

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
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3. GROSS RECEIPT TAX.
4. WHOLESALE BEER TAX.
5. PERSONAL PROPERTY TAXES.
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CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for town funds.

5-101. Official depository for town funds. The board of mayor and aldermen shall designate the official depositories for the municipal funds. (1994 Code, § 5-101)

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-203. Annual levy of taxes.

5-201. When due and payable.¹ 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 they are levied. (1994 Code, § 5-201, modified)

5-202. When delinquent--penalty and interest.² 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.³ (1994 Code, § 5-202)

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.

²Charter and state law reference

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 (1/2 of 1%) 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 of each succeeding month.

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

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

(continued...)

5-203. Annual levy of taxes. The governing body shall annually levy tax assessment for the year. (1994 Code, § 5-203)

(...continued)
§ 67-5-2005.

CHAPTER 3**GROSS RECEIPT TAX****SECTION**

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. (1994 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1994 Code, § 5-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. 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 (1994 Code, § 5-401)

¹State law reference

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

CHAPTER 5**PERSONAL PROPERTY TAXES****SECTION**

5-501. Annual levy of taxes.

5-502. When due and payable.

5-501. Annual levy of taxes. The governing body shall annually levy tax assessment which shall be the same rate as that levied for real property taxes for the year. (1994 Code, § 5-501)

5-502. When due and payable. Taxes levied by the municipality against personal property shall become due and payable annually on the first day of November in the year in which they are levied. (1994 Code, § 5-502)

CHAPTER 6

PURCHASING POLICY

SECTION

- 5-601. Purchasing agent.
- 5-602. Purchasing procedures.
- 5-603. Relations of other departments with the finance/town recorder's office.
- 5-604. Purchases exceeding five hundred dollars (\$500.00).
- 5-605. Purchases of five hundred dollars (\$500.00) or less.
- 5-606. Receiving report.
- 5-607. Emergency purchases.
- 5-608. Sale of surplus property.
- 5-609. Sealed bids or proposals.
- 5-610. General information.

5-601. Purchasing agent. The mayor shall act as purchasing agent for the town, with power, except as set out in these procedures, to purchase materials, supplies, equipment; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the town's business. All contracts, leases, and lease purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body. (Ord. #11-09-12, ____ 2011)

5-602. Purchasing procedures. The purchasing agent shall have the authority to make purchases, leases, and lease purchases up to ten thousand dollars (\$10,000.00). The purchasing agent shall be responsible for compliance with these procedures and the Municipal Purchasing Law of 1983, as amended, including required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined. In no event shall a purchase order, requisition, or contract be split or divided into two (2) or more with the intent of evading the necessity of having competitive bids and/or the necessity of obtaining the approval of the governing body. The purchase of several complete items from a single vendor to be used in different departments shall be considered as individual purchases.

All purchases or transactions totaling ten thousand dollars (\$10,000.00) or more should be competitively bid. Three (3) competitive bids or quotations shall be required prior to each purchase. All competitive bids or quotations received shall be recorded and maintained in the office of the town recorder for a minimum of seven (7) years after contract expires. When requisitions are required, the competitive bids or quotations received shall be listed upon that document prior to the issuance of the purchase order. Awards shall be made by the governing body to the lowest responsible bidder meeting specifications.

The following town purchases are exempt from competitive bidding and public advertisement requirements according to the 1983 Municipal Purchasing Law and requires the governing body's approval:

- (a) Sole source of supply or proprietary products as determined after complete search by using the department and the purchasing agent, with the governing body's approval.
- (b) Emergency expenditures with subsequent approval of the governing body.
- (c) Purchases from instrumentalities created by two (2) or more cooperating governments.
- (d) Purchases from nonprofit corporations whose purpose or one of whose purpose is to provide goods or services specifically to municipalities.
- (e) Purchases, leases or lease-purchases of real property.
- (f) 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.
- (g) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
- (h) Purchases directed through or in conjunction with the state Department of General Services.
- (i) Purchases from Tennessee state industries.
- (j) Professional service contracts as provided in Tennessee Code Annotated, § 12-4-106.
- (k) Tort liability insurance as provided in Tennessee Code Annotated, § 29-20-407.
- (l) Purchases of fuels, fuel products or perishable commodities.
- (m) Purchases of natural gas and propane for re-sale.

