

## TITLE 5

### MUNICIPAL FINANCE AND TAXATION<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
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6. IN-LIEU-OF AD VALOREM TAX.
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#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 5-101. Official depository for town funds.
- 5-102. Local Government Investment Pool.
- 5-103. Tax adjustments and refunds.
- 5-104. Adjustment and refunds of charges or fees.

**5-101. Official depository for town funds.**<sup>2</sup> Pursuant to § 4.19 of the Charter of the Town of Huntingdon, Tennessee, the following financial management policy is approved and established:

(1) The following financial institutions are hereby designated as official depositories for any and/or all funds of the Town of Huntingdon. The director of finance is hereby authorized to establish such accounts therewith as may be necessary in conformity with standard accounting and banking procedures:

- (a) The Bank of Huntingdon, 111 East Main Street, Huntingdon, Tennessee;
- (b) The Huntingdon Branch, Carrol Bank & Trust, 132 West Main Street, Huntingdon, Tennessee, and
- (c) The Liberty Federal Savings Bank, 320 East Main Street, Huntingdon, Tennessee,

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<sup>1</sup>Charter reference: art. IV and § 1.04(a), (b), and (d).

<sup>2</sup>Charter reference: § 4.19.

(2) Each designated depository shall provide the director of finance an approved collateral (a security pledge):

(a) Whose market value is equal to one hundred and five percent (105%) of the value of the town's deposit secured thereby, less so much of such amount as is protected by the federal deposit insurance corporation; and

(b) Which shall be bonds of the United States or any of its agencies; obligations guaranteed by the United States or any of its agencies - the payments of which are fully guaranteed both as to principal and interest by the United States, and/or bonds of the State of Tennessee. (1978 Code, § 6-101)

**5-102. Local Government Investment Pool.** The Local Government Investment Pool (LGIP) of the Office of the Treasurer of the State of Tennessee, Nashville, Tennessee, is hereby designated as an official depository for the investment of idle funds of the accounts of the town. The mayor and town recorder/director of finance are authorized to establish and maintain accounts with the LGIP for this purpose in accordance with accepted cash flow management principles. (1978 Code, § 6-102)

**5-103. Tax adjustments and refunds.** The town recorder/director of finance of the Town of Huntingdon is empowered and authorized to adjust and settle with taxpayers all errors and double assessments of taxes owed to the Town of Huntingdon erroneously or illegally collected by him pursuant to the provisions of art. 4 of the charter of the town, or of title 5 of the Huntingdon Municipal Code, and to direct the refunding of the same. Any claim for such refunding by the town of such taxes alleged to have been erroneously or illegally paid shall be filed with the town recorder/director of finance, supported by proper proof, within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to refund and the claim for refund shall be barred. This authority is based on that granted county clerks under the provisions of Tennessee Code Annotated, § 67-1-707, to include any future amendments thereto, and by § 4.17 of the charter of the town, to include any future amendments thereto. (1978 Code, § 6-103)

**5-104. Adjustment and refunds of charges or fees.** The town recorder/director of finance of the Town of Huntingdon is empowered and authorized to correct, adjust and settle all errors in the various charges and fees levied or collected by him pursuant to the authorizations contained in Title 1 through Title 20, Huntingdon Municipal Code, including any future amendments thereto, provided; however, that any claim for correction or adjustment and settlement is filed within one (1) year of the date of payment thereof. All adjustments and settlement of claims processed pursuant to this section shall be accomplished by documented change order duly signed by the

appropriate official of the town and filed in the office of the town recorder/director of finance. (1978 Code, § 6-104)

## CHAPTER 2

### REAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the Town of Huntingdon shall become due and payable annually on the first day of October of the year for which levied. (1978 Code, § 6-201)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> All real property taxes shall become delinquent and shall be subject to such penalty and interest as provided in § 4.15 of the town's charter.<sup>3</sup> (1978 Code, § 6-202)

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<sup>1</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.

<sup>2</sup>Charter 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 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.

<sup>3</sup>Charter 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 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 state laws.

