

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

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3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. HOTEL AND MOTEL PRIVILEGE TAX.
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CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for city funds.
- 5-102. Maximum purchases without bids or approval.
- 5-103. Application of portion of alcoholic beverage tax.

5-101. Official depository for city funds. The council shall designate an official depository or depositories in the City of Winchester or in Franklin County for deposit and safekeeping of funds of the city.¹

5-102. Maximum purchases without bids or approval. To operate City Government and the Winchester Utilities in the most efficient manner requiring purchasing, the City Council of Winchester adopts the following:

- (1) Purchases or contracts of more than Five Thousand Dollars (\$5,000.00) require city council or utility board approval;
- (2) Expenditures of Five Thousand Dollars (\$5000.00) require sealed bids;

¹Charter reference
Official depository: art. 4, § 4.20.

(3) The remaining of the existing purchasing policy shall remain the same.¹ (Ord. #590, Apr. 1988, modified, as amended by Ord. #819, June 2004)

5-103. Application of portion of alcoholic beverage tax. Fifty percent (50%) of the revenue from the alcoholic beverage tax shall be used solely for the construction and maintenance of sidewalks, curbs and gutters in the city. (1983 Code, § 6-102)

¹Charter reference

Centralized purchasing: art. IV, § 4.07.

Private Acts reference

Board of Public Utilities purchasing: Priv. Acts 1953, ch. 404, as amended. This Act is reproduced in full in the charter section of this municipal code, immediately following the text of the charter.

CHAPTER 2

REAL PROPERTY TAXES¹

SECTION

5-201. When due and payable.

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

5-203. Penalty, interest on delinquent property taxes.

5-204. Publication of delinquent taxes authorized.

5-201. When due and payable.² Taxes levied by the city against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1983 Code, § 6-201)

5-202. When delinquent--penalty and interest.³ All real property taxes shall become delinquent on and after the first day of March next after they become due and payable. (1983 Code, § 6-202)

¹Charter reference

Property taxes: art. IV, § 4.12.

Omitted property: art. IV, § 4.13.

Tax levy: art. IV, § 4.14.

Tax due dates and tax bills: art. IV, § 4.15.

Delinquent taxes: art. IV, § 4.16.

County may collect taxes: art. IV, § 4.17.

²State law reference

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.

³State law reference

Tennessee Code Annotated, § 67-5-2010(b) 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.

5-203. Penalty, interest on delinquent property taxes. If taxes levied against real property be not paid when due as provided by § 5-202 above, there shall be added thereto for collection a penalty of five per cent (5%) of the amount of tax due, plus interest at the rate of one-half per cent (1/2 of 1%) for each month or fraction thereof until paid. (1983 Code, § 6-203)

5-204. Publication of delinquent taxes authorized. The city council may, at its discretion, direct the city clerk to have published a list of all delinquent real property taxes in the official newspaper of the city one time on April 1st of each year. The city clerk, upon being directed by the city council to publish a list of delinquent real property taxes shall prepare or cause to be prepared a list showing the name of the taxpayer, tax plot number, and the amount of all delinquent real property taxes and shall deliver same to the official newspaper of the city for publication on the date specified herein. (1983 Code, § 6-204)

CHAPTER 3

PRIVILEGE TAXES

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 said 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. (1983 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city clerk to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (1983 Code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The city clerk 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 (1983 Code, § 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.

Municipal code reference

Alcohol and beer regulations: title 8.

CHAPTER 5

HOTEL AND MOTEL PRIVILEGE TAX

SECTION

- 5-501. Definitions.
- 5-502. Privilege tax on occupancy.
- 5-503. Collection of the privilege tax.
- 5-504. Tax levied.
- 5-505. Responsibility to collect.
- 5-506. Restrictions upon operator.
- 5-507. Delinquent taxes.
- 5-508. Time limit to keep records.
- 5-509. Powers of the collector.
- 5-510. Clerk's duty of collection.

