

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. WHOLESALE BEER TAX.
4. PURCHASING.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depositories for city funds.
- 5-102. Fiscal year of the city.
- 5-103. Bad check fee.
- 5-104. Failure/refusal to pay utility charges.
- 5-105. Collection agency to collect unpaid fines.
- 5-106. Acceptance of credit/debit cards for payments.
- 5-107. Debt policy.

5-101. Official depositories for city funds.² The following institutions are hereby designated as the official depositories of City of Gallaway funds:

<u>Financial Institution</u>	<u>Address</u>
Bank of Fayette County	3155 Highway 64 - Eads, TN 38028
Somerville Bank and Trust	3335 Highway 64 - Somerville, TN 38068
Bank of Mason	327 Highway 70 W - Mason, TN 38049

(2003 Code, § 5-101, as amended by Ord. #172/2011, Jan. 2012)

5-102. Fiscal year of the city. The fiscal year for the City of Gallaway shall begin on July 1 and shall end on June 30.³ (2003 Code, § 5-102)

¹Charter reference

Finance and taxation: title 6, chapter 22.

²Charter reference

Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

³Charter reference

Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of
(continued...)

5-103. Bad check fee. (1) Fee for passing bad check to the city. Any person who passes any check or draft for payment of taxes, licenses, fees, or any other sums due the city, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, or because such check, draft, or order was returned because of a stop payment order placed in bad faith on the check, draft, or order, shall pay to the City of Gallaway a bad check fee, in addition to the amount of such check or draft and any subsequent late fees or penalties.

(2) Calculation of bad check fee. Pursuant to *Tennessee Code Annotated*, § 9-1-109, persons passing worthless checks with a value under two thousand dollars (\$2,000.00) to the City of Gallaway shall be subject to a bad check fee equal to the lesser of twenty dollars (\$20.00) or the face value of the check. Persons passing worthless checks having a value in excess of two thousand dollars (\$2,000.00) to the City of Gallaway shall be subject to a bad check fee equal to one percent (1%) of the face value of the check.

(3) Notification. Pursuant to *Tennessee Code Annotated*, § 9-1-109, the City of Gallaway shall provide written notice to all persons owing a bad check fee to the city.

(4) Other remedies. Nothing in this section shall prohibit the City of Gallaway from pursuing other remedies permitted for the passing of worthless checks as specified in *Tennessee Code Annotated*, § 39-14-121 and any amendments thereto. (Ord. #13-2014, April 2014)

5-104. Failure/refusal to pay utility charges. (1) It shall be unlawful, and a civil offense, for any person, firm, or corporation, association, or any other person or organization, who receives city water, sewer, and/or gas utility services to fail or refuse to pay for such services.

(2) The city shall have the following remedies in the event of the failure or refusal on the part of any person, firm, corporation, or any other person or organization who receives city water, sewer, and/or gas utility services to pay for such service:

(a) Hire a collection agency, pursuant to the city's bidding and purchasing procedures, to collect charges which are more than sixty (60) days overdue; and

(b) Collect the amount owed by such customer as a civil debt.

(3) The city shall have the right to use the above remedies prescribed for the failure or refusal to pay utility bills collectively or selectively, and in any and all combinations. In addition, the use of any or all of the above remedies by the city shall not foreclose its right to use any other remedy that might now or in the future be authorized under state law. (Ord. #162/2011, July 2014)

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the city shall begin on July 1 unless otherwise provided by ordinance.

5-105. Collection agency to collect unpaid fines. (1) The City of Gallaway is hereby authorized to solicit and use the services of a collection agency to collect unpaid fines.

(2) The contract with such collection agency shall be in writing and conform to all provisions set forth in *Tennessee Code Annotated*, § 40-24-105(d).

(3) The contract with such collection agency may also include the collection of unpaid parking fines as provided in *Tennessee Code Annotated*, § 6-54-513, after notices required by law are mailed to registered vehicle owners. (Ord. #163/2011, July 2014)

5-106. Acceptance of credit/debit cards for payments. (1) The processing fee to be collected from the person using the credit or debit card shall be in an amount that is equal to the amount paid the third party processor for processing the payment. However, the processing fee shall not be set in an amount that exceeds five percent (5%) of the amount of the payment collected by credit card or debit card.

