

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. WHOLESALE BEER TAX.
2. LOCAL SALES TAX.
3. PROPERTY TAXES.
4. PURCHASING.
5. MISCELLANEOUS.
6. DEBT POLICY.

CHAPTER 1**WHOLESALE BEER TAX****SECTION**

5-101. To be collected.

5-101. To be collected. The city recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.² (1990 Code, § 5-101)

¹Charter references

Charter provisions on taxation and expenditures are contained in Tennessee Code Annotated, title 6, chapter 2, part 3. For specific charter provisions on finance and taxation, see the section indicated:

Restriction on expenditures: §§ 6-2-301 through 6-2-303.

Restriction on property tax exemptions: § 6-2-305.

²State law reference

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

CHAPTER 2

LOCAL SALES TAX¹

SECTION

5-201. Findings of board.

5-202. Tax levied.

5-203. State to collect.

5-204. Remedies of taxpayer claiming illegal assessment and collection.

5-201. Findings of board. It is in the best interest of the citizens and residents of the Town of Mount Carmel to impose and collect a sales or use tax upon all personal property within the Town of Mount Carmel, as allowed under the 1963 Local Option Revenue Act. (1990 Code, § 5-201)

5-202. Tax levied. The Town of Mount Carmel hereby adopts the provisions of Tennessee Code Annotated, §§ 67-6-701 through 67-6-709, and hereby imposes a sales tax on the sale or use of all articles of personal property within the boundaries of the Town of Mount Carmel at the rate of one-half (1/2%) cent per one dollar (\$1.00), said amount collected not to exceed two dollars and fifty cents (\$2.50) on the sale or use of any single article of personal property. (1990 Code, § 5-202)

5-203. State to collect. The Department of Revenue of the State of Tennessee shall collect such tax concurrently with the collection of the state tax and in the same manner as the state tax is collected. (1990 Code, § 5-203)

5-204. Remedies of taxpayer claiming illegal assessment and collection. Upon any claim of illegal assessments and collection the taxpayer shall have all the remedies provided in Tennessee Code Annotated, and suit shall be brought against the mayor of the Town of Mount Carmel in such instances. (1990 Code, § 5-204)

¹The local sales tax ordinance, #53, was approved by voters through referendum Nov. 29, 1974, by vote of 172 to 17.

CHAPTER 3

PROPERTY TAXES

SECTION

5-301. Tax levied.

5-302. When set.

5-303. Tax to be lien on property; when due; when delinquent; interest and penalties.

5-304. Assessment of property for taxes.

5-305. Recorder to collect.

5-306. Tax to be used for any lawful expenditure.

5-307. Collection of delinquent taxes.

5-301. Tax levied. There is hereby levied and enacted a tax on all property within the corporate boundaries which is taxable by municipalities under the laws of the State of Tennessee. (1990 Code, § 5-401)

5-302. When set. The levy rate is to be set each year on July 1, or as soon thereafter as possible upon the adoption of the annual budget. (1990 Code, § 5-402)

5-303. Tax to be lien on property; when due; when delinquent; interest and penalties. The tax shall become a lien upon all property on and after January 10th of each year; shall become due and payable on and after October 1st, next following; shall become delinquent on and after March 1st of each year following the date it becomes due and payable; and shall bear interest and penalties as provided by the laws of the State of Tennessee pertaining to municipal taxes. (1990 Code, § 5-403)

5-304. Assessment of property for taxes. For purposes of said tax and determination of the amounts due thereunder the assessments made by the County Tax Assessor of Hawkins County, Tennessee, upon property within the corporate boundaries shall be used and are hereby adopted until such time as, by appropriate action, a separate means of assessment is established, and provided that where property lying partly within the corporate boundaries and partly outside the corporate boundaries shall be assessed in one assessment by the said county tax assessor without allocation of value as to the portion lying within the corporate boundaries, in such event, the board of mayor and aldermen shall have full power and authority to determine what part of such assessed value to properly allocable to property within the corporate boundaries.

Utilities and carriers shall be assessed by the means and the manner provided by state law for assessment of such property. (1990 Code, § 5-404)

5-305. Recorder to collect. The taxes herein levied shall be paid to the recorder or such other official or employee as may by ordinance or resolution be designated. (1990 Code, § 5-405)

5-306. Tax to be used for any lawful expenditure. All monies collected under this chapter shall be used for any lawful expenditure, any lawful expenditure being defined from time to time by appropriate action of the board of mayor and aldermen. (1990 Code, § 5-406)

5-307. Collection of delinquent taxes. The taxes herein levied may be collected in the same manner as is provided for collection of delinquent municipal taxes by the laws of the State of Tennessee. (1990 Code, § 5-407)

CHAPTER 4

PURCHASING

SECTION

5-401. Application.