5-501. 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. 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 structures, 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 cabin, tourist court, 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 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. #592, Nov. 1988)

5-502. Privilege tax on occupancy. The City of Winchester levies a privilege tax upon the privilege of occupancy in any hotel or each transient in

an amount equal to 5% 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 herein. (Ord. #592, Nov. 1988)

5-503. Collection of the privilege tax. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel to be given directly to or transmitted to the transient and 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, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (Ord. #592, Nov. 1988)

5-504. Tax levied. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the city to the city clerk; such tax shall be remitted to the clerk 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 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. #592, Nov. 1988)

5-505. Responsibility to collect. The office of the city clerk shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the clerk by the operator with such number of copies thereof as the clerk 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 clerk shall audit each operator in the city at least once per year and shall report on audits made on a quarterly basis to the city council. (Ord. #592, Nov. 1988)

5-506. Restrictions upon operator. 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. #592, Nov. 1988)

5-507. Delinquent taxes. Taxes collected by the operator which are not remitted to the clerk 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 12% per annum, and in addition, for penalty of 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 a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Ord. #592, Nov. 1988)

5-508. Time limit to keep records. It shall be the duty of each operator liable for collection and payment to the city of any tax imposed by this act 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 he may have been liable for the collection of and payment to the city, which records the clerk shall have the right to inspect at all reasonable times. (Ord. #592, Nov. 1988)

5-509. Powers of the collector. The clerk or other authorized collector of the tax in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes as provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in the Tennessee Code Annotated, title 67. The clerk shall also have all of those powers and duties as provided in Tennessee Code Annotated § 67-1-707(b) with respect to the adjustment and settlement with taxpayers of errors of taxes collected.

Any tax paid under protest shall be paid to the clerk. Any suit filed to recover taxes paid under protest shall name the mayor of the City of Winchester and the clerk of the City of Winchester in any suits brought for recovery of said tax. (Ord. #592, Nov. 1988)

5-510. Clerk's duty of collection. The clerk is hereby charged with the duty of collection of the tax herein levied and shall remit the proceeds of such tax to the general fund to the City of Winchester. (Ord. #592, Nov. 1988)

CHAPTER 6

LITIGATION TAX

SECTION

5-601. Assessment of tax.

5-602. Collection and disbursement of tax.

5-603. Expenditures.

5-601. Assessment of tax. (1) A litigation tax of \$5.25 shall be assessed and taxed as part of the costs in all civil cases instituted in the City Court of Winchester, Tennessee.

(2) A litigation tax of \$15.00 shall be assessed and taxed as part of the costs in all criminal cases originating in the City Court of Winchester, Tennessee. (Ord. #531, Apr. 1983)

5-602. Collection and disbursement of tax. The city clerk and/or city judge of said court shall collect said litigation tax and shall disburse from the litigation tax collected as follows:

(1) \$5.25 of each litigation tax collected on civil cases shall go to the City of Winchester Capital Improvement Fund.

(2) \$15.00 of each litigation tax collected on criminal cases shall go to the City of Winchester Capital Improvement Fund. (Ord. #531, Apr. 1983, as amended by Ord. #617, May 1991)

5-603. Expenditures. All expenditures made by the city from said funds shall be with the approval of the city council. (Ord. #531, Apr. 1983)

CHAPTER 7

PURCHASING POLICY

SECTION

- 5-701. General.
- 5-702. Definitions.
- 5-703. Purchasing agent.
- 5-704. General procedures prior to bidding.
- 5-705. Rejection of bids.
- 5-706. Conflict of interest.
- 5-707. Purchasing from employee.
- 5-708. Sealed bid requirements \$10,000.00 or greater.
- 5-709. Competitive bidding \$500.00 to \$10,000.00.
- 5-710. Purchases and contracts costing less than \$500.00.
- 5-711. Bid deposit.
- 5-712. Performance bond.
- 5-713. Record of bids.
- 5-714. Considerations in determining bid awards.
- 5-715. Award splitting.
- 5-716. Statement when award not given to low bidder.
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- 5-720. Waiver of the competitive bidding process.
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- 5-725. Disposal of surplus property.
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- 5-727. Surplus property: items consumed in the course of work thought to be worthless.
- 5-728. Surplus property: items estimated to have monetary value.
- 5-729. Surplus property: city identification removed prior to sale.
- 5-730. Liability for excess purchases.
- 5-731. Leasing of employees to other entities
- 5-732. Leasing of employees from other entities
- 5-733. Additional forms and procedures.