The taxes provided for in Tennessee Code Annotated, title 67 - Taxes and Licenses, chapter 4 - Privilege and Excise Taxes, part 7 - Business Tax, including all future amendments, revisions, changes or alterations thereto, are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations and occupations carried on within the town at the rates in the manner prescribed, which shall be in accordance with the applicable rules and regulations of the Tennessee Department of Revenue or its successor agency.

The minimum tax payment, as required by the "Business Tax Act", shall be fifteen dollars (\$15) for all classifications taxable thereunder by the Town of Huntingdon, per annum, plus a three dollars and fifty cents (\$3.50) registration fee. (1978 Code, § 6-401)

**5-302. License required.** No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1978 Code, § 6-402)

## 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> (1978 Code, § 6-501)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### LOCAL SALES TAX

#### SECTION

- 5-501. Tax levied; rate; maximum tax; exemptions; penalties.
- 5-502. Effective date for collection.
- 5-503. State Department of Revenue to collect.
- 5-504. Tax suits to be brought against mayor.
- 5-505. Additional tax levied.

**5-501. Tax levied; rate; maximum tax; exemptions; penalties.** As authorized by Tennessee Code Annotated, § 67-6-701, as amended, there is levied a tax in the same manner and on the same privileges subject to the "Retailers Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised in the Town of Huntingdon. The tax is levied on all such privileges at a rate of three-fourteenths of the present state rate and one fourth of state rates if and when the general state rate is reduced to 3%, and in the same manner as the tax is levied in the Retailer's Sales Tax Act, codified in Tennessee Code Annotated, title 67, chapter 6.

The tax levied shall be in addition to the sales tax now being levied by the State of Tennessee and the County of Carroll. The additional tax herein levied shall not exceed two dollars and fifty cents (\$2.50) on the sale or use of any single article of personal property, and there is excepted from the tax levied by this chapter the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil. Penalties and interest for delinquencies shall be the same as provided in the Tennessee Code Annotated, § 67-6-516. (1978 Code, § 6-301)

**5-502. Effective date for collection.** If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706, approve the ordinance, collection of tax levied by the provisions of this chapter shall begin on the first day of the month occurring thirty or more days after the County Election Commission makes its official canvass of the election returns.<sup>1</sup> (1978 Code, § 6-302)

**5-503. State Department of Revenue to collect.** It having been determined by the Department of Revenue of the State of Tennessee that it is

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<sup>1</sup>The election for approval or disapproval of Ord. #105 was held on August 12, 1975, and the result was 636 votes for the ordinance and 68 against.

feasible for this tax to be collected by that department, said determination being evidenced by local option sales and use tax rules and regulations heretofore promulgated by the Department of Revenue, the department shall collect such tax concurrently with the collection of the state tax and in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said department. The Mayor of Huntingdon is hereby authorized to contract with the Department of Revenue for the collection of the tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1978 Code, § 6-303)

**5-504. Tax suits to be brought against mayor.** In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the mayor. (1978 Code, § 6-304)

**5-505. Additional tax levied.** (1) As authorized by Tennessee Code Annotated, §§ 67-6-701--67-6-712, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under Tennessee Code Annotated, title 67, chapter 6, parts 1-6, as the same may be amended, which are exercised in the Town of Huntingdon. The tax is levied on all such privileges at a rate of one-eleventh of the rate levied in the Retailers' Sales Tax Act, Tennessee Code Annotated, title 67, chapter 6, parts 1-6, as amended, except as limited or modified by statute.

(2) If a majority of those voting in the election required by Tennessee Code Annotated, § 67-6-706 vote for the ordinance, collection of the tax levied by this ordinance shall begin on the first day of the month occurring 30 or more days after the county election commission makes its official canvass of the election returns.<sup>1</sup>

(3) It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, that determination being evidenced by Local Option Sales and Use Tax Rules and Regulations heretofore promulgated by the Department of Revenue, the department shall collect the tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with the rules and regulations promulgated by the department. The Mayor of Huntingdon is hereby authorized to contract with the Department of Revenue for the collection of the tax by the department, and to provide in the contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of the tax.

