

## TITLE 5

### MUNICIPAL FINANCE AND TAXATION

#### CHAPTER

1. REAL PROPERTY TAXES.
2. MERCHANT'S BUSINESS TAX.
3. BUSINESS TAXES GENERALLY.
4. WHOLESALE BEER TAX.
5. PURCHASING.
6. DEBT MANAGEMENT POLICY.
7. IDENTITY THEFT.

#### CHAPTER 1

#### REAL PROPERTY TAXES<sup>1</sup>

#### SECTION

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

**5-101. When due and payable.** Taxes levied by the town against real property shall become due and payable annually on the first day of October of the year for which levied. (2004 Code, § 5-101)

**5-102. When delinquent--penalty and interest.<sup>2</sup>** 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. (2004 Code, § 5-102)

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<sup>1</sup>Charter reference  
 Property taxes: § 15.

<sup>2</sup>State 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.

## CHAPTER 2

MERCHANT'S BUSINESS TAX<sup>1</sup>

## SECTION

5-201. Taxes payable.

5-202. Administration, collection, etc.

**5-201. Taxes payable.** All persons engaging in any vocation, occupation, business or business activity enumerated, described or referred to in section 5, Classification 1, Classification 2, Classification 3, or Classification 4 of this Act is declared to be a privilege upon which said business, business activity, vocation, or occupation is carried on may levy a privilege tax in an amount not to exceed the rate hereinafter fixed. (2004 Code, § 5-201)

**5-202. Administration, collection, etc.** (1) For all persons engaged in business June 1, 1971.

(2) For all persons beginning to engage in business after June 1, 1971, and all persons who open additional outlets after June 1, 1971, on the date of commencement of each business and the opening of each additional outlet.

(3) For all persons taxable under the following classifications, on the following dates:

(a) Classification 1 and 4 each November 30.

(b) Classification 2 on each January 31.

(c) Classification 3 on the last day of each February.

(4) For all persons taxable under this act, the tax imposed by section 5 as a percentage of gross sales, compensation received from construction, construction contracts and gross income, is payable by the following classifications on the following dates covering the following taxable periods:

(a) Classifications 1 and 4, on November 30, 1971 for the period June 1, 1971; on each November 30 thereafter for the year December 1 through November 30.

(b) Classification 2, on December 31, 1971 for the period June 1, 1971 through December 31, 1971; for each December 31 thereafter for the year January 1 through December 31.

(c) Classification 3, on February 29, 1972 for the period June 1, 1971 through February 29, 1972; on the last day of each February

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<sup>1</sup>State law reference

Business Tax Act: *Tennessee Code Annotated*, §§ 67-4-101, *et seq.*

Charter reference

Privilege taxes: § 4.

thereafter for the year March 1 through the last day of February. (2004 Code, § 5-202)

## CHAPTER 3

BUSINESS TAXES GENERALLY<sup>1</sup>

## SECTION

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** For the exercise of the privileges described or enumerated in section 5, a minimum tax of fifteen dollars (\$15.00), plus a five dollar (\$5.00) records fee, shall be payable by each person for each place, location or outlet from which business is carried on; provided, however, that persons described or enumerated in Classification 4 shall pay a minimum tax as set forth below. Provided further, however, in the case of coin operated machines, only the principal place of business shall be subject to the minimum tax. No person engaged in the business of soliciting orders for merchandise or making contracts for the future delivery of the same in sale to the ultimate user or consumer of such merchandise nor persons peddling on a part-time basis shall be subject to the minimum tax. In addition to the minimum tax, persons shall pay a tax, according to the dominant business activity of such persons as follows:

(1) Classification 1 of section 5. One fifteenth of one percent (1/15 of 1%) of all the gross sales of the business less wholesale sales.

(2) Classification 2 of section 5. One-tenth of one percent (1/10 of 1%) of all the gross sales of the business less wholesale sales.

(3) Classification 3 of section 5. One-eighth of one percent (1/8 of 1%) of all gross sales of the business less wholesale sales.

(4) Classification 4 of section 5. One-fifteenth of one percent (1/15 of 1%) of compensation entitled to under the contract, whether in the form of a contract price, commission, fee or wage, by the persons enumerated in item (a) of such classification.