The purchasing agent 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 and within definitions of words and phrases from the law as herein defined. (Ord. #11-09-12, ____ 2011)

5-603. Relations of other departments with the finance/town recorder's office. The finance/town recorder's office is a service agency for all other departments of the town. The purchasing function is a service, and the mutual benefits derived, for the good of the town, depend upon cooperation of each department with the others. This manual is a guide to help the departments know their buying responsibilities.

- (1) Finance/town recorder's office responsibilities.
 - (a) Aid and cooperate with all departments in meeting their needs for operating supplies, equipment, and services.
 - (b) Process all requisitions with the least possible delay.

(c) Procure a product that will meet the department's requirements at the least cost to the town.

(d) Know the sources and availability of needed products and services and maintain current vendor files.

(e) Prepare purchase orders, and process and maintain order and requisition files.

(f) Search for new and improved sources of supplies and services.

(g) Keep items in storage in sufficient quantities to meet normal requirements of the town for a reasonable length of time within space availability.

(h) Investigate and document complaints about merchandise and services for future reference.

(i) Assist in preparation of specifications and to maintain specification and historical bid files.

(j) Prepare and advertise requests for bids and maintain bid files.

(k) Insure that the budget has not been exceeded for any purchase.

(2) Using department's responsibility.

(a) Obtain prices on comparable materials.

(b) Allow lead time for the purchasing department to process the requisition and issue the purchase order, while permitting the supplier time to deliver the needed items.

(c) Prepare a complete and accurate description of materials to be purchased.

(d) Assist finance/town recorder's office by selecting sources of supply.

(e) Plan purchases in order to eliminate avoidable emergencies.

(f) Prepare specifications on items to be bid.

(g) Inspect merchandise upon receipt, and complete a receiving report noting any discrepancies in types, numbers, condition, or quality of goods.

(h) Advise finance/town recorder's office of defective merchandise or dissatisfaction with vendor performance. (Ord. #11-09-12, ____ 2011)

5-604. Purchases exceeding five hundred dollars (\$500.00).

(1) Purchase requisitions. All purchases exceeding five hundred dollars (\$500.00) must be initiated through the preparation and submittal of a purchase requisition to the finance/town recorder's office. The purchase requisition serves to inform the finance/town recorder's office of the needs of the using department and to correctly define the material or service requested.

Requisitions shall be prepared after the using department obtains competitive prices and before vendor delivery.

Requisitions shall originate in the using department and be signed by the requisitioner and the department head.

How to prepare:

- (a) Date issued – date the requisition is prepared.
- (b) Date needed – state a delivery date. Prepare far enough in advance to avoid emergencies.
- (c) Department – complete the name of the using department.
- (d) Requisitioner – signature of the person initiating the purchase request.
- (e) Department head – signature of the department head.
- (f) Vendor name and address. When applicable, attach three (3) phone quotes with vendor name, price, contact, and supporting documentation.
- (g) Quantity – number required.
- (h) Unit – dozen, lineal feet, gallon, etc.
- (i) Description – give a clear description of the items desired as to size, color, type, etc. If the purchase is of technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given followed by a trade name and model number of an acceptable item "or approved equal."

NOTE: Incomplete information in this area will result in the requisition being returned to the using department for clarification. An incomplete requisition could cause unnecessary delays.

- (j) Unit price – price for each individual item.
- (k) Amount – a total of quantity times unit price.
- (l) Signatures – Signatures of the requisitioner and/or department head.

Prepare two (2) copies of the purchase requisition. Send the original to the finance/town recorder's office and retain the second copy in department files. The finance/town recorder shall certify availability of budgetary and cash funds.

A requisition must be completed before a purchase is made, except as otherwise provided herein. Approximate cost of items will enable finance/town recorder to determine if bids are required.

If it is determined by the finance/town recorder that the account lacks a sufficient budget, it will be referred to the mayor, who will notify the department head.