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<sup>1</sup>The election was held on November 6, 1990, and the result was 450 votes for the additional tax and 364 against.

(4) In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the State Commissioner of Revenue and the Mayor of Huntingdon.

(5) A certified copy of this ordinance shall be transmitted to the Department of Revenue by the town recorder forthwith and shall be published one time in a newspaper of general circulation in the Town of Huntingdon prior to the election called for in subsection (2) hereof. (1978 Code, § 6-305)

## CHAPTER 6

### IN-LIEU-OF AD VALOREM TAX

#### SECTION

- 5-601. General statement of policy.
- 5-602. In-lieu-of ad valorem tax established.
- 5-603. Amount of in-lieu-of ad valorem tax to be levied.
- 5-604. Cessation of in-lieu-of ad valorem tax payments.
- 5-605. Exclusions.
- 5-606. Tax due dates.
- 5-607. Delinquent tax - penalty and interest.

**5-601. General statement of policy.** The state constitution mandates that all Tennessee counties/municipalities assess property as follows:

Industrial & Commercial Real Property . . . . .	40%
Industrial & Commercial Personal Property . . . . .	30%
Residential & Farm Real Property . . . . .	25%

The Huntingdon Industrial Development Board, however, may be authorized by the Council of the Town of Huntingdon, under the provisions of Tennessee Code Annotated, § 7-53-305, to establish and implement a policy for payment of in-lieu-of ad valorem taxes which may be applied to those industrial properties whose titles are vested in the town or the HIDB and which are being developed by industrial firms using Industrial Revenue Bond financing. (1978 Code, § 6-601)

**5-602. In-lieu-of ad valorem tax established.** To provide for those instances where locating industries are utilizing Industrial Revenue Bond financing to develop industrial facilities on properties, the titles to which are vested in the town and/or the HIDB, there is hereby established and authorized a policy of requiring annual payment of in-lieu-of ad valorem tax by such industries as hereinafter set forth. The authorization for the application of these taxes to a specific industry shall be by resolution of the HIDB, which shall set forth all the details of such payment by said industry, a copy of which shall be furnished the council for inclusion in the minutes thereof at the next regular meeting of same thereafter. (1978 Code, § 6-602)

**5-603. Amount of in-lieu-of ad valorem tax to be levied.** A one (1) year moratorium on the payment of such tax is authorized to offset moving and start-up cost. This tax year shall be the calendar year in which said industry commences its initial production.

(a) Beginning with the second year, all real property will be assessed at 30% of actual value and the industry shall pay an in-lieu-of-taxes payment to the Town Recorder of the Town of Huntingdon in an amount equal to ten percent (10%) of the product of the assessed value times the current municipal tax rate.

(b) Each year thereafter, the percentile for computing the in-lieu-of-taxes payment shall increase five percent (5%) until one hundred percent (100%) of the required municipal tax due. (1978 Code, § 6-603)

**5-604. Cessation of in-lieu-of ad valorem tax payments.** Upon full payment of the bond issue and expiration of the lease agreement, in-lieu-of-tax payment will cease and the industry will be subject to all real and personal property taxes imposed by the constitution and laws of the State of Tennessee, and of the Town of Huntingdon, Tennessee. (1978 Code, § 6-604)

**5-605. Exclusions.** The provisions of this chapter apply only in those cases where the ownership of the properties concerned is vested in the town and/or the HIDB, or one of its' authorized governmental subentities, and the industry is utilizing Industrial Revenue Bonds for the financing vehicle, on a lease arrangement with the municipality. (1978 Code, § 6-605)

**5-606. Tax due dates.**<sup>1</sup> The due dates of in-lieu-of-taxes shall be fixed by ordinance. The town shall send in-lieu-of tax bills to said taxpayers showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates. Failure to send tax bills shall not, however, invalidate any tax, penalty or interest thereon.