5-402. Limits on purchases.

5-403. Advertising and bidding -- exceptions.

5-404. Advertising and bidding -- expenditures of less than \$9,000.00.

5-405. Additional authority of the board.

5-406. Bid specifications for purchases of chemical products.

5-401. Application. This chapter shall apply to all purchases by authorized officials in the Town of Mount Carmel using or encumbering municipal funds, except as follows:

(1) This chapter shall not apply to purchases made under the provisions of Tennessee Code Annotated, § 12-3-1001;

(2) This chapter shall not apply to investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, title 9, chapter 4, part 7; and

(3) This chapter shall not apply to purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Inter-local Cooperation Act, compiled in Tennessee Code Annotated, title 12, chapter 9; and

(4) This chapter shall not apply to purchases from nonprofit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipalities. (1990 Code, § 1-801, as replaced by Ord. #16-449, Jan. 2017)

5-402. Limits on purchases. All purchases made from funds subject to the authority of this chapter shall be made within the limits of the approved budget, when required, and the appropriations, when required, for the department, office or agency for which the purchase is made. (1990 Code, § 1-802, as replaced by Ord. #16-449, Jan. 2017)

5-403. Advertising and bidding -- exceptions. Except as hereinafter provided, all purchases and leases or lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid, except as follows:

(1) Purchases costing less than nine thousand hundred dollars (\$9,000.00); provided that this exemption shall not apply to purchases of like items that individually cost less than nine thousand hundred dollars (\$9,000.00), but that are customarily purchased in lots of two (2) or more, if the

total purchase price of such items would exceed nine thousand dollars (\$9,000.00) during any fiscal year;

(2) Any goods or services that may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product. A record of all such sole source or proprietary purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the board of mayor and aldermen and shall include all items of information as required for the record;

(3) Purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchase shall be made by the person or body authorizing such emergency purchases, and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the board of mayor and aldermen, and shall include all items of information as required in the record;

(4) Leases or lease-purchase agreements requiring total payments of less than nine thousand dollars (\$9,000.00) in each fiscal year the agreement is in effect, provided that, this exemption shall not apply to leases of like or related items that individually may be leased or lease-purchased with total payments of less than nine thousand hundred dollars (\$9,000.00) in any fiscal year, but which are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be nine thousand dollars (\$9,000.00) or more in any fiscal year;

(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 secondhand articles or equipment or other materials, supplies, commodities, and equipment;

(7) Purchases of perishable commodities, when such items are purchased in the open market. A record of all such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the chief executive officer and the governing body, and shall include all items of information as required in the record. Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the department of general services' contract where available; and

(8) Purchases, for resale, of natural gas and propane gas. (1990 Code, § 1-803, as replaced by Ord. #16-449, Jan. 2017)

5-404. Advertising and bidding – expenditures of less than \$9,000.00. All purchases, leases, or lease-purchase arrangements with expenditures of less than nine thousand dollars (\$9,000.00) but more than two thousand five hundred dollars (\$2,500.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive bids (quotes). Purchases, leases, or lease-purchases of two thousand five hundred dollars (\$2,500.00) or less in any fiscal year shall not require any public advertisement or competitive bidding. (1990 Code, § 1-804, as replaced by Ord. #16-449, Jan. 2017)

5-405. Additional authority of the board. (1) The board of mayor and aldermen are specifically authorized to lower the dollar amounts required in this chapter for public advertisement and competitive bidding to an amount to be set by the board, by ordinance. The board of mayor and aldermen may by ordinance increase the dollar amount required in this chapter for public advertisement and competitive bidding from nine thousand dollars (\$9,000.00) to a maximum of thousand dollars (\$10,000.00).

(2) The board of mayor and aldermen are specifically authorized to adopt regulations providing procedures for implementing this chapter. (1990 Code, § 1-805, as replaced by Ord. #16-449, Jan. 2017)

5-406. Bid specifications for purchases of chemical products. Specifications for purchases of chemical products pursuant to this chapter shall require that the manufacturer of the chemical products create and maintain a Material Safety Data Sheet (MSDS) for such chemical products on the national MSDSSEARCH repository or the manufacturer's web site so that the information can be accessed by means of the Internet. A site operated by or on behalf of the manufacturer or a relevant trade association is acceptable so long as the information is freely accessible to the public.

The URL for MSDSSEARCH shall be posted on the web site of the department of general services as provided in § 12-3-217. In lieu of posting a MSDS on MSDSSEARCH, a bidder shall include the manufacturer's URL for their MSDS in the bid proposal or purchase order. (as added by Ord. #16-449, Jan. 2017)

CHAPTER 5

MISCELLANEOUS

SECTION

5-501. Official depository for city funds.