Provided, however, that persons engaged in the business of constructing public roads in this state shall pay a minimum tax of four hundred dollars (\$400.00) per annum: provided, further, however, that all other persons described or enumerated in classification 4 of section 5 shall pay a minimum tax of fifteen dollars (\$15.00) per annum. In computing the measure of the tax, except as hereinafter provided, no deduction will be allowed on account of the cost of tangible property sold, the cost of materials used, labor cost, reimbursed cost, interest, discount, delivery cost, taxes, or no other expense whatsoever paid

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<sup>1</sup>State law reference

Business tax act: *Tennessee Code Annotated*, §§ 67-4-701, *et seq.*

Charter reference

Privilege taxes: § 16.

or accrued and without any deduction on account of losses. One fifteenth of one percent (1/15 of 1%) of the gross commissions, margins, fees, or other charges, by the persons enumerated in item (b) of such classification, provided, however, all persons enumerated in item (b) of classification 4 shall pay a minimum tax of fifteen dollars (\$15.00) per annum for each place, location or outlet from which business is carried on.

All business vocations and occupations which are taxable will be classified according to the dominant business activity. Under section 5 of the Business Tax Act enacted by the General Assembly of the State of Tennessee of January 1, 1971. (2004 Code, § 5-301)

**5-302. License required.** No person shall exercise any such privilege within the municipality without a currently effective business license, which shall be issued by the recorder to each applicant therefor upon such applicant's payment of the appropriate business tax. (2004 Code, § 5-302, modified)

## 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 town of the wholesale beer tax levied by the Wholesale Beer Tax Act, as set out in *Tennessee Code Annotated*, title 57, chapter 6.<sup>1</sup> (2004 Code, § 5-401)

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<sup>1</sup>State law reference

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

**CHAPTER 5****PURCHASING****SECTION**

5-501. Maximum amount for purchases without public advertisement and competitive bidding.

5-502. Purchasing agent.

**5-501. Maximum amount for purchases without public advertisement and competitive bidding.** (1) Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983, *Tennessee Code Annotated*, § § 6-56-301, *et seq.*

(2) The threshold for competitive quotes be increased to forty percent (40%) of the public advertisement and competitive bid limit. (Ord. #041216, April 2016, modified)

**5-502. Purchasing agent.** (1) The purchasing agent can make purchases from zero dollars (\$0.00) to three thousand nine hundred ninety-nine dollars (\$3,999.00) with no public advertisement required; no competitive bidding required.

(2) The purchasing agent will obtain three (3) competitive quotes where possible for purchases between four thousand dollars (\$4,000.00) and nine thousand nine hundred ninety-nine dollars (\$9,999.00).

(3) The purchasing agent will be required to advertise publicly for competitive bidding for all purchases above ten thousand dollars (\$10,000.00). (Ord. #041216, \_\_\_\_\_)

## CHAPTER 6

### DEBT MANAGEMENT POLICY

#### SECTION

- 5-601. Purpose and goals.
- 5-602. Definition of debt.
- 5-603. Approval of debt.
- 5-604. Transparency.
- 5-605. Role of debt.
- 5-606. Types and limits of debt.
- 5-607. Use of variable rate debt.
- 5-608. Use of derivatives.
- 5-609. Costs of debt.
- 5-610. Refinancing outstanding debt.
- 5-611. Professional services.
- 5-612. Review of policy.
- 5-613. Compliance.

**5-601. Purpose and goals.** (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 Trezevant, 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. (Ord. #121011, Dec. 2011)

**5-602. Definition of debt.** All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes, but is not limited to, notes, bond issues, capital leases, and loans of any type, including loans from another internal fund. (Ord. #121011, Dec. 2011)

**5-603. Approval of debt.** Bond anticipation notes, capital outlay notes, all borrowing from internal funds, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the town council prior to issuance or entering into the obligation. A



plan for refunding debt issues will also be submitted to the Comptroller's Office prior to issuance. Capital or equipment leases may be entered into by the town council; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (Ord. #121011, Dec. 2011)

**5-604. Transparency.** (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

(2) All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.