(1) If not otherwise provided for by ordinance, the date the in-lieu-of-taxes become due, and the date upon which they become delinquent, shall be the same dates as those established by state regulations for the property taxes of Carroll County, Tennessee. (1978 Code, § 6-606)

**5-607. Delinquent tax - penalty and interest.**<sup>2</sup> Effective with the date of delinquency of property taxes, penalty and interest thereon shall be applied as fixed by ordinance, or in the absence of such ordinance, in the manner and rate as that prescribed by the Trustee, Carroll County, for delinquent county property taxes. (1978 Code, § 6-607)

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<sup>1</sup>Charter reference: § 4.15(a) and (b).

<sup>2</sup>Charter reference: § 4.15(c).

## CHAPTER 7

### PURCHASING AND PROCUREMENT

#### SECTION

- 5-701. Purpose.
- 5-702. Definitions.
- 5-703. General provisions.
- 5-704. Sole source procurement.
- 5-705. Emergency procurement.
- 5-706. Real property procurement.
- 5-707. Electricity, natural gas and telephones services.
- 5-708. Fuel (gasoline and diesel) procurement.
- 5-709. Professional services contracts.
- 5-710. Insurance contracts.
- 5-711. Intergovernmental purchasing.
- 5-712. Contractual services from non-profit groups.
- 5-713. Purchases of less than \$4,000.00.
- 5-714. Purchases of less than \$10,000.00 but over \$4,000.00.
- 5-715. Purchases of more than \$10,000.00.
- 5-716. Limitations and penalties.
- 5-717. Purchases of property at public auctions.

**5-701. Purpose.** This regulation will implement the provisions of art. IV, § 4.07 of the Charter of the Town of Huntingdon, entitled "Purchasing and Procurement," amended by Private Acts of 1985, which adopted the basic provisions of Tennessee Code Annotated, §§ 6-56-301 through 6-56-306, which is entitled the "Municipal Purchasing Law of 1983," and will provide a standard operating procedure for the orderly, timely and responsible purchase and procurement of supplies, materials and equipment for the activities of the town to insure the proper use of the public funds of the town. (1978 Code, § 1-1201)

**5-702. Definitions.** For the purposes of this regulation the following definitions shall apply:

(1) "Purchasing agent." The person designated by the mayor as responsible for the implementation of this regulation, and who shall exercise supervision over all purchasing and procurement of all supplies, materials, equipment and/or services, as well as property control and inventory for supplies, materials, equipment or services for the Town of Huntingdon, or, failing such designation, the mayor him/herself.

(2) "Purchase." The act of procuring supplies, materials, equipment and/or services in exchange for money where title will vest in the town.

(3) "Lease." The act of procuring the use of supplies, materials, equipment and/or services in exchange for a periodic payment of money where title will not vest in the town.

(4) "Lease/purchase." The act of procuring the use and ownership of supplies, materials, equipment and/or services by the means of periodic payments of money, where title will vest in the town at a pre-agreed point in time, when certain monetary conditions have been met.

(5) "Request for quotation." The form prescribed by the purchasing agent to invite competitive bids from prospective suppliers for supplies, materials, equipment or services (same as invitation to bid), or the act of soliciting a quotation.

(6) "Purchase order." The form prescribed in certain instances by the purchasing agent for the procurement, lease or lease/purchase of supplies, materials, equipment or services.

(7) "Contract." A formal, written agreement between the Town of Huntingdon and the provider of supplies, materials, equipment or services to the town.

(8) "Competitive bidding." The process of obtaining price quotations from various sources for required supplies, materials, equipment or services by use of standardized specifications and invitations to submit quotations for same.

(9) "Invitation to bid." The procedure of submitting request for quotations to various sources for the proposed procurement of supplies, materials, equipment or services. (same as invitation to submit quotation.)

(10) "Public advertisement." The act of placing an advertisement in the town's official newspaper, or other media as may be required, announcing the intent of the town to purchase supplies, materials, equipment or services, and inviting public participation by submission of competitive bids. (1978 Code, § 1-1202)

**5-703. General provisions.** (1) The mayor shall be responsible for controlling the expenditures of the various agencies of the town government to accomplish maximum efficiency and economy.<sup>1</sup>

(2) The recorder/director of finance shall be designated as the Purchasing Agent of the Town of Huntingdon, under the supervision of the mayor, who shall, in the absence of the purchasing agent, act in that capacity.