(2) In the event that the credit or debit card company issuing the card does not honor payment of the charge, the city shall collect the same fee that it normally charges for returned checks; provided, this service charge shall not apply nor be collected if an electronic device is used to conduct the transaction, the card and card holder are present, and the city officer learns of the declination of the credit card or debit card at the time the transaction is processed.

(3) The officer collecting funds through payment by a credit card or debit card shall state on any notice to the person owing the tax, fine, fee, licenses, permits, court costs, services, or other money either the percentage of the processing fee for use of a credit card or debit card or the actual fee imposed for the use of a credit card or debit card.

(4) A pre-implementation statement or plan shall be filed as required by law with the comptroller's office thirty (30) days prior to implementing the above processing fees. The city shall also provide to the comptroller of the treasury a post-implementation review of the system between twelve (12) and eighteen (18) months after the date a pre-implementation statement has been filed with the comptroller. (Ord. #166/2011, Oct. 2011)

5-107. Debt policy. (1) The purpose of this debt policy. To establish a set of parameters by which debt obligations will be undertaken by the City of Gallaway, Tennessee. This policy reinforces the commitment of the city and its officials to manage the financial affairs of the city so as to minimize risks, avoid conflicts of interest, and ensure transparency while still meeting the capital needs of the city. A debt management policy signals to the public and the rating agencies that the city is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing, and managing debt obligations by providing clear direction as to the steps, substance, and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt.

(2) Definition of debt. All obligations of the city 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 city resources. This includes, but is not limited to, notes, bond issues, capital leases, and loans of any type; whether from an outside source such as a bank or from another internal fund.

(3) Approval of debt. 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 board of commissioners 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 commissioners; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days.

(4) Transparency. The city shall comply with legal requirements for notice and for public meetings related to debt issuance. All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites. All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, board of commissioners, and other stakeholders in a timely manner. The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, board of commissioners, and other stakeholders in a timely manner. A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, board of commissioner, and other stakeholders in a timely manner.

(5) 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 process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the city 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 and state law:

(a) 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; and

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence.

(6) Types and limits of debt. The city will seek to limit total outstanding debt obligations to ten (10) times annual operating revenue, excluding overlapping debt, enterprise debt, and revenue debt. The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt. The city's total outstanding debt obligation will be monitored and reported to the board of commissioners by the city manager. The city manager shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The city manager shall also report to the board of commissioners any matter that adversely affects the credit or financial integrity of the city. The city has authorized in the past and is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes, and other debt allowed by law. The city will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan. As a rule, the city 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 city may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the town. The city may use capital leases to finance short-term projects. Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The city may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the city. The board of commissioners and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the city's general fund, such as a source of repayment for a revenue bond for a water or sewer system.

(7) Use of variable rate debt. The city 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. However, the city also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:

(a) The city will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(b) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the board of commissioners shall be informed of the potential effect on rates as well as any additional costs that might be incurred should the insurance fail.

(c) Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the board of commissioners shall be informed of the potential effect on rates as well as any additional costs that might be incurred should the letter of credit fail.

(d) Prior to entering into any variable rate debt obligation, the board of commissioners will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation.

(8) Use of derivatives. The city chooses not to use derivative or other exotic financial structures in the management of the city's debt portfolio. 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 city; and

(b) The board of commissioners 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.

(9) Costs of debt. 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 commissioners in accordance with the notice requirements stated above. In cases of variable interest or 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. 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).

(10) Refinancing outstanding-debt. The city will refund debt when it is in the best financial interest of the city to do so, and the chief financial officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations. The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

(a) Onerous restrictions. Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(b) Restructuring for economic purposes. The city will refund debt when it is in the best financial interest of the city to do so. Such

refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt sendee payments, or to release reserve funds. Current refunding opportunities may be considered by the chief financial officer if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(c) Term of refunding issues. The city will refund bonds within the term of the originally issued debt. However, the chief financial officer may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The chief financial officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(d) Escrow structuring. The city shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent, or financial advisor sell escrow securities to the town from its own account.

