

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. PURCHASING.
2. REAL AND PERSONAL PROPERTY TAXES.
3. WHOLESALE BEER TAX.
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CHAPTER 1

PURCHASING

SECTION

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5-101. Definitions. For the purpose of implementing this chapter, the following definitions shall apply:

(1) "Bid." A vendor's response to an invitation for bids or request for proposal; the information concerning the price or cost of materials or services offered by a vendor.

¹Charter reference

Taxation and revenue: § 28.

Municipal code reference

Privilege tax on beer sales: § 8-209.

(2) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the town and offering to enter into contracts with the town.

(3) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

(4) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

(5) "Bid solicitation." Invitations for bids.

(6) "Capital items." Equipment which has a life expectancy of one (1) year longer and a value in excess of ten thousand dollars (\$10,000.00).

(7) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(8) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

(9) "Fiscal year." An accounting period of twelve (12) months, July 1 through June 30.

(10) "Invitation for bid." All documents utilized for soliciting bids.

(11) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(12) "Local bidder." A bidder who has and maintains a business office located within the corporate limits of Chapel Hill, Tennessee.

(13) "Pre-bid conference." A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

(14) "Public purchasing unit." Means the State of Tennessee, any county, town, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(15) "Purchase order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should be prenumbered and contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(16) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(17) "Responsive bidder." One who has submitted a bid which conforms in all materials respects to the invitation for bids.

(18) "Sole source procurement." An award for a commodity which can only be purchased from one (1) supplier, usually because of its technological, specialized, or unique character.

- (19) "Town." The Town of Chapel Hill, Tennessee.
- (20) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #2022-006, Oct. 2022)

5-102. Purchasing agent. The town administrator shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be approved and acquired by the purchasing agent or his/her representative. Purchases by other employees or officers of the town are prohibited unless approved by the purchasing agent. (Ord. #2022-006, Oct. 2022)

5-103. General procedures. The following procedures shall be followed by all town employees when purchasing goods or services on behalf of the town. For all purchases over one thousand dollars (\$1,000.00), a written purchase order for the item(s) to be purchased shall be created and delivered to the purchasing agent. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items, and shall indicate whether the item(s) have been approved in the annual budget.

(1) For purchases under one thousand dollars (\$1,000.00), the purchasing agent shall use his/her best offers to obtain the best value for the town but shall not be required to obtain competitive prices for these purchases.

(2) For purchases between one thousand and ten thousand dollars (\$1,000.00 and \$10,000.00), the purchasing agent shall obtain at least two (2) verbal or written quotes, documented and filed including the name of the vender, date and amount of quote. Bids for these purchases may be solicited by phone, direct mail, fax, email or any other method reasonably calculated to obtain competitive bids.

(3) For purchases between ten thousand and twenty-five thousand dollars (\$10,000.00 and \$25,000.00), the purchasing agent shall obtain at least two (2) written quotes and shall receive the approval of the mayor before making such purchase. Bids for these purchases may be solicited by phone, direct mail, fax, email or any other method reasonably calculated to obtain competitive bids.

(4) For purchases in excess of twenty-five thousand dollars (\$25,000.00), competitive sealed bids shall be obtained as set forth in § 5-105 below.

Nothing within this section shall prohibit the purchasing agent from obtaining quotes or conducting competitive bidding for purchases of the less than the amounts set forth above. (Ord. #2022-006, Oct. 2022)

5-104. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent may choose not to accept

the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the town by said vendor or contractor. (Ord. #2022-006, Oct. 2022)

5-105. Sealed bid requirements for purchases of \$25,000.00 or greater. (1) On all purchases and contracts estimated to be in excess of Twenty-five thousand dollars (\$25,000.00), except as otherwise provided in this ordinance, formal sealed bids shall be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit all such bids for award by the board of mayor and aldermen at the next regularly scheduled board meeting or special-called meeting together with the recommendation as to the lowest responsive bidder.

(2) Notice inviting bids shall be published at least once in a newspaper of general circulation in Marshall County, and at least five (5) days preceding the last day to receive bids. The newspaper notice shall contain a general description of the article(s) to be secured, and the date, time, and place for opening bids.