5-701. General. The basic responsibilities and procedures for an economical and efficient purchasing system are set forth in Tennessee Code Annotated, §§ 5-21-118 through 5-21-129. The primary objective of centralized

purchasing are cost savings through uniform consolidated purchasing practices and verification of funds availability prior to obligation.

No contract, purchase, or obligation of the City of Winchester for supplies, materials, equipment, contracted services, or rentals shall be made without the prior execution of a purchase order except in the narrow definition of emergency purchase as defined later in this section or the incidental purchase guidelines laid out below.

A primary objective of governmental accounting is to assist the administrator in controlling expenditures, including the prevention of over-spending.

The basic principle of an organized purchasing system is to plan the city's needs, develop minimum specifications, receive bids from the most bidders possible, and make the best use of the city resources.

This chapter is to supersede all previous ordinances and resolutions pertaining to the purchasing policy, authorization limits, or capitalization thresholds of the City of Winchester, Tennessee. (as added by Ord. #975, May 2015)

5-702. Definitions. For the purpose of implementing this chapter, the following definitions shall apply.

- (1) "Accept." To receive with approval or satisfaction.
- (2) "Acknowledgment." Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.
- (3) "Agreement." A coming together in opinion or determination; understanding and agreement between two (2) or more parties.
- (4) "All or none." In procurement, the city reserves the right to award each item individually or to award all items on an all or none basis.
- (5) "Annual." Recurring, done, or performed every year.
- (6) "Appropriations." Public funds set aside for a specific purpose or purposes.
- (7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to confirm or ratify.
- (8) "Approved equal." Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount or rights.
- (9) "Attest." To certify to the verity of a public document formally by signature; to affirm to be true or genuine.
- (10) "Award." The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.
- (11) "Awarded bidder." Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the city
- (12) "Back order." The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.

(13) "Bid." A vendor's response to an invitation for bids or request for proposal; the information concerning the price or cost of materials or services offered by a vendor.

(14) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the city and offering to enter into contracts with the city.

(15) "Bid bond." An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

(16) "Bid file." A folder containing all of the documentation concerning a particular bid. This documentation includes the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulation forms and any other information as may be necessary.

(17) "Bid opening." The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

(18) "Bid solicitation." Invitations for bids.

(19) "Blanket bid order." A type of bid used by buyers to purchase repetitive products. The city establishes its need for a product for a specified period of time. The vendor is then informed of the city's expected usage during the duration of the proposed contract. The city may then order small quantities of these items from the vendor, at the bid price, over the term of the contract.

(20) "Business." Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.

(21) "Cancel." To revoke a contract or bid.

(22) "Capital items." Equipment which has a life expectancy of one (1) year longer and a value in excess of five thousand dollars (\$5,000.00). Additionally, real estate shall be considered a capital item.

(23) "Cash discount." A discount from the purchase price allowed to the purchaser if payment is made within a specified period of time.

(24) "Caveat emptor." Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

(25) "Certify." To testify in writing; to make known or establish as a fact.

(26) "City." The City of Winchester, Tennessee.

(27) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(28) "Conspicuously." To be prominent or obvious; located, positioned, or designed to be noticed.

(29) "Construction." The building, alteration, demolition, or repair of public buildings, structures, highways and other improvements or additions to real property.

(30) "Contract." An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

(31) "Date." Recorded information, regardless of form or characteristic.

(32) "Delivery schedule." The required or agreed upon rate of delivery of goods or services.

(33) "Discount for prompt payment." A predetermined discount offered by a vendor for prompt payment.