(3) The purchasing agent shall be responsible for the implementation and maintenance of the town's purchasing and procurement program, and shall prescribe such forms as may be required for administration of the program.

(4) The office of the director of finance shall be designated as the purchasing office of the town.

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<sup>1</sup>Charter reference: § 4.06.

(5) Except as set forth hereinbelow, all proposed purchases or procurements shall be with the prior review of the purchasing agent, to insure that all such actions are within the budgetary limitations of the activity concerned, and that funds are available to make payment for same.

(6) Each department supervisor is designated as the person responsible for the purchasing and procurement activities of his or her respective department and for coordination with the town's purchasing agent.

(7) No funds shall be obligated by any official or employee of the town except those herein designated. (1978 Code, § 1-1203)

**5-704. Sole source procurement.**<sup>1</sup> Any goods or services which may not be procured by competitive means because of the existence of a single source or because of a proprietary product shall be exempt from the competitive bidding process; however, the procurement of such goods or services will be with the prior written approval of the mayor. Further, a record of all such purchases shall be made by the purchasing agent which shall contain a list of those items so procured, the prices paid, the source from which procured, and the justification for the sole source procurement. The data in this report shall be furnished the council at its next subsequent meeting.

(1) Where a department of the town government has established a particular model/type of equipment for a specific application, subsequent additions to that system or parts required for maintenance and repair thereto, shall be classified as sole source procurement to insure that the integrity of the system is maintained. (1978 Code, § 1-1204)

**5-705. Emergency procurement.**<sup>2</sup> Competitive bidding procedures may be waived for 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; however, the emergency procurements of such items will be with the prior written approval of the mayor. A record of all such purchases shall be made by the purchasing agent which shall contain a list of the items so procured, the prices paid, the source(s) from which procured, and the justification for the emergency procurement. The data contained in this report shall be furnished the council at its next subsequent regular meeting. (1978 Code, § 1-1205)

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<sup>1</sup>Charter reference: § 4.07(d)(2).

<sup>2</sup>Charter reference: § 4.07(d)(3).

**5-706. Real property procurement.**<sup>1</sup> Purchases, leases or lease-purchase of real property are exempt from the competitive bidding process. The price or consideration for such procurements shall be negotiated subject to the final approval of the council. (1978 Code, § 1-1206)

**5-707. Electricity, natural gas and telephones services.** All electrical, natural gas and telephone and related services provided the town by regulated industries are exempt from the competitive bidding procedure. (1978 Code, § 1-1207)

**5-708. Fuel (gasoline and diesel) procurement.** Procurement of regular, leaded gasoline shall be by the competitive bidding process. The procurement of high-test, unleaded gasoline and diesel fuels shall be exempt from the bidding process until such time as the town obtains its' own bulk fuel storage tanks for these fuels, or the local suppliers agree to furnish 1,000 gallon storage facilities when they are the successful bidder. (1978 Code, § 1-1208)

**5-709. Professional services contracts.** Contracts for legal services, fiscal agents, auditors, financial advisors or advisory services, educational consultants, engineer consultants, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive bids, but shall be awarded by the council on the basis of recognized competence and integrity through review of past performance and interviews with prospective contractees, subject to a review of all such contracts by the town's attorney. (1978 Code, § 1-1209)

**5-710. Insurance contracts.** (1) Insurance for various entities of the town's government which is procured through a plan authorized and approved by any organization of governmental entities representing cities, towns and counties, such as, but not limited to, the Tennessee Municipal League Insurance Pool, may be contracted for without public advertising, competitive bidding, or invitation to submit quotations, All contracts awarded for such insurance shall be subject to approval of the council.<sup>2</sup>

(2) Insurance for various entities of the town's government which are procured through private or for-profit entities, such as commercial insurance companies, for casualty, liability, inland marine, property, life and health and accident insurances, will be obtained by public advertisement and/or invitations to submit proposals. All contracts awarded for such insurance shall be subject

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<sup>1</sup>Charter reference: § 4.07(d)(5).

