

**TITLE 5**

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

**CHAPTER**

- 1. MISCELLANEOUS.
- 2. FUND BALANCE POLICY.
- 3. DEPT POLICY.
- 4. PURCHASING POLICY.
- 5. HOTEL AND MOTEL OCCUPANCY TAX.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 5-101. Official depository for town funds.
- 5-102. Public advertising and competitive bidding.

**5-101. Official depository for town funds.** The following financial institutions are hereby designated as official depositories of the Town of Pleasant View funds:

<u>Institution</u>	<u>Address</u>
First Union Cheatham State Bank	Pleasant View, TN
State of Tennessee Local Government Investment Pool Official Depository	P.O. Box 8785, Nashville, Tennessee 37219-8785
First Federal Savings Bank	6425 Highway 41-A, Pleasant View, Tennessee 37146
Community Bank and Trust Company of Cheatham County	501 South Main Street, Ashland City, Tennessee 37015

(Ord. #96-3, Oct. 1996, as amended by Ords. #99-8, June 1999, #00-02, January 2000, and #02-03, May 2002)

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<sup>1</sup>Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

**5-102. Public advertising and competitive bidding.** The dollar amount required for public advertising and competitive bidding pursuant to Tennessee Code Annotated, § 6-56-301, et seq., is five thousand dollars (\$5,000.00) pursuant to Tennessee Code Annotated, § 6-56-306.

References in the purchasing procedures for the Town of Pleasant View as adopted in Resolution 97-1,<sup>1</sup> to two thousand five hundred dollars (\$2,500.00) shall be deemed a reference to five thousand dollars (\$5,000.00) as established by this section. (Ord. #99-11, June 1999)

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<sup>1</sup>Resolution #97-1 is of record in the office of the city recorder.

## CHAPTER 2

### FUND BALANCE POLICY

#### SECTION

5-201. General fund.

5-202. Other governmental funds.

5-203. Governmental fund balances beginning year of implementation.

**5-201. General fund.** It is the town's policy to first use "restricted" fund balance prior to the use of "unrestricted" fund balance when an expense is incurred for purposes for which both restricted and unrestricted funds are available. When there are committed and assigned components of "unrestricted" fund balance, it is the town's policy to use committed amounts first, followed by assigned amounts and then unassigned amounts when expenditures are incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used. It is the mayor and board of aldermen's intention to keep a balance of at least ten percent (10%) of expenditures in the fund balance at all times unless an emergency situation transpires. (as added by Ord. #11-06, Aug. 2011, and amended by Ord. #13-01, May 2013)

**5-202. Other governmental funds.** In all other governmental funds, other than the general fund, interest income, if any, will be utilized first followed by restricted, committed and assigned revenues when an expense is incurred for purposes for which both restricted and unrestricted funds are available. Transfers to other funds are considered committed for these purposes. (as added by Ord. #11-06, Aug. 2011, and amended by Ord. #13-01, May 2013)

**5-203. Governmental fund balances beginning year of implementation.** In the initial GASB 54 implementation year, beginning fund balances for governmental funds, except for the general fund, will be classified as restricted. Beginning fund balance in the general fund will be classified as unassigned. (as added by Ord. #11-06, Aug. 2011, and amended by Ord. #13-01, May 2013)

### CHAPTER 3

### DEBT POLICY<sup>1</sup>

#### SECTION

- 5-301. Definition of debt.
- 5-302. Approval of debt.
- 5-303. Transparency.
- 5-304. Role of debt.
- 5-305. Types and limits of debt.
- 5-306. Use of variable rate debt.
- 5-307. Use of derivatives.
- 5-308. Costs of debt.
- 5-309. Refinancing outstanding debt.
- 5-310. Professional services.
- 5-311. Conflicts.
- 5-312. Review of policy.
- 5-313. Compliance.