5-501. Official depository for city funds. The First Community Bank of Mount Carmel, Tennessee, and the Local Government Investment Pool of Tennessee are hereby designated as the official depositories for all city funds. (Ord. #09-344, June 2009)

CHAPTER 6

DEBT POLICY

SECTION

- 5-601. Purpose.
- 5-602. Definition of debt.
- 5-603. Approval of debt.
- 5-604. Transparency.
- 5-605. Role of debt.
- 5-607. Types and limits of debt.
- 5-608. Use of variable rate of debt.
- 5-609. Use of derivatives.
- 5-610. Costs of debt.
- 5-611. Refinancing outstanding debt.
- 5-612. Professional services.
- 5-613. Conflicts.
- 5-614. Review of policy.
- 5-615. Compliance.

5-601. Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Mount Carmel, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the town. A debt management policy signals to the public and the rating agencies that the town 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. (as added by Ord. #11-367, Dec. 2011)

5-602. 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, bond issues, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (as added by Ord. #11-367, Dec. 2011)

5-603. 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 town council 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 town council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #11-367, Dec. 2011)

5-604. 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 newspapers, bulletin boards, and websites.

(3) All costs (including principal, interest, issuance, continuing, and one (1) time) shall be clearly presented and disclosed to the citizens, town council, and other stakeholders in a timely manner.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, town council, and other stakeholders in a timely manner. (as added by Ord. #11-367, Dec. 2011)

5-605. Role of debt. (1) 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 town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) 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.

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #11-367, Dec. 2011)

5-606. Types and limits of debt. (1) The town will seek to limit total outstanding debt obligations to ten percent (10%) of the total town's taxable

assessed valuation, excluding overlapping debt, enterprise debt, and revenue debt.

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

(3) The town's total outstanding debt obligation will be monitored and reported to the town council by the town recorder and on a schedule established in the policy. 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 town council any matter that adversely affects the credit or financial integrity of the town.

(4) The town has issued capital outlay notes, sewer revenue bonds, and tax anticipation notes in the past and is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

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

(6) 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 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.

(7) The town may use capital leases to finance short-term projects.

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town 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 town. The town council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund. (as added by Ord. #11-367, Dec. 2011)

5-607. 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 will implement steps to mitigate these risks; including:

(a) The town 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 town

council shall be informed of the potential affect 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 town council shall be informed of the potential affect 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 town council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation. (as added by Ord. #11-367, Dec. 2011)

5-608. 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 town council; and

(b) The town council 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. (as added by Ord. #11-367, Dec. 2011)

5-609. 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 town council in accordance with the notice requirements stated above.

(2) 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.

(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). (as added by Ord. #11-367, Dec. 2011)

5-610. Refinancing outstanding debt. (1) The town will refund debt when it is in the best financial interest of the town 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.

(2) 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 town will refund debt when it is in the best financial interest of the town to do so. Such refunding may include 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 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 town 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 structure. The town 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 town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #11-367, Dec. 2011)

5-611. 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.¹ The town shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction. (No engagement letter is required for any lawyer who is an employee of the town or lawyer or law firm which is under a general appointment or contract to serve as counsel to the town. The town does not need an engagement letter with counsel not representing the town, such as underwriters' counsel.)

(2) Financial advisor.² 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 or 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 they are or have been providing advisory services for the issuance.

(3) Underwriter.³ If there is an underwriter the town shall require the underwriter to clearly identify itself in writing (e.g., in response to a request for proposals or in promotional materials proved 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

¹The requirement for an engagement letter does not apply to any lawyer who is an employee of the town or any lawyer or law firm under a general appointment as counsel to the town and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the town in that transaction, the town will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- (1) The party represented in the debt transaction; and
- (2) The town's obligation with respect to the payment of such lawyer or law firm's fee and expenses.

²For new issues of debt which constitutes a "security" for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or other municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.

³State law references

Tennessee Code Annotated, 7 part 9—Contracts, leases, and lease purchase agreements.

Tennessee Code Annotated, 9, part 21—Local Government Public Obligations Law.

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 governing body (or its designated official) in advance of the pricing of the debt. (as added by Ord. #11-367, Dec. 2011)

5-612. Conflicts. (1) 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, 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 town to appreciate the significance of the relationships.

(2) 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. (as added by Ord. #11-367, Dec. 2011)

5-613. Review of policy. This policy shall be reviewed at least annually by the town council 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. (as added by Ord. #11-367, Dec. 2011)

5-614. Compliance. The town recorder is responsible for ensuring compliance with this policy. (as added by Ord. #11-367, Dec. 2011)