The requisitioner shall not split orders to circumvent any provision of town code or charter, this manual, or any policy established by the town, nor shall requisitions be submitted for the sole purpose of using up budgetary balances.

(2) Purchase orders. Following the approval of a purchase requisition, a purchase order is prepared by the finance/town recorder to authorize the seller to ship and invoice the materials and services as specified. Purchase orders shall be written so that they are clear, concise, and complete. This prevents misunderstandings and unnecessary correspondence with suppliers.

Purchase orders are issued only after an acceptable requisition has been submitted and after approval of the mayor and finance/town recorder. No purchase order will be issued until the finance/town recorder's office has certified adequate budgetary and cash balances to make the purchase, except as otherwise provided herein.

Only the finance/town recorder's office shall issue purchase orders.

The finance/town recorder's office must initiate all cancellations and will issue a purchase order to the next best vendor or renew the purchasing process. (Ord. #11-09-12, ____ 2011)

5-605. Purchases of five hundred dollars (\$500.00) or less.

Purchase of five hundred dollars (\$500.00) or less can be made without the use of a purchase requisition; however, a purchase order issued through the finance/town recorder's office is required.

The department head may obtain a purchase order from the finance/town recorder's office. It is the responsibility of the department head, considering price and quality, to determine the best source of supply. All local sources should be considered before a purchase is made.

Under no circumstances may multiple forms be used, if the purchase is over the dollar limit, in an effort to avoid filling out a purchase requisition.

The following information must be provided by the ordering department prior to the issuance of a purchase order:

- (1) Vendor – firm or person from whom purchase is being made.
- (2) Vendor's address – address of the vendor.
- (3) Quantity – amount ordered of each item described.
- (4) Description – brief description of item(s) to be purchased.
- (5) Price – amount equal to quantity times unit cost.

No purchase order will be issued until the finance/town recorder's office has certified adequate budgetary and cash balances to make the purchase, except as otherwise provided herein. Following issuance, a numbered purchase order is delivered to department heads. Department heads will review and sign the purchase order. (Ord. #11-09-12, ____ 2011)

5-606. Receiving report. Receiving reports are designed to notify the finance/town recorder office that the items of a particular order have been received. Receiving reports are required using one (1) of two (2) methods:

- (1) The person receiving the merchandise or service can sign the invoice signifying that goods have been received and are in good condition; or

(2) **Material receiving report.** This form is completed immediately upon receipt of materials, supplies, or services. The person receiving the merchandise must prepare the material receiving report.

When any item(s) is not in satisfactory condition, a statement on the condition of the item(s) shall be made in the description column or on the invoice. No statement as to the condition of item(s) certifies that the item(s) is in satisfactory condition. (Ord. #11-09-12, ____ 2011)

5-607. Emergency purchases. (1) **Purpose.** Emergency purchases are to be made by departments only when normal functions and operations of the department would be hampered by submitting a requisition in the regular manner, or when property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. Emergency purchases are costly and should be kept to a minimum. Avoiding emergency orders will save the town money.

(2) **Who authorizes emergency purchases.** Only the purchasing agent may authorize an emergency purchase. The purchasing agent shall report the purchases and/or contracts to the governing body 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. #11-09-12, ____ 2011)

5-608. Sale of surplus property. When a department head decides there is excess equipment or material in the department, he or she shall notify the purchasing agent in writing. The purchasing agent will figure out the best way to dispose of items with an estimated value of less than one hundred dollars (\$100.00) and inform the department head. Items with an estimated value of more than one hundred dollars (\$100.00) shall be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.

However, the purchasing agent may transfer surplus equipment or material from one (1) department to another. He or she must be sure the finance/town recorder's office knows the transfer or sales. With approval of the governing body, equipment or material also may be sold at public auction. (Ord. #11-09-12, ____ 2011)

5-609. 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.

(1) **Purchasing department's responsibilities.**

- (a) Prepare bid requests.
- (b) Establish date and time for bid opening.
- (c) Select possible sources of supply.

(d) Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.) using department's input and assistance. 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.

(e) Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.

