enactment thereof.

SECTION 5. Recorder to keep record of board's proceedings and a separate ordinance book. Be it further enacted, That the full and complete record of all the proceedings of the Board of Mayor and Aldermen shall be kept by the Recorder, who shall keep a separate book called "Ordinance Book," in which shall be recorded all the ordinances passed by the Board.

## ARTICLE VII

### Taxation and Revenue

SECTION 1. Municipal tax liens on real estate; assessment errors. Be it further enacted, That all municipal taxes on real estate in the Town, and all penalties and cost accruing thereon, are hereby declared to be a lien on said realty from and after the 10th day of January of the year in which same are assessed; and the same shall be and is declared superior to all other liens except liens of the United States, the State of Tennessee and Unicoi County, for taxes

legally assessed thereon, with which it shall be a lien of equal dignity. No assessment shall be invalid because the size of dimensions of any tract, lot or parcel of land shall not have been precisely named, or the amount of the valuation or tax not correctly given, nor because the property has been assessed in the name of a person or persons who did not own the same, nor because the same was assessed to unknown owners, nor on account of any objection or informality merely technical, but all such assessments shall be good and valid. The Board of Mayor and Aldermen shall have power to correct any error in tax assessment, upon certificate filed by the assessor or assessing body.

SECTION 2. Procedure for determining proper tax levy. Be it further enacted, That it shall be the duty of the Recorder, in each year, as soon as the assessment rolls for the Town are complete, to submit to the Board a certified statement of the total amount of the valuation or assessment of the taxable property for the year within the corporate limits of the Town (including the assessment of all railroads, telephone, telegraph and other public utility properties), together with a statement of the revenue derived by the City from privileges taxes, merchants' ad valorem taxes, fines for the preceding fiscal year, and miscellaneous revenue. Upon presentation of such statements by the Recorder, the Board shall proceed by ordinance to make the proper levy to meet the expenses of the Town for the current fiscal year.

SECTION 3. Assessment of property for municipal taxes. Be it further enacted, That as soon as practicable in each year after the assessment books of the State and County are complete (which shall be after the Equalization Board, provided for by State law, shall have finished the equalization of taxes) it shall be the duty of the Recorder to prepare or cause to be prepared from the assessment books of Unicoi County, a tax book such as is required by the laws of the State to be made out for the County Trustee, embracing, however, only such property and persons as are liable for taxes within the corporate limits of the Town of Erwin. Such tax books when certified to be true and correct and complete, by the Recorder, shall constitute the assessment for taxes of such property in said Town for municipal purposes; provided, that there may be assessments by the Recorder at any time of any polls or property subject to taxation found to have been omitted for three years.

PROVIDED, however, that the Board of Mayor and Aldermen of the Town of Erwin may, by ordinance, designate a tax assessor to assess the property within the corporate limits of the Town, independently of the assessment made by the County Tax Assessor, and may designate an Equalization Board for the Town; and may fix the rules of procedure to be followed by such assessor and board and may fix the compensation to be paid.

SECTION 4. When penalties to be added on unpaid taxes. Be it further enacted, That on the first day of March of the year following the year for which

the taxes were assessed, or on such other day as may be fixed by ordinance of the governing body, a penalty of one per centum upon all taxes remaining unpaid shall be imposed and collected by the Town, and paid into the treasury. An additional penalty of one per centum shall be added each month thereafter until a maximum of twelve per centum shall have accrued, after which one-half of one per centum per month shall be added until the tax and accrued penalty shall have been paid.

SECTION 5. Tax due and delinquent dates; installment payments. Be it further enacted, That the Board of Mayor and Aldermen may, by ordinance, change the due date and delinquent date of all taxes, and may provide for semi-annual payment of taxes and discount for prompt payment thereof.

In the event a semi-annual installment of taxes is made due and payable before the assessment and levy of taxes in the Town for the current year is complete, the amount of the installment so collected as a part of the tax upon any property shall not be more than fifty per cent of the taxes levied upon the same property for the preceding year. Such installment to be credited on the current year's taxes when determined and levied.

