

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. PROPERTY TAXES.
2. PRIVILEGE TAXES GENERALLY.
3. WHOLESALE BEER TAX.
4. BIDDING AND PURCHASING PROCEDURES.
5. COLLECTION PROCEDURES.

CHAPTER 1

PROPERTY TAXES

SECTION

- 5-101. When assessed.
 5-102. When due and payable.
 5-103. When delinquent--penalty and interest.

5-101. When assessed. All real property taxes shall be assessed as of the 10th day of January of the year for which levied. (1982 Code, § 6-101)

5-102. When due and payable.² Taxes levied by the city against real property shall become due and payable annually on the first of October of the year for which levied. (1982 Code, § 6-102)

¹Charter references

General provisions relating to finance and taxation: art. II, § 1(21); art. VI; and art. VII, § 3(B)2.

Requirement that ordinances be used to levy taxes and fees: art. V, § 5.

Municipal code reference

Tax equivalent payments by a board of public utilities: § 2-211.

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 ½ 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.

5-103. When delinquent--penalty and interest.¹ 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 taxes. (1982 Code, § 6-103)

¹Charter 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, § 67-5-2005.

CHAPTER 2

PRIVILEGE TAXES GENERALLY

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, § 67-4-701, et seq.) 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 said act. (1982 Code, § 6-201)

5-202. License required. No person shall exercise any privilege taxed by the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1982 Code, § 6-202)

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

5-301. To be collected.

5-301. To be collected. The recorder is hereby directed to collect for the City of Sweetwater the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1982 Code, § 6-301)

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

BIDDING AND PURCHASING PROCEDURES

SECTION

- 5-401. Application.
- 5-402. Limits on purchases.
- 5-403. Advertising and bidding.
- 5-404. Contracts for professional services.

5-401. Application. This chapter shall apply to all purchases by authorized officials in the City of Sweetwater using or encumbering municipal funds, except those exempted by state law in Tennessee Code Annotated, § 6-56-302. (Ord. #744, April 2002)

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. (Ord. #744, April 2002)

5-403. Advertising and bidding. 1. 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:

(a) Purchases costing less than ten thousand dollars (\$10,000.00); provided, that this exemption shall not apply to purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year, which shall automatically be increased if and when Tennessee Code Annotated, § 6-56-306 is amended to provide for a greater sum.

(b) Any goods or services which may not be procured by common means because of the existence of a single source of supply or being 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 municipal governing body and the chief executive officer of the municipality and shall include all items of information as required for the record.

(c) 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 municipal governing body and the chief executive officer of the municipality, and shall include all items of information as required by the record.

(d) Leases or lease purchase agreements requiring total payments of less than ten thousand dollars (\$10,000.00) in each fiscal year the agreement is in effect; provided, that this exemption shall not apply to leases of like related items which individually may be leased or lease purchased with total payments of less than ten thousand dollars (\$10,000.00) 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 ten thousand dollars (\$10,000.00) or more in any fiscal year, which shall automatically be increased if and when Tennessee Code Annotated, § 6-56-306 is amended to provide for a greater sum.

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

(g) The governing body may exempt perishable commodities from requirements of public advertisement and competitive bidding when such items are purchased in the open market. 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 service contract where available.

2. Expenditures of less than ten thousand dollars (\$10,000.00). All purchases, leases or lease purchase arrangements with expenditures of less than ten thousand dollars (\$10,000.00) but more than four thousand dollars (\$4,000.00) 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. Purchases, leases and lease purchases of four thousand dollars (\$4,000.00) or less in any fiscal year shall not require any public advertisement or competitive bidding. The sum of four thousand dollars (\$4,000.00) in this subsection shall automatically increase to forty percent (40%) of the sum set forth in Tennessee Code Annotated, § 6-56-306, if and when said statute is amended to provide for a greater sum.

(3) Other exempt purchases, leases and lease-purchase agreements. The foregoing requirements for advertising and competitive bids for city

purchases, leases and/or lease-purchase agreements shall not apply to or restrict the city's ability to participate in any program for municipal purchases, leases and/or lease-purchase agreements by, through, from or with the State of Tennessee, the State Department of General Services, any state agency or any other local government entity, individually or cooperatively, whenever such purchase, lease or lease-purchase agreement is authorized by statute.