<sup>2</sup>Charter reference: § 4.07(g).

to approval of the council.<sup>1</sup> Insurance policies thus contracted will usually be for a term or three (3) years, with annual premium adjustments as approved by the council. (1978 Code, § 1-1210)

**5-711. Intergovernmental purchasing.** (1) Purchases by the town of supplies, materials, equipment and/or services for other local governmental entities may be made upon request from said entities; however, the procurement shall be made on the same terms and under the same rules and regulations as regular purchases by the town. The cost of all such purchases shall be borne by the requesting entity.<sup>2</sup>

(2) Purchases by the town of supplies, materials, equipment and/or services from or through any centralized purchasing or procurement agency of any local governmental entity, or of the state or federal government shall be without public advertising or competitive bidding.<sup>3</sup> (1978 Code, § 1-1211)

**5-712. Contractual services from non-profit groups.** Contracts for supplies, materials and/or services from non-profit corporations, such as, but not limited to, the Local Government Data Processing Corporation, whose purpose, or one of whose purposes, is to provide goods or services specifically to municipalities shall be exempt from public advertising or competitive bidding.<sup>4</sup> (1978 Code, § 1-1212)

**5-713. Purchases of less than \$4,000.00.** Supplies and materials, the total cost of which does not exceed four thousand dollars (\$4,000.00), and which are required for day-to-day operations, maintenance and repairs in and by the various departments and agencies of the town may be purchased or procured directly from those firms or businesses where the town maintains accounts by the department or activity supervisor concerned so long as such purchases or procurements are within the budget limitations of the department or activity concerned. (1978 Code, § 1-1213, as replaced by Ord. #493, Aug. 2006)

**5-714. Purchases of less than \$10,000.00 but over \$4,000.00.** Purchase, procurement, lease and/or lease-purchase agreements for supplies, materials, equipment and/or services which will cost in the aggregate more than four thousand dollars (\$4,000.00) but less than ten thousand dollars

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<sup>1</sup>Charter reference: § 4.07(h).

<sup>2</sup>Charter reference: § 4.07(i).

<sup>3</sup>Charter reference: § 4.07(j).

<sup>4</sup>Charter reference: § 4.07(k).

(\$10,000.00) shall be exempt from public advertising and/or formal competitive bidding.

(1) Purchase or procurement of such items shall be made through the use of telephonic or personal request for quotation of price for same, utilizing the form prescribed by the purchasing agent. Such purchases or procurements may be made by the supervisor of the department of activity concerned, subject to a review by the purchasing agent of the quotations and determination of budget limitations, if any, and the written approval of the mayor.

(2) Upon approval of the quotation, the purchasing agent shall issue a purchase order for same. (Ord. #394, Oct. 1997, as amended by Ord. #422, Oct. 1999, and replaced by Ord. #493, Aug. 2006)

**5-715. Purchases of more than \$10,000.00.** The purchase or procurement of supplies, materials, equipment, and/or services which individually cost more than ten thousand dollars (\$10,000.00), or if when normally procured in lots of two (2) or more during any fiscal year total more than ten thousand dollars (\$10,000.00), shall be subject to competitive bidding and public advertisement. Where possible, bids will be solicited from a minimum of three (3) suppliers.

(1) The supervisor of the department or activity requiring the purchase or procurement of such items shall submit details of the supplies, materials, equipment and/or services to be obtained, to include technical specifications where necessary, to the mayor for his approval. Upon approval by the mayor, and subject to budget allocations and availability of funds, the mayor shall refer the request for such purchase or procurement to the council for their review and approval.

(2) Upon approval of the proposed purchase or procurement by the council, the purchasing agent shall issue the appropriate invitations to submit bids or quotations and place the required public advertisement in the town's official newspaper, and such other media as may be appropriate, which shall contain all relevant data as to the town's bidding process and reservations as to acceptance or rejection of bids, including specific information as to the bid opening time and procedure.