**5-301. Definition of debt.** All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bonds, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund). (as added by Ord. #11-09, Nov. 2011)

**5-302. Approval of debt.** Pursuant to state law, bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the town's board of mayor and aldermen prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the Comptroller's Office prior to issuance. Capital or equipment leases may be entered into by the board of mayor and aldermen; however, details on the lease agreement will be forwarded to the Comptroller's Office on the specified form within forty-five (45) days. (as added by Ord. #11-09, Nov. 2011)

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<sup>1</sup>State law references

Tennessee Code Annotated, part 9. Contracts, leases and lease purchase agreements.

Tennessee Code Annotated, part 21. Local government public obligations law.

**5-303. Transparency.** (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

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

(3) All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(5) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting.

(6) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens and the board of mayor and aldermen at the next regular scheduled council meeting. (as added by Ord. #11-09, Nov. 2011)

**5-304. Role of debt.** (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the town will minimize the use of short-term cash flow borrowing by maintaining adequate working capital and close budget management.

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

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

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #11-09, Nov. 2011)

**5-305. Types and limits of debt.** (1) A town property tax must be in place before debt may be issued that:

(a) Matures in more than twelve (12) fiscal years from the fiscal year of issuance, inclusive of renewals and extensions; or

(b) Causes the aggregate amount of debt outstanding (including the proposed debt) to exceed one million dollars (\$1,000,000.00).

(2) In the occurrence of a catastrophic event (i.e., tornado, earthquake, flood, or other natural disaster) the borrowing limit shall not be in effect for this type of event.

(3) The town will seek to limit total outstanding debt obligations to twenty-five percent (25%) of the assessed value of the town, excluding overlapping debt, enterprise debt, and revenue debt as determined by the annual audit.

(4) The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.

(5) The town's total outstanding debt obligation will be monitored and reported to the board of mayor and aldermen on an annual basis during the budget approval process by the city recorder. The city recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The city recorder shall also report to the board of mayor and aldermen any matter that adversely affects the credit or financial integrity of the town.

(6) The town has issued capital outlay notes in the past and is authorized to issue general obligation bonds, revenue bonds, tax increment financing, loans, notes and other debt allowed by law, as it determines most appropriate.

(7) The town will seek to structure debt with level or declining debt service payments over the life of each individual bond issue or loan.

(8) As a rule, the town will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the town may utilize non-level debt methods. However, the use of such methods will be thoroughly discussed in a public meeting and will be approved only if the mayor and board of aldermen determine such use is justified and in the best interest of the town.

(9) The town may use capital leases to finance short-term projects of five (5) years or less. (as added by Ord. #11-09, Nov. 2011)

**5-306. Use of variable rate debt.** (1) The town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) However, the town also recognizes there are inherent risks associated with the use of variable rate debt and chooses not to use variable rate debt.

(3) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of use of such rates must be submitted to the board of mayor and aldermen; and

(b) The board of mayor and aldermen must adopt a specific amendment to this policy concerning the use of variable interest rates. (as added by Ord. #11-09, Nov. 2011)

**5-307. Use of derivatives.** (1) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(2) Prior to any reversal of this provision:

(a) A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the board of mayor and aldermen; and

(b) The board of mayor and aldermen must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (as added by Ord. #11-09, Nov. 2011)

**5-308. Costs of debt.** (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the board of mayor and aldermen in accordance with the notice requirements stated above.

(2) In case of non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded, i.e. general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes.

(4) The city recorder will file necessary disclosure documents, including disclosure of costs to the Comptroller's Office as required by law. (as added by Ord. #11-09, Nov. 2011)

**5-309. Refinancing outstanding debt.** (1) The town will refund debt when it is in the best financial interest of the town to do so, and the city recorder shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the board of mayor and aldermen, and all plans for current or advance refunding or debt must be in compliance with state laws and regulations.

(2) The city recorder will consider the following issues when analyzing possible refunding opportunities:

(a) Onerous restrictions. Elimination of onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.

(b) Economic purposes. Restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt

service payments, or to release reserve funds. Current refunding opportunities may be considered by the city recorder if the refunding generates positive present value savings, and the city recorder must establish a minimum present value savings threshold for any refinancing.