(f) Receive and open bids.

(g) Evaluate bids using department's assistance.

(h) Prepare bids and make a recommendation on award to governing body for approval.

(i) Process purchase order after governing body approval.

(j) Maintain all specification and bid data files.

(2) General information. The following policies shall apply to sealed bids:

(a) Bid or proposal opening. Bids will be opened at the time and date specified on the bid request. All bids are opened publically and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, construction projects, with prior approval of the governing body, may be opened privately in case where the disclosure of the contents of the proposal could not readily be evaluated and would have a negative impact on both the vendor and the town.

(b) Late bids. No bid received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened.

(c) Bid opening schedule. Purchasing department is responsible for setting bid opening dates and times.

(d) Telephone bids. Telephone bids are not accepted.

(e) Bid form. Purchasing department sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy. Bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the town recorder's office.

(f) Unsigned bids. Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be accepted without that person's written signature.

(g) Acceptance of bids. The town reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one (1) bidder, to accept any part or all of a bid, or to accept the bid (or bids) that in the judgment of the governing body is in the best interest to the town.

(h) Shipping charges. Bids are to include all shipping charges to the point of delivery. Bids will be considered only on the basis of delivered price, except as otherwise authorized by the governing body.

(i) Sample product policy. The town recorder's office may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

(j) Approved equal policy. Specifications in the request for bid are intended to establish a desired quality or performance level or other minimum requirements that will provide the town with the best product available at the lowest possible price. When a brand name or a model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing. Brands or models other than those designated as "equal to" products shall receive equal consideration.

(k) Alternate bids. Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the town to use, all bids for that item may be rejected and specifications redrawn to allow all bidders and equal opportunity to submit bids on the alternate item.

(l) Vendor identification. Potential suppliers are selected from existing vendor files using department's suggestions and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found.

(m) Tie bids. A tie bid is one in which two (2) or more vendors bid identical items at the same unit cost. The winning bidder among tie bids may be determined by one (1) of the following factors:

- (i) Discount allowed;
- (ii) Delivery schedule;
- (iii) Previous vendor performance;
- (iv) Vendor location;
- (v) Trade-in value offered.

(n) Cancellation of invitation for bid or request for proposal. An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in solicitation when it is in the best interest of the town. The reasons shall be made a part of the bid or proposal file.

(o) Public advertisement. In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is

not required that specifications be included in the invitation to bid. However, this notice should state clearly the purchase to be made.

(p) Mistakes in bids. Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a revised bid prior to the bid opening date and time. Bidder mistakes detected by the bidder after the bids have been opened based on miscalculation may be withdrawn only with the approval of the purchasing agent. The purchasing agent shall determine if all or a portion of any bid bond shall be surrendered to the town as liquidated damages for any costs associated with the bid withdrawal.

(q) Bid bond. The purchasing agent may require that bidders submit a bid bond or other acceptable guarantee equal to five percent (5%) of the bid to ensure that the lowest responsible bidder selected by the governing body enters into a contract with the town. All or a portion of the bid bond shall be surrendered to the town as liquidated damages should the successful bidder fail to enter into a contract awarded by the governing body.

(r) Performance bond. The purchasing agent may require and then include in the bid documents a requirement for the successful bidder to post a performance bond or other guarantee satisfactory to the town attorney that insures the faithful performance of all of the terms and conditions of the purchase contract.

(s) Sealed bids and sealed proposals. The following is taken from Model Procurement Code for State and Local Governments, American Bar Association, February 1979, pages 21-22:

(i) "Competitive sealed bidding as defined in this Code, is the preferred method of procurement. Although the formal sealed bid process should remain a standard in public purchasing, there is a place for competitive negotiation." (State and Local Government Purchasing, The Council of State Governments (1975) at 2.2). Competitive sealed proposals method (similar to competitive negotiation) is available for use when competitive sealed bidding is not practicable.

(ii) Both methods assure price and product competition. The use of functional or performance specifications is allowed under both methods to facilitate consideration of alternative means of meeting (state) needs, with evaluation, where appropriate, on the basis of total or relative importance of the criteria to be used in the evaluation process under either method must be fully disclosed in the solicitation. Only criteria disclosed in the solicitation may be used to evaluate the items bid or proposed.

