

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. HOTEL AND MOTEL OCCUPANCY TAX.
5. PURCHASING PROCEDURES.
6. MISCELLANEOUS.

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES

SECTION

- 5-101. When due and payable.
 5-102. When delinquent--penalty and interest.

5-101. When due and payable.¹ Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday in October of the year for which the taxes are assessed.² (1974 code, sec. 6-101, modified)

¹Charter references

Article I, section 6.

Article VI.

State law reference

Tennessee Code Annotated, sections 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 reference

Article VI, section 3.

5-102. When delinquent--penalty and interest.¹ All real property taxes shall become delinquent on and after the first Tuesday of February next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the city charter for delinquent taxes.² (1974 code, sec. 6-102)

¹State law reference

Tennessee Code Annotated, section 67-1-801(c) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

²Charter reference

Article VI, section 3.

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-201. 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. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. (1974 code, sec. 6-301)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the clerk to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1974 code, sec. 6-302)

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The city treasurer is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1974 code, sec. 6-401)

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 4

HOTEL AND MOTEL OCCUPANCY TAX

SECTION

- 5-401. Definitions.
- 5-402. Tax levied.
- 5-403. Billings, refunds and credits.
- 5-404. Remittance and timing.
- 5-405. Report required.
- 5-406. Tax not to be absorbed.
- 5-407. Delinquency and penalties.
- 5-408. Preservation of records.
- 5-409. Treasurer's powers.
- 5-410. Proceeds to be placed in general fund.
- 5-411. Use of taxes collected.
- 5-412. Compliance with state law.
- 5-413. Adoption of rules and regulations.

5-401. Definitions. As used in this chapter unless the context otherwise requires:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel;

(4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise;

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit;

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days. (Ord. 1044)

5-402. Tax levied. There is hereby levied a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of seven percent (7%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (Ord. 1044, as amended by Ord. #0213-01, Feb. 2013)

5-403. Billings, refunds and credits. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for ninety (90) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to said person, and the operator shall receive credit for the amount of such tax if previously paid or reported to the City of Harriman. (Ord. 1044)

5-404. Remittance and timing. Tire tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the city to the treasurer, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator. (Ord. 1044)

5-405. Report required. The treasurer shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the treasurer by the operator with such number of copies thereof as the treasurer may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the treasurer and approved by the city council prior to use. The treasurer shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the city council. (Ord. 1044)

5-406. Tax not to be absorbed. No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (Ord. 1044)

5-407. Delinquency and penalties. Taxes collected by an operator which are not remitted to the treasurer on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Ord. 1044)

5-408. Preservation of funds. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as said operator may have been liable for the collection of the payment to the city, which records the treasurer shall have the right to inspect at all reasonable times. (Ord. 1044)

5-409. Treasurer's powers. The treasurer in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, title 67, or otherwise provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The treasurer shall also possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.

With respect to the adjustment and settlement with taxpayers all errors of taxes collected by the treasurer under authority of this chapter shall be refunded by the city. The treasurer shall have the authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the treasurer. The treasurer is hereby designated as the officer against whom suit may be brought for recovery of tax illegally assessed and collected. (Ord. 1044)

5-410. Proceeds to be placed in general fund. The treasurer is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund for the City of Harriman. (Ord. 1044)

5-411. Use of taxes collected. The taxes collected hereunder shall be distributed by the city council, provided at least ten percent (10%) of the taxes collected shall be applied to promote tourism in the area. (Ord. 1044)

5-412. Compliance with state law. The tax levied pursuant to the provisions of this chapter shall only apply in accordance with the provisions of Tennessee Code Annotated, § 67-4-1425. (Ord. 1044)

5-413. Adoption of rules and regulations. The city council may adopt reasonable rules and regulations for the implementation of the provisions of this chapter by ordinance. (Ord. 1044)

CHAPTER 5

PURCHASING PROCEDURES

SECTION

- 5-501. Purchases in excess of \$5,000.00--prior council approval.
- 5-502. Purchases, contracts for services, contracts for lease or rental equipment--competitive bids.
- 5-503. Purchasing procedure for estimated expenditure in excess of \$10,000.00.
- 5-504. Procedure for purchases estimated to be more than \$1,500.00 but less than \$10,000.00.
- 5-505. Procedure for purchases of less than \$1,500.00.
- 5-506. Awarding open market bids.
- 5-507. Preservation of bids.
- 5-508. Procedure for opening bids.
- 5-509. Prohibition from purchasing from certain businesses.
- 5-510. Emergency purchases and non-mechanical repairs.
- 5-511. Mechanical repairs and routine maintenance excluded.
- 5-512. Local purchasing.