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

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens, the town governing board, and other stakeholders in a timely manner. (Ord. #121011, Dec. 2011)

**5-605. Role of debt.** (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with generally accepted accounting principles and state law:

(a) The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed thirty (30) years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices; and

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (Ord. #121011, Dec. 2011)

**5-606. Types and limits of debt.** (1) The town will seek to limit total outstanding debt obligations such that the annual cost of all debt retirement payments, including loan service fees, does not exceed twenty percent (20%) of annual general fund revenues, excluding 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 governing board by the finance officer at such time as the annual budget is presented to the governing board and prior to the issuance of new debt by the town. The finance officer shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The finance officer shall also report to the governing board 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, inter-fund and other short-term loans, anticipatory notes and other debt allowed by law. The town has determined it currently will not issue private debt (debt from a private individual).

(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 governing body must determine such use is justified and in the best interest of the town.

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

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the town. The town council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund. (Ord. #121011, Dec. 2011)

**5-607. Use of variable rate debt.** (1) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) However, the town also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including;

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

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

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

(d) Prior to entering into any variable rate debt obligation, the town governing board 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. (Ord. #121011, Dec. 2011)

**5-608. Use of derivatives.** The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio. Prior to any reversal of this provision:

(1) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the town governing board; and

(2) The town governing board 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. (Ord. #121011, Dec. 2011)

**5-609. Costs of debt.** (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the town governing board 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). (Ord. #121011, Dec. 2011)

**5-610. Refinancing outstanding debt.** The town will refinance 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 refinancing of debt must be in compliance with state laws and regulations. The chief financial officer will consider the following issues when analyzing possible refunding opportunities:

(1) 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.

(2) Restructuring for economic purposes. The town will refinance debt when it is in the best financial interest of the town to do so. Such refinancing may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refinancing opportunities may be considered by the chief financial officer if the refinancing generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(3) Term of refinancing issues. The town will refinance 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.

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

(5) Arbitrage. The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refinancing. (Ord. #121011, Dec. 2011, modified)

**5-611. Professional services**. (1) 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.

(2) **Counsel**: the town shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction; except that 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.

(3) **Financial advisor**: should the town decide to retain a financial advisor, 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.

(4) **Underwriter:** if an underwriter is retained, 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 town governing board in advance of the pricing of the debt.

(5) **Conflicts:** 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. 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. (Ord. #121011, Dec. 2011, modified)

**5-612. Review of policy.** This policy shall be reviewed at least annually by the town governing board with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (Ord. #121011, Dec. 2011)

**5-613. Compliance.** The town finance officer is responsible for ensuring compliance with this policy. (Ord. #121011, Dec. 2011)

## CHAPTER 7

### IDENTITY THEFT

#### SECTION

- 5-701. Background.
- 5-702. Purpose.
- 5-703. Scope.
- 5-704. Policy.
- 5-705. Additional identity theft prevention program.
- 5-706. Responding to red flags.
- 5-707. Periodic updates to plan.
- 5-708. Program administration.

**5-701. Background.** The risk to the municipality, its employees and customers from data loss and identity theft is of significant concern to the municipality and can be reduced only through the combined efforts of every employee and contractor. (Ord. #101408, Oct. 2008)

**5-702. Purpose.** (1) The municipality adopts this sensitive information policy to help protect employees, customers, contractors and the municipality from damages related to the loss or misuse of sensitive information.

(2) This policy will:

- (a) Define sensitive information;
- (b) Describe the physical security of data when it is printed on paper;
- (c) Describe the electronic security of data when stored and distributed; and
- (d) Place the municipality in compliance with state and federal law regarding identity theft protection.

(3) This policy enables the municipality to protect existing customers, reducing risk from identity fraud, and minimize potential damage to the municipality from fraudulent new accounts. The program will help the municipality:

- (a) Identify risks that signify potentially fraudulent activity within new or existing covered accounts;
- (b) Detect risks when they occur in covered accounts;
- (c) Respond to risks to determine if fraudulent activity has occurred and act if fraud has been attempted or committed; and
- (d) Update the program periodically, including reviewing the accounts that are covered and the identified risks that are part of the program. (Ord. #101408, Oct. 2008)

**5-703. Scope.** This policy and protection program applies to employees, contractors, consultants, temporary workers, and other workers at the municipality, including all personnel affiliated with third parties. (Ord. #101408, Oct. 2008)

