

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

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3. PRIVILEGE TAXES.
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CHAPTER 1

PURCHASING

SECTION

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5-101. General provisions. The city shall follow the following procedures:

(1) Establish and maintain an updated ledger of all suppliers of every item purchased or to be purchased by the City of Bartlett said ledger to be hereinafter referred to as the "Registry of Suppliers," a public record.

(2) Solicit within an area at least as broad as Shelby County all persons, companies or suppliers who desire or may desire to be recorded as an

¹Charter references

Finance and budget: article IX.

Taxes: article X.

approved supplier within the Registry of Suppliers and at least once each year advertise for same.

(3) Request and record written bids, or oral bids in those limited circumstances permitted herein, for all city purchases, it being the stated and specific intention that no purchase shall be separated or broken down so as to fall within lesser regulated purchasing authority categories.

(4) Maintain the receipt of bids with such confidential and ethical practices to prevent uniform bidding and require full and open competition for all purchases and all sales, it being a specific violation of this chapter to open, inquire or disclose any bid prior to formal bid opening on bid selection.

(5) Take advantage for the city of the bulk and seasonal buying.

(6) Maintain in addition to the Registry of Suppliers a registry of specifications and standards to be established over the course of purchasing activity with the assistance and input of the city engineer, other technical staff and the department heads.

(7) Establish and maintain an overview of purchasing activity so as to approximate yearly quantity and volume of purchases so as to permit requirements contract bidding and designation of service contractors on requirements contract.

(8) Establish and maintain a system of forms which shall meet the requirement of public record keeping.

(9) Obtain all federal and state tax exemptions to which the City of Bartlett is entitled.

(10) Dispose of supplies, materials, equipment and land only by published open sale.

(11) Provide for and maintain a complete record in the city hall for public inspection of all purchase transactions including publication notices, bid deadlines, suppliers bidding, bids received, bids selected, purchase approvals obtained. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

5-102. Purchases in excess of \$25,000.00. Formal publication in a newspaper of general circulation in Shelby County shall be made to solicit bids from all interested bidders and in addition there shall be sent an invitation to bid to all persons recorded in the Registry of Bidders for purchases of value greater than twenty-five thousand dollars (\$25,000.00). Publication shall be made not less than ten (10) days before bids are accepted. Bids shall be opened and read aloud at the time and date specified in the invitation to bid and after review by the appropriate city personnel presented to the board of mayor and aldermen for review and action. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, Ord. #91-10, June 1991, Ord. #91-14, Sept. 1991, Ord. #99-13, Oct. 1999, and Ord. #17-06, July 2017)

5-103. Purchases between \$10,000.00 and \$25,000.00. (1) Purchase order request form contains the following minimum information for purchases

between ten thousand dollars (\$10,000.00) and twenty-five thousand dollars (\$25,000.00) must be submitted.

- (a) Department making request;
- (b) Items requested;
- (c) Reason for request;
- (d) Line item expense code;
- (e) Assurance of funds availability per budget;
- (f) Bids from a minimum of three (3) suppliers or justification as to why three (3) bids were not obtained;
- (g) Signature of department head (or his approved representative).

(2) After approval from the mayor's office the request shall be forwarded to accounting where a purchase order authorizing the expenditure will be issued.¹ (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, Ord. #91-10, June 1991, Ord. #91-14, Sept. 1991, Ord. #99-13, Oct. 1999, Ord. #06-25, Dec. 2006, and Ord. #17-06, July 2017)

5-104. Purchases of \$10,000.00 or less. A purchase order request form as outlined under § 5-103 of this chapter may be submitted directly to accounting for issuance of a purchase order for purchases of ten thousand dollars (\$10,000.00) or less. In no case can the procedure be used when the amount of the purchase would exceed budgeted authorization.¹ (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, Ord. #91-10, June 1991, Ord. #99-13, Oct. 1999, Ord. #06-25, Dec. 2006, and Ord. #17-06, July 2017)

5-105. Requirements contracts. Whenever possible the yearly volume of all city purchases for all supplies, materials and services shall be approximated by the city and at least once each year, all such quantity purchases shall be opened to public bid, duly published, for requirements contract during the period, which items shall include and be not limited to all repetitively purchased items. Provided, however, the purchase order authorization shall continue to be required for all orders under the requirements contracts and only the periodic bidding is substituted for repetitive bidding. Further, no requirements contracts can be entered without the approval of the board of mayor and aldermen, there being no exigent or emergency circumstances to compel requirements contracts out of the normal purchasing procedures. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

¹NOTE: The above provisions are minimal requirements and shall not preclude formal advertising for bids where appropriate in the opinion of the mayor or his representative.