(4) Competitive bidding. (a) Contracts shall be awarded for the lowest competent, responsible bid that is responsive to the request for bids. The lowest responsible bidder means not merely the lowest bidder whose pecuniary ability to perform the contract is deemed the best, but the bidder who is most likely, in regard to skill, ability and integrity, to do faithful, conscientious work, and promptly fulfill the contract according to its letter and spirit. Accordingly, the requirement that the city's contract shall be let to the "lowest responsible bidder" does not require the letting to the lowest bidder upon ascertaining his financial responsibility only, but the term "responsible" includes the ability to respond by the discharge of the contractor's obligation in accordance with what may be expected or demanded under the terms of a contract.

(b) Because the lowest price bid is not the only consideration, the board, selection committee or procurement officer may award a bidder who is not the lowest bidder if other factors affect (i) the overall quality or total cost of the finished product or project, (ii) the cost and/or convenience of maintenance; (iii) the ability of the bidder to efficiently and effectively provide a quality product or service and/or other factors relevant to the particular project that affect the overall cost and quality of performance of the services or goods for which the bid is let, over the anticipated life of the completed project. Said factors may be evaluated using, but not necessarily limited to, job and performance references; background and financial reviews; bidder reports and lists such as equipment lists and staff qualifications; and the bidder's location relevant to the project. Examples of the application of such factors, while not exhaustive, include a bidder for a garbage contract who offers a low bid, but has an inadequate number of trucks to reliably and timely perform the contract; a bidder whose references provide negative reports of the bidder's poor performance on similar projects; a bidder on a contract for which the city will be reimbursed upon progress or completion, whose financial condition does not reasonably permit the bidder to wait for the city to receive the funds with which to pay the bidder; a bidder to sell or lease the city vehicles or equipment, which would have to be driven or transported an inordinate distance for service and/or repairs; or a bidder who offers equipment or services that are not compatible with equipment that the city already owns or leases or providers who already have contracts with the city. The foregoing factors, evaluation tools and examples are illustrative only, are not exhaustive and do not define the

limits of the authority of the board, selection committee or procurement official.

(c) Further, the board of commissioners, selection committee or procurement official may reject any and all bids received for purchase or sales; thus a contract need not be awarded to the lowest bidder even if the bid offered by a reliable and responsible bidder. (Ord. #744, April 2002, as amended by Ord. #903, Sept. 2013, and Ord. #946, Nov. 2016)

5-404. Contracts for professional services. (1) In the procurement of architectural and engineering services, the board of commissioners or a selection committee or procurement official appointed by the board may seek qualifications and experience data from any firm(s) licensed in this state and interview such firm(s). The board, selection committee or procurement official shall evaluate statements of qualifications and experience data regarding the procurement of architectural and engineering services, and shall conduct discussions with such firm or firms regarding the furnishing of required services and then shall select the firm deemed to be qualified to provide the services required, which need not be based on the lowest compensation.

(2) The board, selection committee or procurement official shall negotiate a contract with the qualified firm for architectural and engineering services at compensation which the selection committee or procurement official determines to be fair and reasonable to the city. In making such determination, the board, selection committee or procurement official shall take into account the estimated value of the services to be rendered, the scope of work, complexity and professional nature thereof.

(3) Should the board, selection committee or procurement official be unable to negotiate a satisfactory contract with the firm considered to be qualified, at a price determined to be fair and reasonable, negotiations will continue with other qualified firms until an agreement is reached.

(4) When the city has a satisfactory existing working relationship with a qualified firm for architectural or engineering services, the city may expand the scope of the services; provided, that they are within the technical competency of the existing firm, without exercising this section. (as added by Ord. #946, Nov. 2016)

CHAPTER 5**COLLECTION PROCEDURES****SECTION**

- 5-501. City recorder authorized to collect.
- 5-502. Collection procedures.
- 5-503. Collection activities.

5-501. City recorder authorized to collect. The city recorder shall be authorized to employ any means allowed by the State of Tennessee to collect amounts due to the City of Sweetwater. The recorder is authorized to contract with third (3rd) party collection agencies and/or services to collect. (as added by Ord. #925, May 2015)

5-502. Collection procedures. Collection procedures are further specified as follows: If an overpayment is made, the amount may be credited to other outstanding bills owed to the City of Sweetwater as the law allows. (as added by Ord. #925, May 2015)

5-503. Collection activities. The City of Sweetwater reserves the right to begin collection activities which may include: thirty (30), sixty (60), or ninety (90) day notices, door hanger, referral to the consumer's credit file, referral to a third-party collection agency, and apply all collection fees to the debt, or legal action. (as added by Ord. #925, May 2015)