**5-704. Policy.** (1) Sensitive information policy. Definition of sensitive information. Sensitive information includes the following items whether stored in electronic or printed format:

- (a) Credit card information, including any of the following:
  - (i) Credit card number (in part or whole);
  - (ii) Credit card expiration date;
  - (iii) Cardholder name; and
  - (iv) Cardholder address.
- (b) Tax identification numbers, including:
  - (i) Social Security number;
  - (ii) Business identification number; and
  - (iii) Employer identification numbers.
- (c) Payroll information, including, among other information:
  - (i) Paychecks; and
  - (ii) Pay stubs.
- (d) Cafeteria plan check requests and associated paperwork.
- (e) Medical information for any employee or customer, including, but not limited to:
  - (i) Doctor names and claims;
  - (ii) Insurance claims;
  - (iii) Prescriptions; and
  - (iv) Any related personal medical information.
- (f) Other personal information belonging to any customer, employee or contractor, examples of which include:
  - (i) Date of birth;
  - (ii) Address;
  - (iii) Phone numbers;
  - (iv) Maiden name;
  - (v) Names; and
  - (vi) Customer number.

(g) Municipal personnel are encouraged to use common sense judgment in securing confidential information to the proper extent. Furthermore, this section should be read in conjunction with the Tennessee Public Records Act, *Tennessee Code Annotated*, § 10-7-503, and the municipality's open records policy. If an employee is uncertain of the sensitivity of a particular piece of information, he should contact their supervisor. In the event that the municipality cannot resolve a conflict between this policy and the Tennessee Public Records Act, the municipality will contact the Tennessee Office of Open Records.

(2) Hard copy distribution. Each employee and contractor performing work for the municipality will comply with the following policies.

(a) File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with sensitive information will be locked when not in use.

(b) Storage rooms containing documents with sensitive information and record retention areas will be locked at the end of each workday or when unsupervised.

(c) Desks, workstations, work areas, printers and fax machines, and common shared work areas will be cleared of all documents containing sensitive information when not in use.

(d) Whiteboards, dry-erase boards, writing tablets, etc. in common shared work areas will be erased, removed, or shredded when not in use.

(e) When documents containing sensitive information are discarded they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD)-approved shredding device. Locked shred bins are labeled "Confidential paper shredding and recycling." Municipal records, however, may only be destroyed in accordance with the town's records retention policy.

(3) Electronic distribution. Each employee and contractor performing work for the municipality will comply with the following policies.

(a) Internally, sensitive information may be transmitted using approved municipal e-mail. All sensitive information must be encrypted when stored in an electronic format.

(b) Any sensitive information sent externally must be encrypted and password protected and only to approved recipients. Additionally, a statement such as this should be included in the e-mail: "This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited." (Ord. #101408, Oct. 2008, modified)

**5-705. Additional identity theft prevention program.** If the municipality maintains certain covered accounts pursuant to federal legislation, the municipality may include the additional program details.

(1) Covered accounts. A covered account includes any account that involves or is designed to permit multiple payments or transactions. Every new and existing customer account that meets the following criteria is covered by this program:

(a) Business, personal and household accounts for which there is a reasonably foreseeable risk of identity theft; or

(b) Business, personal and household accounts for which there is a reasonably foreseeable risk to the safety or soundness of the



municipality from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(2) Red flags. (a) The following red flags are potential indicators of fraud. Any time a red flag, or a situation closely resembling a red flag, is apparent, it should be investigated for verification:

(i) Alerts, notifications or warnings from a consumer reporting agency;

(ii) A fraud or active duty alert included with a consumer report;

(iii) A notice of credit freeze from a consumer reporting agency in response to a request for a consumer report; or

(iv) A notice of address discrepancy from a consumer reporting agency as defined in § 641.1 of the Fairness and Accuracy in Credit Transactions Act.

(b) Red flags also include consumer reports that indicate a pattern of activity inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

(i) A recent and significant increase in the volume of inquiries;

(ii) An unusual number of recently established credit relationships;

(iii) A material change in the use of credit, especially with respect to recently established credit relationships; or

(iv) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(3) Suspicious documents. (a) Documents provided for identification that appear to have been altered or forged.

(b) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.

(c) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.

(d) Other information on the identification is not consistent with readily accessible information that is on file with the municipality, such as a signature card or a recent check.