(3) All qualified bids, quotations and/or proposals (here-in-after referred to collectively as "Bids") received in response to an advertisement and/or invitation to submit bids, shall at the time and place as indicated in the public notice and/or solicitation of bids, which shall normally be during regular office hours and in the council room of the Huntingdon Municipal Building, be publicly opened by the mayor or his designated representative and the results read aloud. Thereupon, the official conducting the bid opening shall make a statement declaring the apparent low bidder, and informing all persons present that all duly qualified bids will be accepted for tabulation; review of all bid documents for compliance with advertised specifications, and referral to the town council at their next subsequent regular meeting for their review, approval or disapproval, and the authorization of any procurement contracts. A minimum of three (3) officials of the town shall be present at all public bid openings. The appropriate official of the town shall record the minutes of all

such public bid openings, which shall be filed with the appropriate procurement documentation. (1978 Code, § 1-1216, as amended by Ord. #394, Oct. 1997, Ord. #422, Oct. 1999, and Ord. #493, Aug. 2006)

**5-716. Limitations and penalties.** (1) All purchases made from funds of the town shall be made within the limits of the approved budgets and within the appropriation of the department, agency or activity for which the purchase is made.

(2) No obligation of funds of the town shall be made except in compliance with the provisions of this chapter, or of the town's charter.

(3) All formal contract documents entered into by the town shall be reviewed by the town attorney prior to final execution.

(4) Any contract or agreement made in violation of the provisions of this chapter; the town charter, or other ordinances of the town shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder may be liable to the town for the full amount.<sup>1</sup> (1978 Code, § 1-1217)

**5-717. Purchases of property at public auctions.** The mayor and/or the town council may authorize the purchase of new or secondhand articles or equipment or other materials, supplies, commodities and equipment at any publicly advertised auction. Purchases at any publicly advertised auction do not require public advertisement and competitive bidding process.

(1) Request for purchases. All purchases shall be made within the limits of the approved budgets and within the appropriation of the department, agency, or activity for which the purchase is made. All request for items to be purchased shall be written request and submitted to the purchasing agent for review. Such request must be made by the supervisor of the department of the activity concerned, subject to review of budget limitations, if any, and require written approval of the mayor. Request must identify the auction at which the items are to be purchased, time and place of the auction, items to be acquired, and estimated cost of each item to be purchased.

(2) Approval of purchase. Upon review and approval of such request, prior written approval for authorization to bid is required. Said written authorization shall indicate the maximum bid limit for the item or items to be purchased. The mayor shall be authorized to give prior written approval for purchases up to the \$5,000.00 limitations with request for purchases over the \$5,000.00 limitation requiring approval of the town council.

(3) Authorized agent. The mayor shall appoint the purchasing agent or a designated representative of the town to make such purchases. No

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<sup>1</sup>Charter reference: § 4.08.

purchases shall be made by the purchasing agent or a designated representative without prior written approval by the mayor or town council. Any individual violating this provision may be held liable to the town for the full amount of the purchase.

(4) Report of procurement. Upon purchases being made, the purchasing agent shall report to the town council a description of the purchase, the auction where the items were purchased, the purchase price, and the vendor of the purchased item. (Ord. #394, Oct. 1997)

## CHAPTER 8

### HOTEL/MOTEL TAX<sup>1</sup>

#### SECTION

- 5-801. Introduction of act.
- 5-802. Definitions.
- 5-803. Authorization to levy tax.
- 5-804. Proceeds.
- 5-805. Tax to be collected; when to be refunded.
- 5-806. Remittance.
- 5-807. Authorized collector.
- 5-808. Tax must be collected.
- 5-809. Delinquent taxes.
- 5-810. Operator to keep records.
- 5-811. Additional powers of recorder; taxpayer remedies.
- 5-812. Proceeds.
- 5-813. Applicability.
- 5-814. Severability.