(c) **Terms.** Maintenance of the term of the originally issued debt; consideration of maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The city recorder may also consider shortening the term of the originally issued debt to realize greater savings. (as added by Ord. #11-09, Nov. 2011)

**5-310. Professional services.** The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) **Counsel.** If the town chooses to hire an attorney other than the city attorney, it shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction.

(2) **Financial advisor.** If the town chooses to hire financial advisors, the town shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions. Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.

(3) **Underwriter.** If there is an underwriter, the town shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the town. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the city recorder in advance of the pricing of the debt. (as added by Ord. #11-09, Nov. 2011)

**5-311. Conflicts.** (1) Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, bond counsel, trustee, paying agent, liquidity or credit enhancement provider, and underwriter), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.



(2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #11-09, Nov. 2011)

**5-312. Review of policy.** This policy shall be reviewed annually by the board of mayor and aldermen with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with the opportunity for public input. (as added by Ord. #11-09, Nov. 2011)

**5-313. Compliance.** The city recorder is responsible for ensuring substantial compliance with this policy. (as added by Ord. #11-09, Nov. 2011)

## CHAPTER 4

### PURCHASING POLICY

#### SECTION

- 5-401. General policies.
- 5-402. Required board approvals.
- 5-403. Purchase order.
- 5-404. Emergency procedures.
- 5-405. Sealed bids or proposals.
- 5-406. Non-performance policy.
- 5-407. Delinquent delivery.
- 5-408. Contractual purchase.
- 5-409. Items covered by warranty or guarantee.
- 5-410. Signatures.
- 5-411. Sale of surplus property.
- 5-412. Inspection and testing.
- 5-413. General information.
- 5-414. Definitions.

**5-401. General policies.** As designated in section 6-3-106(b)(3) of the charter of the Town of Pleasant View, the mayor shall act as purchasing agent for the town, with power, except as set out in these procedures, to purchase materials, supplies, and equipment; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the town's business. All contracts, leases, and lease-purchase agreements extending beyond the end of any fiscal year must have prior approval of the governing body.

(1) Purchase of up to \$1,000.00. The purchasing agent shall have the authority to make purchases, leases, and lease purchases of up to one thousand dollars (\$1,000.00) singly or in the aggregate during any fiscal year, and whenever possible, should attempt to base such purchases, leases, and lease purchases upon three (3) competitive bids or quotations, either verbal or written. All competitive bids or quotations received shall be recorded and maintained in the office of the purchasing agent for a minimum of two (2) years after audit.

(2) Purchases of between \$1,000.00 and \$10,000.00. Any purchases, leases, or lease purchases of more than one thousand dollars (\$1,000.00) and less than ten thousand dollars (\$10,000) singly or in the aggregate during any fiscal year must receive prior approval of the board and, except as otherwise provided herein, shall require three (3) competitive bids or quotations received and shall be recorded and maintained in the office of the purchasing agent for a minimum of two (2) years after audit. Awards shall be made to the lowest responsible bidder.

(3) Purchases of \$10,000.00 or more. (a) A description of all projects or purchases, except as herein provided, which require the expenditure of

town funds of ten thousand dollars (\$10,000.00) or more, shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids and proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of ten thousand dollars (\$10,000.00) or more shall be made by the governing body to the lowest responsible bidder.