(e) Arbitrage. The city shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding.

(11) Professional services. The city 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 city and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(a) Counsel. The city shall enter into an engagement letter agreement with each lawyer or law firm representing the city in a debt transaction. Note: no engagement letter is required for any lawyer who is an employee of the city or lawyer or law firm which is under a general appointment or contract to serve as counsel to the city. The city does not need an engagement letter with counsel not representing the city, such as underwriters' counsel.

(b) Financial advisor. If the city chooses to hire financial advisors, the city shall enter into a written agreement with each person or firm serving as financial advisor in debt management and transactions.

(i) In a competitive sale, the financial advisor shall not be permitted to bid on an issue for which they are or have been providing advisory services.

(ii) In a publicly offered, negotiated sale, the financial advisor (either): shall not be permitted to resign as financial advisor in order to underwrite an issue for which they are or have been providing advisory services; or may resign as financial

advisor only in advance of negotiations in order to underwrite an issue for which they are or have been providing advisory services.

(c) Underwriter (if there is no financial advisor). In advance of pricing of the debt in a publicly offered, negotiated sale, the underwriter must provide pricing information both as to interest rates and to takedown per maturity to the board of commissioners (or its designated official).

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

(13) Review of policy. This policy shall be reviewed at least annually by the board of commissioners 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 opportunity for public input.

(14) Compliance. The mayor is responsible for ensuring compliance with this policy. (Ord. #171/2011, Dec. 2011)

CHAPTER 2

REAL PROPERTY TAXES¹

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.² Taxes levied by the municipality against real property shall become due and payable annually on the first day of October of the year for which levied. (2003 Code, § 5-201)

5-202. When delinquent--penalty and interest.³ The City of Gallaway collects current taxes, once a tax notice becomes delinquent; the information is turned over to Fayette County for further collection efforts. All real property

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of one-half of one percent (0.5%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day each succeeding month.

²Charter references

Tennessee Code Annotated, § 6-22-110 sets the due date of November 1 of the year for which the taxes are assessed, but *Tennessee Code Annotated*, § 6-22-113 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

³Charter reference

Tennessee Code Annotated, § 6-22-112 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but *Tennessee Code Annotated*, § 6-22-113 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners).

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.¹ (2003 Code, § 5-202, modified)

¹Charter reference

Tennessee Code Annotated, § 6-22-114 directs the finance director to turn over the collection of delinquent property taxes to the county trustee.

State law reference

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under *Tennessee Code Annotated*, §§ 6-55-201 to 6-55-206.
- (3) By the county trustee under *Tennessee Code Annotated*, § 67-5-2005.

CHAPTER 3**WHOLESALE BEER TAX****SECTION**

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6.¹ (2003 Code, § 5-301)

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.

CHAPTER 4

PURCHASING

SECTION

- 5-401. Purchasing agent.
- 5-402. Certification of availability of funds to meet contract obligations.
- 5-403. Purchases not exceeding \$10,000.00.
- 5-404. Purchases more than \$10,000.00.
- 5-405. Purchases amounting to \$10,000.00 or more, which do not require public advertising and sealed bids or proposals.
- 5-406. Noncompetitive contracts.
- 5-407. Miscellaneous provisions.
- 5-408. Use of city credit card and petty cash fund.
- 5-409. Rules and regulations.