(iii) These two (2) methods of source selection differ in the following ways:

(A) Under competitive sealed bidding, subjective factors may be issued only to determine if the supply, service, or construction item bid meets the purchase description. Under competitive sealed proposals, subjective factors may be used to determine not only if the items being offered meet the purchase description but may also be used to evaluate competing proposals. The effect of this different use of subjective evaluation is that under competitive sealed bidding, once the subjective evaluation is completed, award is made on purely objective basis to the lowest responsive and responsible bidder. Under competitive sealed proposals, the quality of competing products may be compared and trade-offs made between price and quality of the items offered (all as set forth in the solicitation). Award under competitive sealed proposals is then made to the responsible offer or whose proposal is most advantageous to the town.

(B) Competitive sealed bidding and competitive sealed proposals also differ in that, under competitive sealed bidding, no change in bids is allowed once they have been opened, except for correction of errors in limited circumstances. The competitive sealed proposal method, on the other hand, permits discussions after proposals have been opened to allow clarification and changes in proposals provided that adequate precautions are taken to treat each offer fairly and to ensure that information gleaned from competing proposals is not disclosed to other offerors.

(t) Other aspects to be considered in bid awards. In addition to price, the following points should be considered when awarding a bid:

(i) The ability of the bidder to perform the contract or provide the material or service required.

(ii) Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.

(iii) The character, integrity, reputation, experience and efficiency of the bidder.

(iv) The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.

(v) The ability of the bidder to provide future maintenance and service for the use of the subject contract.

(vi) Terms and conditions stated in bid.

(vii) Compliance with specifications or request for proposal.

(u) Non-performance policy. Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure

to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one (1) or more of the following actions:

- (i) Removal of a vendor from bid list for a period to be determined by the governing body.
- (ii) Allowing the vendor to find the needed item for the town from another supplier at no additional cost to the town.
- (iii) Allowing the town to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- (iv) Allowing monetary settlement. (Ord. #11-09-12, _____ 2011)

5-610. General information. (1) Preference to local dealers. When buying supplies, materials, equipment, and services for the town's requirements, preference shall be given to dealers who have stores or warehouses within the town, price, quality, delivery, and service being equal.

(2) Federal excise tax. The town is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices.

(3) Standardization requirements. Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be bought on the basis of requirements for six (6) month period.

(4) Inspection of deliveries. No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head.

(5) Correspondence with suppliers. Copies of any correspondence with suppliers concerning prices, adjustments, or defective merchandise shall be forwarded to the finance/town recorder's office. All invoices, bills of lading, delivery tickets, and other papers relating to purchases shall be sent to the finance/town recorder's office.

(6) Claims. The purchasing agent shall prosecute all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments.

(7) Public inspection of records. The finance/town recorder's office shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspections. (Ord. #11-09-12, _____ 2011)

CHAPTER 7

DEBT POLICY¹

SECTION

- 5-701. Purpose and goal.
- 5-702. Definition of debt.
- 5-703. Approval of debt.
- 5-704. Transparency.
- 5-705. Role of debt.
- 5-706. Types and limits of debt.
- 5-707. Use of variable debt rate.
- 5-708. Use of derivatives.
- 5-709. Costs of debt.
- 5-710. Refinancing outstanding debt.
- 5-711. Professional services.
- 5-712. Conflicts.
- 5-713. Review of policy.
- 5-714. Compliance.

5-701. Purpose and goal. (1) The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Gordonsville, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risk, 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.

(2) 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. #12-01-05, Feb. 2012)

5-702. 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

¹State law references

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

Local government public obligations law: Tennessee Code Annotated, title 9, chapter 21.