5-106. Cooperative purchasing. The department head with the approval of the mayor shall have the authority to join with other units of government in cooperative purchasing plans so that the best interest of the city shall be served thereby. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

5-107. Process for awarding bids. When determining which vendor shall be awarded a bid or purchase order, the department head shall not only factor in the lowest bid price, but also the most responsive and responsible vendor prior to awarding the contract or bid. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, and replaced by Ord. #11-11, Nov. 2011)

5-108. Bid deposit required. In all instances where the item proposed for purchase is intricately necessary to the provision of city services or the failure of a bidder to honor the bid price or delivery shall result in a hardship from delay or scheduling the mayor may within the invitation to bid and publication, if required, require a bid deposit or bond of face value of ten percent (10%) of the total purchase price; provided, however, this bid deposit may be made by certified bond or cashier's check. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, and Ord. #91-10, June 1991)

5-109. Solicitation of bids. At least once each year the bid officer shall publish during three (3) consecutive weeks an invitation to all suppliers to register with the City of Bartlett to participate and provide all supplies, materials, equipment, equipment services, repair services and contractual services required in the operation of city government and all of its departments. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984)

5-110. Private contract restricted. It is the stated intent and underlying principle of this section to minimize all private contracts between all city officers, employees and all suppliers upon the accepted premises that contact other than discussion in open public hearing compromises the city in its responsibility to deal openly and deal fairly with all persons. Realistically, it is accepted that department heads and purchasing officials must invite discussion if only to determine product performance and specifications, particularly in those instances where multiple competing products exhibit diverse properties and performance characteristics. Such contacts should be minimized, and if engaged made equally available to all suppliers. Moreover, the greatest care should be taken to insure against personal influence, produce puffing and the congeniality which must be understood as intended to influence decision. Moreover, it is a mandatory provision of this section that there shall be no traditional or customary suppliers, the bid and selection process being hereby declared equally accessible to all persons regardless of personal considerations. Only in the instance where the bid received is identical in price and term will

a resident of Bartlett supplier be favored over a non-resident. (Ord. #84-1, Feb. 1984)

5-111. Professional services. Pursuant to the provisions of Tennessee Code Annotated, § 12-4-106, the professional services of a financial advisor, educational consultant, attorneys or other professional advisory services are not subject to the bid and purchase procedure. (Ord. #84-1, Feb. 1984)

5-112. Multi-year contracts. For professional or specialized services such as insurance, attorneys, financial advisor, auditing, engineering or other similar service the city may from time to time engage in multi-year contracts with approval of the board of mayor and aldermen and subject to budget authorization. (Ord. #91-10, June 1991)

5-113. Emergency purchasing procedures. The mayor shall be empowered to waive the normal advertising requirement for bids, to accept bids via facsimile or email and to authorize the procurement, at the lowest available price, of any parts, supplies or contractual services in the event of an operational emergency.

A full report of the circumstances of any operational emergency purchase shall be presented to the aldermen and shall be entered into the minutes of the next board of mayor and aldermen meeting. (as added by Ord. #06-21, Oct. 2006)

5-114. Competitive sealed proposals. (1) Notwithstanding anything to the contrary in the city ordinances and/or resolutions governing purchases, the city may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids when the board, acting under the restrictions and requirements of Tennessee Code Annotated, § 12-3-10, as same may hereinafter be amended, and the procurement code adopted by this section, determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city. The board must make the aforesaid determination with regard to each use of competitive sealed proposals rather than competitive sealed bids, except that in actual emergencies caused by unforeseen circumstances such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the board. A record of any emergency purchase shall be made by the person authorizing the emergency purchase, specifying the amount paid, the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase purchased through competitive sealed proposals containing all relevant information shall be made as soon as possible by the person authorizing the purchase to the board.

(2) Procurement code. The following shall constitute the procurement code of the city:

(a) Conditions for use. (i) Competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase;

(ii) When there is more than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(iii) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one or more solutions.

(b) Public notice. Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided by applicable law for competitive sealed bids.

(c) Request/evaluation factors. The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors. Among other things, the request shall include the desired specifications (which may be expressed in the context of the result sought to be obtained); the qualifications of each proposer; warranties, time frame for performance, the contract; and, if applicable, the bond or other security that the successful proposer will be required to furnish.