(e) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(4) Suspicious personal identifying information. (a) Personal identifying information provided is inconsistent when compared against external information sources used by the municipality. For example:

(i) The address does not match any address in the consumer report;

(ii) The Social Security number (SSN) has not been issued or is listed on the Social Security Administration's Death Master File; or

(iii) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.

(b) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the municipality. For example, the address on an application is the same as the address provided on a fraudulent application.

(c) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the municipality. For example:

(i) The address on an application is fictitious, a mail drop, or a prison; or

(ii) The phone number is invalid or is associated with a pager or answering service.

(d) The SSN provided is the same as that submitted by other persons opening an account or other customers.

(e) The address or telephone number provided is the same as or similar to the address or telephone number submitted by an unusually large number of other customers or other persons opening accounts.

(f) The customer or the person opening the covered account fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

(g) Personal identifying information provided is not consistent with personal identifying information that is on file with the municipality.

(h) When using security questions (mother's maiden name, pet's name, etc.), the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(5) Unusual use of, or suspicious activity related to, the covered account. (a) Shortly following the notice of a change of address for a covered account, the municipality receives a request for new, additional, or replacement goods or services, or for the addition of authorized users on the account.

(b) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example, the customer fails to make the first payment or makes an initial payment but no subsequent payments.

(c) A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

(i) Nonpayment when there is no history of late or missed payments; and

(ii) A material change in purchasing or usage patterns.

(d) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

(e) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.

(f) The municipality is notified that the customer is not receiving paper account statements.

(g) The municipality is notified of unauthorized charges or transactions in connection with a customer's covered account.

(h) The municipality receives notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the municipality.

(i) The municipality is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft. (Ord. #101408, Oct. 2008, modified)

**5-706. Responding to red flags.** (1) Once potentially fraudulent activity is detected, an employee must act quickly as a rapid appropriate response can protect customers and the municipality from damages and loss.

(a) Once potentially fraudulent activity is detected, gather all related documentation and write a description of the situation. Present this information to the designated authority for determination.

(b) The designated authority will complete additional authentication to determine whether the attempted transaction was fraudulent or authentic.

(2) If a transaction is determined to be fraudulent, appropriate actions must be taken immediately. Actions may include:

(a) Canceling the transaction;

(b) Notifying and cooperating with appropriate law enforcement;

(c) Determining the extent of liability of the municipality; and

(d) Notifying the actual customer that fraud has been attempted. (Ord. #101408, Oct. 2008)

**5-707. Periodic updates to plan.** (1) At periodic intervals established in the program, or as required, the program will be re-evaluated to determine whether all aspects of the program are up to date and applicable in the current business environment.

(2) Periodic reviews will include an assessment of which accounts are covered by the program.

(3) As part of the review, red flags may be revised, replaced, or eliminated. Defining new red flags may also be appropriate.

(4) Actions to take in the event that fraudulent activity is discovered may also require revision to reduce damage to the municipality and its customers. (Ord. #101408, Oct. 2008)

**5-708. Program administration.** (1) Involvement of management.

(a) The Identity Theft Prevention Program shall not be operated as an extension to existing fraud prevention programs, and its importance warrants the highest level of attention.

(b) The Identity Theft Prevention Program is the responsibility of the governing body. Approval of the initial plan must be appropriately documented and maintained.

(c) Operational responsibility of the program is delegated to the town recorder.

(2) Staff training. (a) Staff training shall be conducted for all employees, officials and contractors for whom it is reasonably foreseeable that they may come into contact with accounts or personally identifiable information that may constitute a risk to the municipality or its customers.

(b) The mayor is responsible for ensuring identity theft training for all requisite employees and contractors.

(c) Employees must receive annual training in all elements of this policy.

(d) To ensure maximum effectiveness, employees may continue to receive additional training as changes to the program are made.

(3) Oversight of service provider arrangements. (a) It is the responsibility of the municipality to ensure that the activities of all service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

(b) A service provider that maintains its own identity theft prevention program, consistent with the guidance of the red flag rules and validated by appropriate due diligence, may be considered to be meeting these requirements.

(c) Any specific requirements should be specifically addressed in the appropriate contract arrangements. (Ord. #101408, Oct. 2008)