(34) "Encumber." To reserve funds against a budgeted line item; to charge against an account.

(35) "Evaluation of bid." The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

(36) "Fiscal year." An accounting period of twelve (12) months, July 1 through June 30.

(37) "F.O.B. destination." An abbreviation for free on board that refers to the point of delivery of goods. The seller absorbs the transportation charges and retains title to and responsibility for the goods until the City of Winchester, Tennessee has received and signed for the goods.

(38) "Goods." All materials, equipment, supplies, and printing.

(39) "Incidental purchases." Purchases for an item or group of items that are under one hundred fifty dollars (\$150.00) in value and a part of daily operations.

(40) "Invitation for bid." All documents utilized for soliciting bids.

(41) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(42) "Lead time." The period of time from the date of ordering to the date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.

(43) "Life cycle costing." A procurement technique that considers the total cost of purchasing, maintaining, operating, and disposal of a piece of equipment when determining the low bid.

(44) "Local bidder." A bidder who has and maintains a business office located within the corporate city limits of Winchester, Tennessee.

(45) "Material receiving report." A form used by the department head or supervisor to inform others of the receipt of good purchased.

(46) "Performance bond." A bond given to the purchaser by a vendor or contractor guaranteeing the performance of certain services or delivery of goods within a specified period of time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

(47) "Pre-bid conference." A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

(48) "Procurement or purchasing." Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including descriptions of requirements, selection and solicitation of sources, preparation and award of contracts, contract administration, and all phases of warehousing and disposal.

(49) "Public." Open to all.

(50) "Public purchasing unit." Means the State of Tennessee, any county, city, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(51) "Purchasing order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(52) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(53) "Requisition." A purchase requisition lets the city administrator and/or finance director know what the using department needs. A requisition is required for making purchases, requesting price information, initiating a bid request, and requesting governing body approval major expenditures.

(54) "Responsive bidder." One who has submitted a bid which conforms in all materials respects to the invitation for bids.

(55) "Sealed." Secured in any manner so as to be closed against the inspection of contents.

(56) "Sole source procurement." An award for a commodity which can only be purchased from one (1) supplier, usually because of its technological, specialized, or unique character.

(57) "Specifications." Any description of the physical or functional characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(58) "Standardization." The making, causing, or adapting of items to conform to recognized qualifications.

(59) "Telephone bids." Contacting at least two (2) vendors to obtain verbal quotes for items of a value of less than five hundred dollars (\$500.00).

(60) "Using department." The city department seeking to purchase goods and services or which will be the ultimate user of the purchased goods and services.

(61) "Vendor." The person who transfers property, goods, or services by sale. (as added by Ord. #975, May 2015)

5-703. Purchasing agent. The city finance officer shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be assigned a purchase order number and verified to see that all requirements for purchase have been completed. Once such requirements have been verified, the purchase may be approved and acquired by the purchasing agent or by the using department. (as added by Ord. #975, May 2015)

5-704. General procedures prior to bidding. The following procedures shall be followed by all city employees when purchasing goods or services on behalf of the city.

(1) Items deemed to be a capital purchase and expected to cost more than five thousand dollars (\$5,000.00).

(a) The department head of the using department shall deliver to the purchasing agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items.

(b) The purchasing agent shall review the purchase request for completeness and accuracy as required by this chapter. The request shall then be forwarded to the mayor and council for review and approval. The council shall have the authority to adjust or eliminate various specifications for goods and services, or may disapprove the purchase request, to comply with city policy, the annual budget, or for any other reason it deems in the public interest.

(c) All approved purchase requests shall be signed by the city administrator and returned to the purchasing agent who shall proceed with procurement in compliance with this chapter.

(2) Items deemed to be operating supplies and expected to cost five hundred dollars (\$500.00) to ten thousand dollars (\$10,000.00).

(a) The department head of the using department shall deliver to the purchasing agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item(s) being purchased, and the estimated cost of the item(s).