(3) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media. (Ord. #2022-006, Oct. 2022)

5-106. Bid deposit. When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award. (Ord. #2022-006, Oct. 2022)

5-107. Record of bids. The purchasing agent shall keep a record of all bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the town recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid advertisement.
- (3) A copy of the bid specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (Ord. #2022-006, Oct. 2022)

5-108. Considerations in determining bid awards. The following criteria shall be considered in determining all bid awards:

- (1) The ability of the bidder to perform the contract or provide the material or service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
- (4) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.
- (6) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.
- (7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.
- (8) Compliance with all specifications in the solicitation for bids.
- (9) The ability to deliver and maintain any requisite bid bonds or performance bonds.
- (10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance. (Ord. #2022-006, Oct. 2022)

5-109. Statement when award not given to low bidder. When the award for purchases and contracts in excess of one thousand dollars (\$1,000.00) is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with all the other papers relating to the transaction. (Ord. #2022-006, Oct. 2022)

5-110. Award in case of tie bids. When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

- (1) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.
- (2) If two (2) or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.
- (3) If no local bids are received and two or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.
- (4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses.

5-111. Emergency purchases. When in the judgment of the purchasing agent an emergency exists, the provisions of this chapter may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the board of mayor and aldermen at the next regular board meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (Ord. #2022-006, Oct. 2022)

5-112. Waiver of the competitive bidding process. Upon the recommendation of the mayor, and the subsequent approval of the board of mayor and aldermen, that it is clearly to the advantage of the town not to contract by competitive bidding, the requirements of competitive bidding may be waived provided that the following criteria are met and documented in a written report to the board of mayor and aldermen:

(1) Single source of supply. The availability of only one vendor of a product or service within a reasonable distance of the town as determined after a complete and thorough search by the using department and the purchasing agent.

(2) State department of general services. A thorough effort was made to purchase the product or service through or in conjunction with the state department of general services or via state contract, such effort being unsuccessful.

(3) Purchase from other governmental entities. A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.

(4) Purchases from non-profit organizations. A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.

(5) Purchases from Tennessee state industries. A thorough effort was made to purchase the goods or services from Tennessee state industries (prison industries).

(6) Purchases from instrumentalities created by two or more co-operating governments. An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for its members. (Ord. #2022-006, Oct. 2022)

5-113. Goods and services exempt from competitive bidding. The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the purchasing agent and/or the department head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the town:

(1) Certain insurance. The town may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League or any other

plan offered by a governmental entity representing cities and counties. All other insurance plans, however, are to be awarded on the basis of competitive bidding.

(2) Certain investments. The town may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to *Tennessee Code Annotated* § 9-17-105.

(3) Motor fuel, fuel products, or perishable commodities. Such commodities may be purchased without competitive bidding.

(4) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the town, whose fee is less than ten thousand dollars (\$10,000.00), may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed ten thousand dollars (\$10,000.00), a written contract shall be developed and approved by the board of mayor and aldermen prior to the provision of any goods or services.

Contracts for professional services shall not be awarded on the basis of competitive bidding; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity. (Ord. #2022-006, Oct. 2022)

5-114. Leases or lease-purchases beyond fiscal year. All leases or lease-purchase contracts which would extend beyond the current fiscal year shall be approved by the board of mayor and aldermen. (Ord. #2022-006, Oct. 2022)

5-115. Additional forms and procedures. The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (Ord. #2022-006, Oct. 2022)

CHAPTER 2

REAL AND PERSONAL PROPERTY TAXES¹

SECTION

5-201. When due and payable.

5-202. When delinquent; penalty and interest.

5-201. When due and payable. Taxes levied by the town against real and personal property shall become due and payable annually on the first day of October of the year for which levied. (2005 Code, § 5-301)

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 state law for delinquent county real property taxes. (2005 Code, § 5-302)

¹Charter reference
Taxation and revenue: § 28.

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The town treasurer 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 6.¹ (2005 Code, § 5-401)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of seventeen percent (17%) on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-209.

CHAPTER 4

DEBT POLICY¹

SECTION

- 5-401. Definition of debt.
- 5-402. Approval of debt.
- 5-403. Transparency.
- 5-404. Role of debt.
- 5-405. Types and limits of debt.
- 5-406. Use of variable rate debt.
- 5-407. Use of derivatives.
- 5-408. Costs of debt.
- 5-409. Refinancing outstanding debt.
- 5-410. Professional services.
- 5-411. Conflicts.
- 5-412. Review of policy.
- 5-413. Compliance.

5-401. Definition of debt. All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bonds, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (2005 Code, § 5-501)

5-402. Approval of debt. Pursuant to state law, bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the town's board of mayor and aldermen prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the board of mayor and aldermen; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (2005 Code, § 5-502)

¹State law references

Tennessee Code Annotated, title 7, chapter 51, part 9: Contracts, leases and lease purchase agreements.