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. #12-01-05, Feb. 2012)

5-703. 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 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. (as added by Ord. #12-01-05, Feb. 2012)

5-704. 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-time) shall be clearly presented and disclosed to the citizens, board of mayor and aldermen, 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, board of mayor and aldermen, 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, board of mayor and aldermen, and other stakeholders in a timely manner. (as added by Ord. #12-01-05, Feb. 2012)

5-705. 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 (GAAP) 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. #12-01-05, Feb. 2012)

5-706. Types and limits of debt. (1) The town will seek to limit total outstanding debt obligations to three percent (3%) of assessments, 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 board of mayor and aldermen. Chief Financial Officer (CFO) shall monitor the maturities and terms and conditions of all obligations to ensure compliance. Chief finance officer shall also report to the board of mayor and aldermen any matter that adversely affects the credit or financial integrity of the town.

(4) The town 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 board of mayor and aldermen 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. (This provision is necessary only if the town has a source of repayment for a revenue bond, such as a water or sewer system.) (as added by Ord. #12-01-05, Feb. 2012)

5-707. 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 board of mayor and aldermen 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 mayor and aldermen 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 mayor and aldermen 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. #12-01-05, Feb. 2012)

5-708. 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. (as added by Ord. #12-01-05, Feb. 2012)

5-709. 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 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. #12-01-05, Feb. 2012)

5-710. 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 structuring. 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. #12-01-05, Feb. 2012)

5-711. 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. 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. (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 sale 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 or broker any other debt transactions for the town.

(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 entity. 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 in advance of the pricing of the debt. (as added by Ord. #12-01-05, Feb. 2012)

5-712. 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. #12-01-05, Feb. 2012)

5-713. Review of policy. This policy shall be reviewed at least 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

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as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #12-01-05, Feb. 2012)

5-714. Compliance. The board of mayor and aldermen is responsible for ensuring compliance with this policy. (as added by Ord. #12-01-05, Feb. 2012)

CHAPTER 8**FUND BALANCE POLICY****SECTION**

- 5-801. Purpose.
- 5-802. Categories.
- 5-803. Responsibility.
- 5-804. Order of use of restricted and unrestricted funds.
- 5-805. Authority to commit funds.
- 5-806. Stabilization funds.
- 5-807. Authority to assign funds.
- 5-808. Unassigned fund balance.
- 5-809. Effective date.

5-801. Purpose. The fund balance policy is intended to provide guidelines during the preparation and execution of the annual budget to ensure that sufficient reserves are maintained for unanticipated expenditures or revenue shortfalls. It also is intended to preserve flexibility throughout the fiscal year to make adjustments in funding for programs approved in connection with the annual budget. The fund balance policy should be established based upon a long-term perspective recognizing that stated thresholds are considered minimum balances. The main objective of establishing and maintaining a fund balance policy is for the town to be in a strong fiscal position that will allow for better position to weather negative economic trends. (as added by Ord. #12-01-06, Feb. 2012)

5-802. Categories. The fund balance consists of five (5) categories:

- (1) Nonspendable;
- (2) Restricted;
- (3) Committed;
- (4) Assigned; and
- (5) Unassigned.
 - (a) Nonspendable fund balance consists of funds that cannot be spent due to their form (e.g. inventories and prepaids) or funds that legally or contractually must be maintained intact.
 - (b) Restricted fund balance consists of funds that are mandated for a specific purpose by external parties, constitutional provisions or enabling legislation.
 - (c) Committed fund balance consists of funds that are set aside for a specific purpose by the town's highest level of decision making authority (governing body). Formal action must be taken prior to the end of the fiscal year. The same formal action must be taken to remove or change the limitations placed on the funds.

(d) Assigned fund balance consists of funds that are set aside with the intent to be used for a specific purpose by the town's highest level of decision making authority or a body or official that has been given the authority to assign funds. Assigned funds cannot cause a deficit in unassigned fund balance.

(e) Unassigned fund balance consists of excess funds that have not been classified in the previous four (4) categories. All funds in this category are considered spendable resources. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls. (as added by Ord. #12-01-06, Feb. 2012)

5-803. Responsibility. Nonspendable funds are those funds that cannot be spent because they are either:

- (1) Not in spendable form (e.g. inventories and prepaids);
- (2) Legally or contractually required to be maintained intact.

It is the responsibility of the chief finance officer to report all nonspendable funds appropriately in the town's financial statements.