(b) The purchasing agent shall review the purchase request for completeness and accuracy. The request shall then be forwarded to the city administrator for final review and approval. The city administrator shall not approve the purchase of any item not approved in the annual budget or for which there are not sufficient funds in the city treasury. The city administrator shall have the authority to adjust or eliminate various specifications for goods or services to comply with city policy, the annual budget, or to avoid depletion of the city treasury.

(c) All approved purchase requests shall be signed by the city administrator and returned to the purchasing agent who shall proceed with procurement in compliance with this chapter. (as added by Ord. #975, May 2015)

5-705. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one (1) or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the city by said vendor or contractor. (as added by Ord. #975, May 2015)

5-706. Conflict of interest. All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of the City of Winchester and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest. (as added by Ord. #975, May 2015)

5-707. Purchasing from employee. It shall be the policy of the city not to purchase any goods or services from any employee or close relative of any city employee without the prior approval of the mayor and council approval. (as added by Ord. #975, May 2015)

5-708. Sealed bid requirements \$10,000.00 or greater. (1) On all purchases and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except as otherwise provided in this chapter, formal sealed bids shall be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit all such bids for award by the mayor and council at the next regularly scheduled council meeting or special-called meeting together with the recommendation as to the lowest responsive bidder.

(2) Notice inviting bids shall be published at least once in a newspaper of general circulation in Franklin County, and at least five (5) days preceding the last day to receive bids. The newspaper notice shall contain a general description of the article(s) to be secured, and the date, time, and place for opening bids.

(3) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media. (as added by Ord. #975, May 2015)

5-709. Competitive bidding \$500.00 to \$10,000.00. (1) All purchases of supplies, equipment, services, and contracts estimated to be in excess of five hundred dollars (\$500.00) but less than ten thousand dollars (\$10,000.00), shall be by competitive bidding and may be awarded to the lowest responsive bidder.

(2) A written record shall be required and available for public inspection showing that competitive bids were obtained by one (1) of the following methods:

- (a) Direct mail advertisement.
- (b) Telephone bids.
- (c) Public notice.

(3) In the purchasing agent's absence, the city administrator shall designate a suitable substitute to perform the purchasing agent's duties. (as added by Ord. #975, May 2015)

5-710. Purchases and contracts costing less than \$500.00. The department head is expected to obtain the best prices and services available for purchases and contracts estimated to be less than five hundred dollars (\$500.00), but is exempted from the formal bid requirements specified in §§ 5-707 and 5-708 of this chapter. (as added by Ord. #975, May 2015)

5-711. Bid deposit. When necessary, bid deposits deemed may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award. (as added by Ord. #975, May 2015)

5-712. Performance bond. The purchasing agent may require a performance bond before entering into a contract, in such amount as he/she shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in the penalty of not less than the amount provided by Tennessee Code Annotated. (as added by Ord. #975, May 2015)

5-713. Record of bids. The purchasing agent shall keep a record of all open market orders and bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the city recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid advertisement.
- (3) A copy of the bid specifications.

(4) A list of bidders and their responses. (as added by Ord. #975, May 2015)

5-714. Considerations in determining bid awards. The following criteria shall be considered in determining all bid awards:

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

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

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

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

(5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.

(6) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.

(7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.

(8) Compliance with all specifications in the solicitation for bids.

(9) The ability to deliver and maintain any requisite bid bonds or performance bonds.

(10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance. (as added by Ord. #975, May 2015)

5-715. Award splitting. If total savings generated is less than two hundred dollars (\$200.00), bids awards shall not be split among two (2) or more bidders. (as added by Ord. #975, May 2015)

5-716. Statement when award not given to low bidder. When the award for purchases or contracts in excess of five hundred dollars (\$500.00) is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent or department head and filed with all other papers and documents related to the bidding. (as added by Ord. #975, May 2015)

5-717. Award in case of tie bids. When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

(1) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.