Tennessee Code Annotated, title 7, chapter 51, part 21: Local government public obligations law.

5-403. Transparency. (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

(2) All notices shall be posted in the customary and required posting locations, including as required local newspaper, bulletin boards, and website.

(3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting. (2005 Code, § 5-503)

5-404. Role of debt. Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

In accordance with Generally Accepted Accounting Principles (GAAP) and state law:

(1) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.

(2) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (2005 Code, § 5-504)

5-405. Types and limits of debt. (1) A town property tax must be in place before debt may be issued that:

(a) Matures in more than twelve (12) fiscal years from the fiscal year of issuance, inclusive of renewals and extensions; or

(b) Causes the aggregate amount of debt outstanding (including the proposed debt) to exceed one million dollars (\$1,000,000.00).

(2) In the occurrence of a catastrophic event (i.e., tornado, earthquake, flood, or other natural disaster) the borrowing limit shall not be in effect for this type of event.

(3) The town will seek to limit total outstanding debt obligations to twenty-five percent (25%) of the assessed value of the town, excluding overlapping debt, enterprise debt, and revenue debt as determined by the annual audit.

(4) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(5) The town's total outstanding debt obligation will be monitored and reported to the board of mayor and aldermen on an annual basis during the budget approval process by the town recorder. The town recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The town recorder shall also report to the board of mayor and aldermen any matter than adversely affects the credit or financial integrity of the town.

(6) The town has issued capital outlay notes in the past and is authorized to issue general obligation bonds, revenue bonds, tax increment financing, loans, notes and other debt allowed by law, as it determines most appropriate.

(7) The town will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(8) As a rule, the town will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the town may utilize non-level debt methods. However, the use of such methods will be thoroughly discussed in a public meeting and will be approved only if the mayor and board of aldermen determine such use is justified and in the best interest of the town.

(9) The town may use capital leases to finance short-term projects of five (5) years or less. (2005 Code, § 5-505)

5-406. Use of variable rate debt. (1) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) However, the town also recognizes there are inherent risks associated with the use of variable rate debt and chooses not to use variable rate debt.

(3) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of use of such rates must be submitted to the board of mayor and aldermen; and

(b) The board of mayor and aldermen must adopt a specific amendment to this policy concerning the use of variable interest rates. (2005 Code, § 5-506)

5-407. Use of derivatives. (1) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(2) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the board of mayor and aldermen; and

(b) The board of mayor and aldermen must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (2005 Code, § 5-507)

5-408. Costs of debt. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the board of mayor and aldermen in accordance with the notice requirements stated above.

(2) In case of non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded, i.e., general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes.

(4) The town recorder will file necessary disclosure documents, including disclosure of costs to the comptroller's office as required by law. (2005 Code, § 5-508)

5-409. Refinancing outstanding debt. The town will refund debt when it is in the best financial interest of the town to do so, and the town recorder shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the board of mayor and aldermen, and all plans for current or advance refunding or debt must be in compliance with state laws and regulations.

The town recorder will consider the following issues when analyzing possible refunding opportunities:

(1) Onerous restrictions. Elimination of onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(2) Economic purposes. Restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the town recorder if the refunding generates positive present value savings, and the town recorder must establish a minimum present value savings threshold for any refinancing.

(3) Term. Maintenance of the term of the originally issued debt; consideration of maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The town recorder may

also consider shortening the term of the originally issued debt to realize greater savings. (2005 Code, § 5-509)

5-410. Professional services. The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) Counsel. If the town chooses to hire an attorney other than the town attorney, it shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction.

(2) Financial advisor. If the town chooses to hire financial advisors, the town shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions. Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which he has or have been providing advisory services for the issuance.

(3) Underwriter. If there is an underwriter, the town shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the town. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the town recorder in advance of the pricing of the debt. (2005 Code, § 5-510)

5-411. Conflicts. Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, bond counsel, trustee, paying agent, liquidity or credit enhancement provider, and underwriter), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (2005 Code, § 5-511)

5-412. Review of policy. This policy shall be reviewed annually by the board of mayor and aldermen with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with the opportunity for public input. (2005 Code, § 5-512)

5-413. Compliance. The town recorder is responsible for ensuring substantial compliance with this policy. (2005 Code, § 5-513)