SECTION 6. Sale of property for delinquent taxes. Be it further enacted, That the Recorder shall, under the provisions of the State law for the collection of delinquent taxes, certify to the Town Attorney a list of all real estate upon which municipal taxes remain due and unpaid, or which is liable for sale for other taxes, and the same shall be sold in like manner and upon the same terms and conditions as real estate is sold for delinquent State and County taxes. And said Attorney shall require for his services 5% of the amount of the delinquent tax, which fee shall be and become a part of the tax and the tax lien.

SECTION 7. Collection of special assessments. Be it further enacted, That the Board of Mayor and Aldermen shall have power and is hereby given authority to file bills in the Chancery or Circuit Court in the name of the Town, for the collection of assessments and levies made for payment for improvements or service in said Town, such as paving, sidewalks, curbing, guttering, sewers and other improvements, or services for which assessments may be made under the Charter, or by any other Act or Acts of the Legislature, and the cost of which is made a charge on property, the suits commenced by said bills to be conducted as other suits in Chancery for the enforcement of like liens and under the rules of law and practice provided for same; provided that the bills shall not be objectionable because the owners of different parcels or lots of land are made parties thereto, it being the intention that all persons in the same assessment and levy for improving any portion of the Town aforesaid, and on whose property said assessment or levy is a lien, shall be made parties defendant to one bill.

SECTION 8. All available property and privileges to be taxed. Be it further enacted, That all property, real, personal and mixed, subject to State, County and Town taxes, and all privileges taxable by law, shall be taxed and taxes thereon shall be collected by the Town for municipal purposes.

SECTION 9. Merchants ad valorem taxes; county and state to prepare separate assessment books for city property. Be it further enacted, That the ad valorem tax upon merchants' stock, accounts and equipment may be assessed and collected in like manner as State and County merchants' ad valorem tax is assessed upon the same property. It shall be the duty of the County Tax Assessor and the Railroad and Public Utilities Commission of Tennessee to prepare a separate assessment book or roll showing real, personal and mixed property assessable and lying within the limits of the Town.

That such records shall be certified to the Recorder of the Town upon completion of the work of the Board of Equalization, after they have been copied by the County Court Clerk of the County, or the proper officers of the State.

SECTION 10. Taxes to be levied and collected as of January 10th. Be it further enacted, That the Board of Mayor and Aldermen of the Town shall have full power to levy and collect taxes as of January 10th of each and every year.

SECTION 11. License tax authorized; recorder to enforce merchants' and license taxes. Be it further enacted, That a license tax may be imposed by ordinance upon any and every privilege, business, occupation, vocation, pursuit or calling, or any class or classes thereof, now or hereafter subject to taxation under the laws of the State of Tennessee; and a separate license tax may be imposed for each place of business conducted or maintained by the same person, firm or corporation.

The Recorder shall enforce the collection of merchants' taxes and all other license taxes, and for the purpose shall have and exercise the powers by law vested in, and follow the procedure and methods prescribed by law for, County Court Clerks.

## ARTICLE VIII

### Legal Status Provisions

SECTION 1. Severability clause. Be it further enacted, That if any section, sentence or clause herein contained shall be declared unconstitutional or invalid, such holding shall not in any manner affect any other part hereof, the Legislature hereby expressly declaring that it would have enacted the remainder of this Act with such invalid portion elided therefrom.

SECTION 2. Laws repealed; effective date. Be it further enacted, That all laws and parts of laws in conflict herewith be and the same are hereby repealed to the extent that they conflict herewith, and that this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 17, 1947.

W.B. Lewallen,  
Speaker of the House of Representatives.

George O. Benton,  
Speaker of the Senate.

Approved: February 21, 1947.

Jim McCord,  
Governor.



Private Acts Comprising the Charter of Erwin, Tennessee

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Year	Chapter	Subject
1947	297	New Charter
1955	41	Civil Service System for Police Department
1955	277	Fire Department
1988	203	Art. IV, § 2, mayor and aldermen to be qualified voters, freeholders, and residents; art. VI, § 2, passage of ordinances.
2001	25	Replaced Art. IV, § 1, officers and corporate authority and, replaced Art. § 2, procedure for adopting; when effective; amendment of.