(2) If two (2) or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(3) If no local bids are received and two (2) or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses. (as added by Ord. #975, May 2015)

5-718. Back orders. All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items shall be cancelled from the purchase order and the check will be issued to the equal amount of the amended purchase order. (as added by Ord. #975, May 2015)

5-719. Emergency purchases. When in the judgment of the purchasing agent an emergency exists, the provisions of this chapter may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the mayor and city council at the next regular council meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (as added by Ord. #975, May 2015)

5-720. Waiver of the competitive bidding process. Upon the recommendation of the city administrator, and the subsequent approval of the mayor and council, that it is clearly to the advantage of the city not to contract by competitive bidding, the requirements of competitive bidding may be waived provided that the following criteria are met and documented in a written report to the mayor and council:

(1) Single source of supply. The availability of only one (1) vendor of a product or service within a reasonable distance of the city as determined after a complete and thorough search by the using department and the purchasing agent.

(2) State department of general services. A thorough effort was made to purchase the product or service through or in conjunction with the state department of general services or via a state contract, such effort being unsuccessful.

(3) Purchase from other governmental entities. A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.

(4) Purchases from non-profit organizations. A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.

(5) Purchases from Tennessee state industries. A thorough effort was made to purchase the goods or services from Tennessee state industries (prison industries).

(6) Purchases from instrumentalities created by two or more co-operating governments. An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for their members. (as added by Ord. #975, May 2015)

5-721. Goods and services exempt from competitive bidding. The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the purchasing agent and/or the department head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the city:

(1) Certain insurance. The city may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League or any other plan offered by a governmental entity representing cities and counties. All other insurance plans, however, are to be awarded on the basis of competitive bidding.

(2) Certain investments. The city may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105.

(3) Motor fuel, fuel products, or perishable commodities. Such commodities may be purchased without competitive bidding when purchases are made in the open market. This exemption is not designed to discourage competitive bidding.

(4) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the city, may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed five hundred dollars (\$500.00), a written contract shall be developed and approved by the mayor and council prior to the provision of any goods or services. Contracts for professional services shall be awarded; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity. Any contract service should have a W-9 form completed prior to making payment, unless services are from an incorporated entity. (as added by Ord. #975, May 2015)

5-722. Requisitions required for every purchase. A requisition, as defined in this chapter, shall be completed by the department head prior to the ordering of all goods and services to be acquired by the City of Winchester, Tennessee, for any purchase totaling one hundred fifty dollars (\$150.00) or greater whether or not bidding was required for the purchase. The department head shall forward a copy of each such requisition to the purchasing agent for placement in the purchasing file. (as added by Ord. #975, May 2015)

5-723. Procedures upon taking delivery of purchased items. Before accepting delivery purchased equipment, supplies, materials and other tangible goods, the department head of the using department shall:

- (1) Inspect the goods to verify that they are in acceptable condition.
- (2) Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
- (3) Verify that the number of items purchased have been delivered, making special note when part or all of a particular purchase has been back ordered.
- (4) Record serial numbers on appropriate forms for all capital items, notifying the appropriate administrative assistant appointed by the city administrator of same.
- (5) Complete and return to the purchasing agent a material receiving report form or a signed packing slip with the required information. (as added by Ord. #975, May 2015)

5-724. Property control. A physical inventory of the city's fixed assets shall be taken annually. The goals of the annual inventory shall be as follows:

- (1) To identify unneeded and duplicate assets.
- (2) To provide a basis for insurance claims, if necessary.
- (3) To deter the incidence of theft and negligence.
- (4) To aid in the establishment of replacement schedules for equipment.
- (5) To note transfers of surplus property.

To be classified as a fixed asset, an item must be tangible, have an expected life longer than the current fiscal year, and have a value of at least five thousand dollars (\$5,000.00). Any property or equipment that meets this criteria shall be assigned an asset number (affixed with a property sticker), and be inventoried annually. Such records shall be controlled and maintained by the applicable department head and appointed administrative assistant. These records shall be kept in an updated and current condition and subject to periodic audit. Computer print outs with appropriate information shall be acceptable if signed by the department head.