5-401. Purchasing agent. The city manager shall act as purchasing agent for the city, with power, except as set out in these procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the city's business. All contracts, leases, and lease-purchase agreements extended beyond the end of any fiscal year must have prior approval of the governing body. The city manager may enter into binding contracts on behalf of the city, without specific board approval, only in routine matters and matters having insubstantial long-term consequences. "Routine matters and matters having insubstantial long-term consequences" mean any contract for which expenditures during the fiscal year will be less than ten thousand dollars (\$10,000.00) (*Tennessee Code Annotated*, §§ 6-18-101, *et seq.*). The city manager may delegate the duty to purchase to any subordinate appointed by him. (Ord. #170/2011, Dec. 2011)

5-402. Certification of availability of funds to meet contract obligations. No contract, agreement, or other obligation involving the expenditure of funds shall be entered into, nor shall any ordinance, resolution, or order of the expenditure of funds be passed by the board of commissioners or be authorized by any officer of the city, unless the finance director shall first certify to the board or the city manager, as the case may be, that the funds required for such contract, agreement, obligation, or expenditure, is in the treasury or safely assured to be forthcoming and available in time to comply with, or meet such contract, agreement, obligation, or expenditures, and no contract, agreement, or other obligation involving the expenditure of money payable from the proceeds of bonds of the city, shall be entered into until the issuance and sale of such bonds have been duly authorized by the board of commissioners. (Ord. #170/2011, Dec. 2011)

5-403. Purchases not exceeding \$10,000.00. The city manager is authorized to make purchases whose estimated costs do not exceed ten thousand dollars (\$10,000.00) without formal sealed bids and written specifications: commonly used items of material, supplies, equipment, and services used in the ordinary course of maintaining and repairing the city's real or personal property; building or maintaining stocks of city material, supplies, and equipment used in the ordinary course of city operations; and minor constructions, repair, or maintenance services. However, a record of all such purchases shall be maintained describing the material, supplies, equipment, or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation. Additional requirements for purchases not exceeding ten thousand dollars (\$10,000.00):

(1) Purchases less than one thousand dollars (\$1,000.00). Purchases, leases, or lease-purchases of one thousand dollars (\$1,000.00) or less in any fiscal year shall not require any public advertisement or competitive bidding.

(2) Purchases more than one thousand dollars (\$1,000.00) but less than five thousand dollars (\$5,000.00). Purchases, leases, and lease purchases of more than one thousand dollars (\$1,000.00) and less than five thousand dollars (\$5,000.00) singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require three (3) competitive bids or quotations, either verbal or written, whenever possible prior to each purchase. Awards shall be made to the lowest and most responsible bidder.

(3) Purchases more than five thousand dollars (\$5,000.00) but less than ten thousand dollars (\$10,000.00). Purchases, leases, and lease purchases of more than five thousand dollars (\$5,000.00) and less than ten thousand dollars (\$10,000.00) singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require three (3) competitive bids or quotations in writing prior to purchase. Awards shall be made to the lowest and most responsible bidder. (Ord. #170/2011, Dec. 2011)

5-404. Purchases more than \$10,000.00. A description of all projects or purchases, except as herein provided, which require the expenditure of city funds of ten thousand dollars (\$10,000.00) or more shall be prepared by the city recorder and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the city recorder to advertise for bids or proposals and to accept only sealed bids that shall be opened by the board of commissioners. The award of purchases, leases, or lease-purchases of ten thousand dollars (\$10,000.00) or more shall be made by the governing body to the lowest and best responsible bidder. The transaction shall be evidenced by written contract. (Ord. #170/2011, Dec. 2011)

5-405. Purchases amounting to \$10,000.00 or more, which do not require public advertising and sealed bids or proposals. Purchases amounting to ten thousand dollars (\$10,000.00) or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body.

(1) Sole source of supply or proprietary products as determined after complete search by the purchasing agent, with governing body approval.

(2) Emergency expenditures with subsequent approval of the governing body.

(3) Purchases from instrumentalities created by two or more cooperating governments.

(4) Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.

(5) Purchases, leases, or lease-purchases of real property.

(6) Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.

(7) Purchases through other units of governments as authorized by *Tennessee Code Annotated*, §§ 6-56-301, *et seq.*

(8) Purchases directed through or in conjunction with the state Department of General Services.

(9) Purchases from Tennessee state industries.

(10) Professional service contracts as provided in *Tennessee Code Annotated*, §§ 29-20-407 and 12-4-106.

(11) Tort liability insurance as provided in *Tennessee Code Annotated*, §§ 12-4-407 and 29-20-407.

(12) Purchases of perishable commodities.