Restricted funds are those funds that have constraints placed on their use either:

- (a) Externally by creditors, grantors, contributors, or laws or regulations or other governments;
- (b) By law through constitutional provisions or enabling legislation.

It is the responsibility of the chief finance officer to report all restricted funds appropriately in the town's financial statements. (as added by Ord. #12-01-06, Feb. 2012)

5-804. Order of use of restricted and unrestricted funds. When both restricted and unrestricted funds are available for expenditure, restricted funds should be spent first unless legal requirements disallow it.

When committed, assigned and unassigned funds are available for expenditure, committed funds should be spent first, assigned funds second, and unassigned funds last. (as added by Ord. #12-01-06, Feb. 2012)

5-805. Authority to commit funds. The town's governing body has the authority to set aside funds for a specific purpose. Any funds set aside as committed fund balance require, at a minimum, the passage of a resolution by a simple majority vote. An ordinance may also be used. Commitment must take place prior to June 30th of the applicable fiscal year. If the actual amount of the commitment is not available by June 30th, the resolution or ordinance must state the process or formula necessary to calculate the actual amount as soon as information is available. In the event the governing body wishes to lift the committed status of funds so that they may be used for general purposes, a

formal action equal to that which originally committed the funds must be taken. (as added by Ord. #12-01-06, Feb. 2012)

5-806. Stabilization funds. The town's governing body has the authority to establish a financial stabilization account that will be a committed fund balance. A financial stabilization account may be established for the purpose of providing funds for an urgent event that affects the safety of the general public (e.g. flood, tornado, etc.). The minimum level for the financial stabilization account is five percent (5%) of general fund expenditures. The recognition of an urgent event must be established by the governing body or their designee (e.g. chief administrative officer). If established by the governing body's designee, the specific urgent event must be reported to the governing body at their next meeting. A budget amendment must be approved by the town's governing body. In the event that the balance drops below the established minimum level, the town's governing body will develop a plan to replenish the financial stabilization account balance to the established minimum level within four (4) years. (as added by Ord. #12-01-06, Feb. 2012)

5-807. Authority to assign funds. Upon passage of the fund balance policy, authority is given to the town's chief finance officer to assign funds for specific purposes in an amount not to exceed twenty thousand dollars (\$20,000.00) per purpose or in total not to exceed two hundred thousand dollars (\$200,000.00). Any funds set aside as assigned fund balance must be reported to the town's governing body at their next regular meeting and recorded in the minutes. The governing body has the authority to remove or change the assignment of the funds with a simple majority vote.

The town's governing body has the authority to set aside funds for the intended use of a specific purpose. Any funds set aside as assigned fund balance require a simple majority vote and must be recorded in the minutes. The same action is required to change or remove the assignment.

Upon passage of a budget ordinance where fund balance is used as a source to balance the budget, the chief finance officer shall record the amount as assigned fund balance. (as added by Ord. #12-01-06, Feb. 2012)

5-808. Unassigned fund balance. Unassigned fund balance is the residual amount of fund balance in the general fund. It represents the resources available for future spending. An appropriate level of unassigned fund balance should be maintained in the general fund in order to cover unexpected expenditures and revenue shortfalls.

Unassigned fund balance may be accessed in the event of unexpected expenditures up to the minimum established level upon approval of a budget amendment by the town's governing body. In the event of projected revenue shortfalls, it is the responsibility of the chief finance officer to report the

projections to the town's governing body on a quarterly basis and shall be recorded in the minutes.

Any budget amendment that will result in the unassigned fund balance dropping below the minimum level will require the approval of two-thirds (2/3) vote of the town's governing body.

The fund balance policy establishes a minimum unassigned fund balance equal to thirty percent (30%) of general fund expenditures. In the event that the balance drops below the established minimum level, the town's governing body will develop a plan to replenish the fund balance to the established minimum level within two (2) years. (as added by Ord. #12-01-06, Feb. 2012)

5-809. Effective date. The ordinance comprising this chapter shall be effective on its final passage. (as added by Ord. #12-01-06, Feb. 2012)