(d) Opening of proposals. Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing proposers during the negotiation. The proposals shall be open for public inspection after, but not before, the intent to award the contract to a particular proposer is announced.

(e) Discussions with responsive proposers and revisions to proposals. The request for competitive sealed proposals shall provide that after receipt by the city of a proposal, discussions may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with responsible proposers who submit proposals determined by the city to be reasonably susceptible of being selected. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and for revision of proposals, both as to the particular goods or services to be furnished and the price thereof. In order to permit the city to obtain the best offers of proposers, revisions may be permitted after submission and before the intent to award to a particular proposer is announced. In conducting discussions, the city may make no disclosure to any proposer of any information derived from proposals submitted by competing proposers. Nothing contained herein shall preclude the city from conducting conferences or otherwise communicating with all parties who may be interested in responding to a proposal prior to the time that proposals are to be received.

(f) Best and final offers. If discussions are conducted, the city shall issue a written request for best and final offers. The request shall set forth the date, time, and place for submission of best and final offers. Best and final offers shall be requested only once, unless the city makes a written determination that it is advantageous to the city to conduct further discussion or change the city's requirements. The request for best and final offers shall inform proposers that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer. Nothing contained herein shall preclude the board from rejecting all proposals and thereafter requesting new proposals.

(g) Award. The award shall be made to the responsible proposer whose proposal the board determines is the most advantageous to the city, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The city shall place in the contract file a statement containing the basis on which the award was made.

(h) Protest. In the event that any proposer to a request for competitive sealed proposals is aggrieved by the decision of the city, such aggrieved proposer may protest the intended award to another proposer if the protest is filed within seven (7) days after the intended award is announced. The protest must be filed with the board in care of the mayor and shall be promptly decided by the board. (as added by Ord. #11-12, Nov. 2011)

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES¹

SECTION

- 5-201. Penalty assessed on real property taxes.
5-202. Penalty assessed on personal property taxes.
5-203. Assessment of interest charges on delinquent real property taxes.
5-204. Assessment of interest charges on delinquent personal property taxes.

5-201. Penalty assessed on real property taxes. The City of Bartlett does hereby levy and assess the five percent (5%) penalty upon all real property taxes delinquent from and after the last day of February of the year following the taxable year, said penalty to be required and collected by the Tax Officer of the City of Bartlett along with the assessed tax amount. (Ord. #82-9, July 1982)

5-202. Penalty assessed on personal property taxes. The City of Bartlett does hereby levy and assess the five percent (5%) penalty upon all personal property taxes delinquent from and after the last day of February of the year following the taxable year, said penalty to be required and collected by the Tax Officer of the City of Bartlett along with the assessed tax amount. (Ord. #82-9, July 1982)

5-203. Assessment of interest charges on delinquent real property taxes. There is hereby assessed an interest charge of one and one-half percent (1.5%) per month or any part thereof upon unpaid real property taxes from and after the last day of February of each year following the taxable year of said taxes. (Ord. #82-9, July 1982)

5-204. Assessment of interest charges on delinquent personal property taxes. There is hereby assessed an interest charge of one and one-half percent (1.5%) per month or any part thereof upon unpaid personal property taxes from and after the last day of February of each year following the taxable year of said taxes. (Ord. #82-9, July 1982)

¹Charter reference
Taxes: article X.

CHAPTER 3

PRIVILEGE TAXES¹

SECTION

5-301. Tax levied.

5-302. Business license.

5-303. Privilege tax on beer.

5-301. Tax levied. 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 said 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 municipality at the rates and in the manner prescribed by said Act. (Ord. #74-6, March 1974, as amended by Ord. #76-6, July 1976)

5-302. Business license. 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 requirement to have and exhibit a business license, except those professions exempt by the Tennessee State Code. This license shall be issued by the finance director or his designee to each applicant therefore upon such applicant's compliance with all regulatory provisions and payment of the appropriate privilege tax. (Ord. #74-6, March 1974, as amended by Ord. #76-6, July 1976, modified)

5-303. Privilege tax on beer. There is hereby imposed on the business of selling, distributing, storing, or manufacturing beer an annual privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage, or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1st to the City of Bartlett, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #93-18, Sept. 1993)

¹Charter reference
Taxes: article X.

CHAPTER 4

WHOLESALE BEER TAX¹

SECTION

5-401. To be collected.

5-401. To be collected. The finance director or his designee is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.

¹Charter reference

Taxes: article X.