(13) Natural gas for resale. (Ord. #170/2011, Dec. 2011)

5-406. Noncompetitive contracts. The board of commissioners, upon written recommendation of the city manager and by unanimous resolution of those present at the meeting, may authorize noncompetitive contracts where it is clearly to the advantage of the municipality not to contract with competitive bidding. (Ord. #170/2011, Dec. 2011)

5-407. Miscellaneous provisions. (1) The city manager may reject all bids and assign public improvements or any other municipal work to a municipal department.

(2) Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by a city employee unless authorized in writing by the purchasing agent or by action of the board of commissioners.

(3) Electronic bidding and invitations to bid (*Tennessee Code Annotated*, § 12-3-704). Notwithstanding any provision of law, rule, or regulation to the contrary, local governments may satisfy any requirement for mailing by distributing invitations to bid electronically. In addition, local governments may receive bids electronically.

(4) Legal recognition of electronic records, electronic signatures, and electronic contracts (*Tennessee Code Annotated*, § 47-10-107). A record or signature may not be denied legal effect or enforceability solely because it is in electronic form. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation. If a law requires a record to be in writing, an electronic record satisfies the law. If a law requires a signature, an electronic signature satisfies the law.

(5) Performance and bid bonds may be determined by the purchasing agent or the board of commissioners.

(6) Professional service contracts (*Tennessee Code Annotated*, §§ 12-4-106 and 62-2-107). Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. A contract is required to be awarded on the basis of recognized competence and integrity, rather than competitive bids. A written contract specifying the service, cost, and expenses covered under the contract is required. Note: architect or engineer: plans, specifications, and estimates for any public works project exceeding twenty-five thousand dollars (\$25,000.00) must be prepared by a registered architect or engineer as required by *Tennessee Code Annotated*, § 62-2-107.

(7) Emergency purchases are to be made only when normal functions and operations of the city would be hampered by purchasing in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances, and materials, services, etc., are needed immediately.

(8) Sealed bids or proposals. Sealed bids are required on purchases of ten thousand dollars (\$10,000.00) or more. Bids must be advertised in a local newspaper of general circulation not less than five (5) days before bid opening date.

(9) A summary of bids form should be used to record all bids. The form should be included in the information presented to the governing body for consideration of award of the bid. All bids should be opened in public at a specified time. Late bids should not be accepted or opened.

(10) Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of all 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 shall not accept the bid of a vendor or contractor who is in default on the payment of any taxes, licenses, fees, or other monies of whatever nature that may be due the city by said vendor or contractor.

(11) Conflicts of interest. No purchase shall be made from, nor any contract for purchase of services made with, any person, firm, or corporation in which any officer or employee of the city is financially interested except when such person, firm, or corporation is the sole source for such goods or services within a reasonable marketable distance of the city, and then in such instance, all purchases shall be subject to prior approval by the governing body. No officer or employee of the city shall accept directly or indirectly any fee, rebate, money, or other thing of value from any person, firm, or corporation employed by or doing business with the city, except on behalf of and for the use of the city, or in accordance with the exception herein above set forth.

(12) The purchasing agent, or designee, shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof. (Ord. #170/2011, Dec. 2011)

5-408. Use of city credit card and petty cash fund. Purchases made by credit card must comply with the city's policy governing the use of credit cards. To buy items that cost less than one hundred dollars (\$100.00) from businesses that do not issue invoices or have charge accounts, purchases may be made by withdrawals from the petty cash fund. Prior to any withdrawal from the petty cash fund, such a fund must be set up by the financial officer. The financial officer is solely responsible for any withdrawals from this account. Any receipts or requests for monies from this fund must contain the expense code and be signed by the person receiving the cash for payment. Credit cards and the petty cash fund should be used only if other purchasing methods are not easily obtainable. (Ord. #170/2011, Dec. 2011)

5-409. Rules and regulations. Purchasing rules and regulations shall be developed by the purchasing agent, approved by the city manager, and adopted by the governing body. The purchasing procedures attached hereto, and made a part hereof, are hereby adopted. (Ord. #170/2011, Dec. 2011)