**5-801. Introduction of act.** An act relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration in the Town of Huntingdon. (Public Acts of 1998, ch. 128 and Ord. #398, April 1998)

**5-802. Definitions.** As used in this act 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

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<sup>1</sup>The first section of Ordinance No. 398 (April 1998) provides:

"NOW, THEREFORE, BE IT RESOLVED, the Mayor and Town Council desire to proceed with the ratification to levy a privilege tax in the Town of Huntingdon as approved by House Bill 2798 dated April 3rd, 1998, a copy of which is hereto attached and made a part of this Ordinance as though the same were copied fully herein, to be adopted as, Chapter 8. Hotel/Motel Tax, Title 5. Municipal Finance and Taxation, of the Town of Huntingdon Municipal Code."

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 space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

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

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

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

(6) "Recorder" means the recorder of the Town of Huntingdon.

(7) "Town of Huntingdon" or "town" means within the corporate limits of the Town of Huntingdon, Tennessee.

(8) "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 thirty (30) continuous days. (Public Acts of 1998, ch. 128, § 1, and Ord. #398, April 1998)

**5-803. Authorization to levy tax.** The legislative body of the Town of Huntingdon is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (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 in this act. (Public Acts of 1998, ch. 128, § 2, and Ord. #398, April 1998)

**5-804. Proceeds.** The proceeds received by the town from the tax shall be retained by the town and deposited into the general fund of the town, to be designated and used for such purposes as specified by resolution of the town council (Public Acts of 1998, ch. 128, § 3, and Ord. #398, April 1998)

**5-805. Tax to be collected; when to be refunded.** Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the Town of Huntingdon.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged to that person, and the operator shall receive

credit for the amount of such tax if previously paid or reported to the town. (Public Acts of 1998, ch. 128, § 4, and Ord. #398, April 1998)

**5-806. Remittance.** (1) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels within the town to the recorder or such other officer as may by resolution be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for such 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 town entitled to such tax shall be that of the operator.

(2) For the purpose of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the recorder in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (Public Acts of 1998, ch. 128, § 5, and Ord. #398, April 1998)

**5-807. Authorized collector.** The recorder, or other authorized collector of the tax, shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the recorder by the operator with such number of copies thereof as the recorder may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the recorder and approved by the town council prior to use. The recorder shall audit each operator in the town at least once a year and shall report on the audits made on a quarterly basis to the town council.

The town council is authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports. (Public Acts of 1998, ch. 128, § 6, and Ord. #398, April 1998)

**5-808. Tax must be collected.** 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. (Public Acts of 1998, ch. 128, § 7, and Ord. #398, April 1998)

**5-809. Delinquent taxes.** Taxes collected by an operator which are not remitted to the recorder on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of

twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Public Acts of 1998, ch. 128, § 8, and Ord. #398, April 1998)

**5-810. Operator to keep record.** It is the duty of every operator liable for the collection and payment to the town of any tax imposed by this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of tax due and payable to the town. The recorder has the right to inspect such records at all reasonable times. (Public Acts of 1998, ch. 128, § 9, and Ord. #398, April 1998)

**5-811. Additional powers of recorder; taxpayer remedies.** The recorder in administering and enforcing the provisions of this act has as additional powers, those powers and duties with respect to collecting taxes as provided in title 67 of Tennessee Code Annotated or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67; it is the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The provisions of Tennessee Code Annotated, section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of town taxes collected by the recorder under authority of this act shall be refunded by the town from the general fund upon approval of the town council.

Notice of any tax paid under protest shall be given to the recorder and the resolution authorizing levy of the tax shall designate a town officer against whom suit may be brought for recovery. (Public Acts of 1998, ch. 128, § 10, and Ord. #398, April 1998)

**5-812. Proceeds.** The proceeds of the tax authorized by this act shall be allocated to and placed in the general fund of the Town of Huntingdon to be used for the purposes stated in section 5-804. (Public Acts of 1998, ch. 128, § 11, modified, and Ord. #398, April 1998)

**5-813. Applicability.** The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, section 67-4-1425. (Public Acts of 1998, ch. 128, § 12, and Ord. #398, April 1998)

**5-814. Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable. (Public Acts of 1998, ch. 128, § 13, and Ord. #398, April 1998)