Municipal code reference

Alcoholic beverages: title 8.

State 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.

CHAPTER 5

CITY SERVICE FEE

SECTION

5-501. Established.

5-502. Amount of fee.

5-503. Method of collection.

5-504. Special improvement fund established.

5-505. Discontinuance of fee and priorities.

5-501. Established. A city service fee for all households and places of business within the city is hereby established. (Ord. #84-18, Aug. 1984)

5-502. Amount of fee. (1) A service fee of two dollars and fifty cents (\$2.50) per month will be assessed against each household and place of business within the city limits.

(2) The city service fee of two dollars and fifty cents (\$2.50) per month is waived for citizens of the City of Bartlett who have been granted relief by the State of Tennessee Property Tax Relief Agency. (Ord. #84-18, Aug. 1984, as amended by Ord. #87-3, March 1987)

5-503. Method of collection. The service fee will be included on the utility billing system of the city and the total amount collected will be transferred to a special improvement fund each month. (Ord. #84-18, Aug. 1984)

5-504. Special improvement fund established. A special improvement fund will be established to account for all of the service fee proceeds with a report on the current balance and a record of expenditures forwarded to the board of mayor and aldermen on a monthly basis in conjunction with the treasurer's report. Twenty-five percent (25%) of the revenue produced by the city service fee shall be designated to the general fund reserve account. (Ord. #84-18, Aug. 1984)

5-505. Discontinuance of fee and priorities. This fee will be discontinued when the reserve fund is built up amounting to thirty percent (30%) of the yearly budget. The priorities and budget for this fee will be set each January for the next fiscal year. (Ord. #84-18, Aug. 1984)

CHAPTER 6

MISCELLANEOUS

SECTION

5-601. Refund of errors on gross sales tax.

5-602. Sale of surplus real estate.

5-603. Bids required for sale of surplus, seized or confiscated property.

5-601. Refund of errors on gross sales tax. (1) The City of Bartlett Director of Finance or his representative is hereby authorized to make refunds for errors in City of Bartlett Gross Sales Tax Returns.

(2) Taxpayers requesting a refund under this section must file an amended return within one year of the due date of the original gross sales tax return.

(3) Refunds under this section will only be made for the immediate past one year period. (Ord. #87-19, Nov. 1987)

5-602. Sale of surplus real estate. (1) Whenever the board of mayor and aldermen shall adopt a resolution declaring any real estate owned by the City of Bartlett as surplus and not needed by the city in the orderly expansion of municipal facilities, the mayor shall cause said real estate to be appraised by a competent real estate appraiser, which appraisal shall be confidential and disclosed to none other than the board of mayor and aldermen and the city attorney.

(2) Upon receipt of said appraisal by the mayor, he shall cause to be published in the official newspaper of the City of Bartlett an invitation to bidders that he will, on behalf of the city, accept sealed bids for said property, said notice to give a description of the property, time and place of receipt of bids, and terms of the sale.

(3) Said notice shall be published at least fifteen (15) days prior to the date and time called for receipt of bids. All sales shall be for cash, and all invitations to bidders shall require that each bidder affix to this bid a certified check for ten percent (10%) of the face amount of his bid; that such check will be credited as earnest money and part of the purchase price if said bidder is the highest and best bid; that said certified check will be immediately returned to the bidder if he is not the successful bidder; that if said bid is accepted by the city and the bidder fails to perform as indicated in his bid, same shall be forfeited to the city as liquidated damages; that the city will convey by general warranty deed and will furnish to the successful bidder abstracts of title for examination at least ten (10) days prior to closing.

(4) The board of mayor and aldermen shall not be required to accept any bid.

(5) No city officer, elected or appointed, or city employee shall, directly or indirectly, submit a bid for the purchase of any surplus real estate.

(6) The proceeds of said sale shall immediately be deposited with the Treasurer of the City of Bartlett, and placed in the general fund. (Ord. #74-8, June 1974, modified)

5-603. Bids required for sale of surplus, seized or confiscated property. All sales of personal and real property, of whatever form or description, however to be transferred and wherever located which the board of mayor and aldermen determine to be no longer necessary to the operation of city government shall be sold by written contract to the highest responsible bidder after due notice and publication not less than ten (10) days prior to bid opening, all of which shall be documented and delivered to the purchasing comptroller for permanent record. (Ord. #80-19, July 1980, as amended by Ord. #84-1, Feb. 1984, and Ord. #91-10, June 1991)