These fixed assets greater than five thousand dollars (\$5,000.00) shall be considered capital assets, and be capitalized upon purchase or completion of project. Capital assets, which include property, plant, equipment, and infrastructure assets (e.g., roads, bridges, sidewalks and similar items), are reported in the applicable governmental or business- type activities columns in the government-wide financial statements. These should be recorded in the inventory as well as in the appropriate asset account. They should be recorded at historical cost or estimated cost if purchased or constructed. Capital assets that are donated are to be recorded at their estimated fair value at the date of donation. Capital assets are to be depreciated over the useful life of the assets. Below are the life for common purchases. Any purchase not listed may be

determined by the city administrator and finance officer, but must be documented in the inventory listing.

Useful life

Buildings	40-50 years
Improvements other than buildings	10-20 years
Machinery, equipment and vehicles	5-10 years
Road system infrastructure	10-45 years
Sidewalks	30 years
Bridges	50 years

All items deemed small items of equipment or sensitive items will be maintained in an inventory system separate from that of the capital assets. The department heads will maintain an inventory that is submitted quarterly to the finance office to be updated into the database. When applicable the small items/sensitive items will be tagged upon purchase. (as added by Ord. #975, May 2015)

5-725. Disposal of surplus property. The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the mayor and council after the items are disposed of. When a department head determines there is surplus equipment or materials within the department, he/she shall notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. If deemed unneeded in other departments, the department head may request items to be placed on Gov.Deals for sale. (as added by Ord. #975, May 2015)

5-726. Employee participation in disposal of surplus property. No city employee, mayor and council, purchasing agent or department head shall be given surplus property. For the purposes of this chapter, members of the mayor and council shall be considered city employees. (as added by Ord. #975, May 2015)

5-727. Surplus property: items consumed in the course of work thought to be worthless. City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. For accounting purposes, such items shall be charged off as a routine cost of doing business. (as added by Ord. #975, May 2015)

5-728. Surplus property: items estimated to have monetary value. When disposing of surplus property estimated to have monetary value, the purchasing

agent, in conjunction with the department head, shall comply with the following procedures:

(1) Obtain from the mayor and council approval declaring said items to be surplus property through GovDeals.com.

(2) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within five (5) days, the item shall be placed back for sale.

(3) All pertinent information concerning the sale shall be noted in the fixed asset records of the city.

(4) The advertisement, bids, and property cards shall be retained for a minimum period of five (5) years.

In the case that materials with monetary value are created during the daily operations (ex: scrap metal), the items are to be sold at the local recycling center for the best price available to aid in the operational cost of the city. (as added by Ord. #975, May 2015)

5-729. Surplus property: city identification removed prior to sale. No surplus city property shall be sold unless and until all decals, emblems, lettering, or coloring which identifies the item as belonging to the City of Winchester have been removed or repainted. (as added by Ord. #975, May 2015)

5-730. Liability for excess purchases. This chapter shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the mayor and council. The city shall have no liability for any purchase made in violation of this chapter. (as added by Ord. #975, May 2015)

5-731. Leasing of employees to other entities. This chapter authorizes the leasing of employees to other entities in which a similar interest and general purpose of the city arises. The leased employees shall keep a time sheet approved by the city administrator that will be used to bill the entity for hours the employee's works for the leasing entity. Billing shall occur at a minimum of quarterly and no more than once a month. A signed contract shall be kept on file by both parties and reviewed on an annual basis. (as added by Ord. #975, May 2015)

5-732. Leasing of employees from other entities. This chapter authorizes the leasing of employees from other entities in which a similar interest and general purpose of the city arises. The leased employees shall keep a time sheet approved by their direct supervisor to be used in no more than monthly billing and at a minimum quarterly billing to the city. A signed contract shall be kept

on file by both parties and reviewed on an annual basis. (as added by Ord. #975, May 2015)

5-733. Additional forms and procedures. The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (as added by Ord. #975, May 2015)