5-501. Purchases in excess of \$5,000.00--prior council approval. All intended purchases of supplies, materials, equipment, and contractual services in excess of five thousand dollars (\$5,000.00) shall receive prior approval by a majority of the city council. Prior to council approval, the chief financial officer shall certify to council whether or not sufficient funds are available for the purchase. In the event that sufficient funds are not available, the chief financial officer shall advise council as to potential sources of funding in the event that council deems the purchase necessary. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #0217-01, Feb. 2017)

5-502. Purchases, contracts for services, contracts for lease or rental of equipment competitive bids. All purchases of supplies, materials, equipment, contractual services, and all contracts for the lease or rental of equipment, shall be based wherever possible on competitive bids or quotes; but contracts for legal services, auditing services by public accountants, and similar services by persons or groups of high ethical standards, shall not be based upon competitive bids, but shall be awarded on the basis of recognized competence and integrity; provided further that bids need not be required for services for which the rate or price is fixed by public authority authorized by law to fix such rates or prices, when there is only one supplier for the product to be purchased, or when cooperative purchasing options are available through another governmental entity in which the city may participate as outlined by the State of Tennessee Municipal Purchasing Law. (Ord. 852, as replaced by Ord. #0217-01, Feb. 2017)

5-503. Purchasing procedure for estimated expenditure equal to or in excess of \$10,000.00. If the amount of expenditure is equal to or exceeds ten thousand dollars (\$10,000.00), sealed bids shall be solicited unless exempted elsewhere within this chapter. The city manager, chief financial officer, or city clerk shall solicit sealed bids by public notice inserted at least once in a newspaper of city-wide circulation or other newspapers when such is deemed necessary or desirable, at least ten (10) days prior to the final date for submitting bids. When necessary or desirable, staff may also solicit the sealed bids by sending requests by mail to prospective suppliers. All such notices shall include a general description of the commodities or contractual services to be purchased, method for obtaining a full set of bid specifications, and the time and place of bid opening.

Exceptions to advertising and sealed bidding:

(1) Any goods or services that may not be procured by competitive means because of the existence of a single source supplier or because of a proprietary product. A record of all such purchases must be kept by purchaser for the minimum amount of time required by record retention policies for municipalities within the State of Tennessee.

(2) Emergency purchases and non-mechanical repairs as described within this chapter.

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

(4) 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.

(5) Purchases made through another governmental unit or cooperative purchasing group that otherwise complies with Tennessee purchasing statutes.

(6) Other exemptions as outlined in Tennessee Code Annotated, including but not limited to, professional services and non-profit corporations whose purpose or one (1) of whose purposes is to provide goods and services specifically to municipalities. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #0217-01, Feb. 2017)

5-504. Procedure for purchases estimated to be more than \$1,500.00, but less than \$10,000.00. Prior to a purchase being made, all purchases of more than one thousand five hundred dollars (\$1,500.00), but less than ten thousand dollars (\$10,000.00) in amount shall have a purchase order requisition approved by the city manager followed by a purchase order being issued by the chief financial officer. Purchases may then be made in the open market without newspaper notice, but shall wherever possible be based upon at least three (3) competitive, non-sealed quotes. However, the purchaser or city manager may choose to take sealed bids in lieu of competitive non-sealed bids if it is deemed to be in the best interests of the city to do so. Requisitions for items estimated to cost more than ten thousand dollars (\$10,000.00) shall not be subdivided to circumvent requirement for sealed bids as herein required. This limit shall

apply to all like items to be purchased within a single fiscal year and to a grouping of similar items to be supplied by a single supplier through one (1) purchase. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #0217-01, Feb. 2017)

5-505. Procedure for purchases of less than \$1,500.00. All purchases of less than one thousand five hundred dollars (\$1,500.00) in amount may be made by the head of the department when budget funds are available, in the open market without newspaper notice, but shall wherever possible be based upon at least three (3) competitive quotes from prospective suppliers. Requisitions for items estimated to cost more than one thousand five hundred dollars (\$1,500.00) shall not be subdivided in order to circumvent the authority of the city manager, chief financial officer, city council, or the requirement for sealed bids. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #0217-01, Feb. 2017)

5-506. Awarding open market bids. All open market purchases shall be awarded to the lowest and best bidder, taking into consideration the quality of the articles to be supplied, their conformity with specifications, their suitability of the requirements of the city government, the product or bidders adherence to proper licensing standards, and any delivery terms. Any, and all, bids or quotes may be rejected for good cause. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #0217-01, Feb. 2017)

5-507. Preservation of bids. All bids taken under the requirements of this chapter and all other documents, including purchase orders, pertaining to the award of contracts on such bids, shall be preserved for a period of time sufficient to satisfy record retention policies for municipalities as set by the State of Tennessee. (Ord. 852, as replaced by Ord. #0217-01, Feb. 2017)

5-508. Procedure for opening bids. All sealed bids conforming to the bid specifications shall be opened at the time and place fixed in the advertisement. The city manager, chief financial officer, or city clerk shall be present at a bid opening, along with a department head or second staff member from the preceding staff list. Each bid, with the name and address of the bidder, shall be entered on a record, and each record with the names of the bidder, the amounts of their bids, and the name of the successful order, be open to public inspection. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #0217-01, Feb. 2017)

5-509. Prohibition from purchasing from certain businesses. No purchase shall be made for tangible personal property or services by city officials or employees, acting in their official capacity, from any firm or individual whose

local business tax or license or local property tax is delinquent. (Ord. 852, as replaced by Ord. #0217-01, Feb. 2017)

5-510. Emergency purchases and non-mechanical repairs. A department or agency head of the city government is authorized to purchase in the open market, without filing requisition or estimate, any non-mechanical repairs, supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes. The head of the city department or agency concerned shall attempt to contact the city manager for authorization prior to making such purchase, but in the event the city manager is unavailable shall report such purchase to the city manager within one working day. The report should include details of the purchase, together with a full and complete account of the circumstances of such emergency. City manager shall report the same to the city council at its next regularly scheduled meeting, unless a specially called meeting is designated to discuss such purchase. Such report shall be kept on file for a period of time sufficient to satisfy record retention policies for municipalities as set by the State of Tennessee and shall be open to public inspection during such time. (Ord. 852, as amended by Ord. #2002-01, Feb. 2002, and replaced by Ord. #2017-01, Feb. 2017)

5-511. Mechanical repairs and routine maintenance excluded. Purchases of goods and services relating to mechanical repairs and routine maintenance to city vehicles are excluded from the operation of this chapter. (Ord. 852, as replaced by Ord. #0217-01, Feb. 2017)

5-512. Local purchasing. It is the intent of the city to encourage purchasing local whenever possible, while at the same time complying with all applicable municipal purchasing laws as required by the State of Tennessee. Local preference is given to businesses located within the city limits of the City of Harriman. Objectives to accomplish this may include, but are not limited to, the following:

- (1) Contacting local qualifying businesses to submit quotes,
- (2) Notifying local businesses of opportunities to submit sealed bids,
- (3) In the event that two (2) or more quotes or bids are equal in all other respects, giving preference to a local business,
- (4) Ensuring that delivery costs are included when assessing the low bid,
- (5) Assessing the ability of a local business to provide goods and services that may be available through a joint purchasing contract and taking quotes or bids as provided for in this chapter when a local provider can reasonably meet the conditions of the purchase at an equal or lower cost. (as added by Ord. #0217-01, Feb. 2017)

CHAPTER 6

MISCELLANEOUS

SECTION

5-601. Procedure for selling surplus city personal property.

5-601. Procedure for selling surplus city personal property. (1) The city manager shall be responsible for the sale and disposal of all surplus personal property. The sale of any single item estimated to have a value in excess of one thousand dollars (\$1,000.00) shall be first approved by the mayor and board of alderman.

(2) Permissible methods to sell or dispose of surplus city property shall include, but are not limited to:

- (a) Public auction, including internet based auction;
- (b) Solicitation of written bids;
- (c) Negotiated sale to one (1) or more designated buyers;
- (d) Transfer to another governmental entity or agency at or below reasonable market value; and
- (e) Transfer to a non-profit organization at or below reasonable market value.

(3) Prior to the sale, all city logos or other symbols are to be removed to be destroyed from the to be sold. (1974 Code, § 6-501, as replaced by Ord. #0215-01, Feb. 2015)