(b) Purchases of ten thousand dollars (\$10,000.00) or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

(i) Sole source of supply or proprietary products as determined after complete search by using department and the purchasing agent, with governing body approval;

(ii) Emergency expenditures with subsequent notification to the governing body;

(iii) Purchases from instrumentalities created by two (2) or more cooperating governments;

(iv) Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities;

(v) Purchases, leases, or lease-purchases of real property;

(vi) Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment;

(vii) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983;

(viii) Purchases directed through or in conjunction with the State Department of General Services;

(ix) Purchases from Tennessee state industries;

(x) Professional service contracts as provided in Tennessee Code Annotated, §§ 12-3-1209 and 12-4-107;

(xi) Tort Liability Insurance as provided in Tennessee Code Annotated, § 29-20-407; or

(xii) Purchases of fuels, fuel products, or perishable commodities;

(xiii) Purchases of used or secondhand equipment from any private individual or entity without bidding if the town documents the price is no more than five percent (5%) of the general range of value within the documented range of a nationally recognized

publication or through a licenses appraiser provided in Tennessee Code Annotated, § 12-3-1202;

(xiv) Purchases from the contract awarded by another city after it followed its public advertising and competitive bidding procedures Tennessee Code Annotated, § 12-3-1203;

(xv) Authority by Tennessee Code Annotated, § 12-3-1205 for the town, by resolution, to enter into master agreements for purchasing;

(xvi) Purchases made at public auctions Tennessee Code Annotated, § 12-4-1006;

(xvii) Purchases made through competitive reverse auctions Tennessee Code Annotated, § 12-3-1208.

(3) The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined. (as added by Ord. #14-01, March 2014)

**5-402. Required board approvals.** As outlined in § 5-401, prior approval from the board of mayor and aldermen is required for all purchases, leases, and lease-purchases in excess of one thousand dollars (\$1,000.00) singly or in the aggregate during any fiscal year. The treasurer is not required to receive prior approval from the board before actually paying bills that are:

(1) Related to any purchases of less than one thousand dollars (\$1,000.00);

(2) Related to any purchases previously approved by the board; or

(3) Payments required in accordance with contracts previously approved by the board. (as added by Ord. #14-01, March 2014)

**5-403. Purchase order.** (1) Purpose. Purchase orders shall be required for any purchase exceeding one hundred dollars (\$100.00). A purchase order authorizes the seller to ship and invoice the materials and services as specified. Purchase orders shall be written in a clear, concise, and complete manner. This will prevent confusion and unnecessary correspondence with suppliers.

(2) When prepared. Purchase orders are issued only after a purchasing request has been approved by the purchasing agent and the treasurer. No purchase order will be issued until the treasurer has certified adequate funds and cash balances to make the purchase, except as otherwise mentioned.

(3) Who issues the purchase order. The purchasing agent issues purchase orders, except as otherwise provided herein. The using departments will not enter into negotiations with suppliers for the purchase of equipment, supplies, materials, services, or other items, except under the emergency purchase procedures and as otherwise provided herein.

(4) How purchase orders are handled. The purchase order is prepared in three (3) copies: white, yellow, and pink.

(a) The white copy is mailed to the vendor to be used as authority to furnish the city the materials or services indicated.

(b) The yellow copy is kept by the purchasing agent and filed as record of outstanding orders. When paid, the yellow copy will be marked properly and put in a completed file in numerical order.

(c) The pink copy is sent to the department head making the request, to be held until the goods or services are received. Upon completion of the order or contract, the pink copy will be signed and invoices and material receiving report attached. This copy is sent to the purchasing agent for discounting and processing for payment.

(5) Cancellations. The purchasing agent must initiate all cancellation and will issue a purchase order to the next best vendor or renew the purchasing process. (as added by Ord. #14-01, March 2014)

**5-404. Emergency procedures.** (1) Purpose. Emergency purchases are to be made by the purchasing agent only when normal functions and operations of the town would be hampered by following the standard purchasing procedure or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., are needed immediately.

(2) Who makes them? Emergency purchases, either verbal or written, may be made directly by the mayor without competitive bids, provided sufficient funds are available and necessary approvals have been secured.

(3) Who authorizes? The mayor may authorize an emergency purchase.

(4) How to make. After determining a true emergency exists, the following procedure should be used:

(a) Notify the mayor of the need and nature of the emergency. The mayor will give verbal approval.

(b) Officers must use sound judgment about prices when making emergency purchases of materials and supplies and for labor or equipment. Orders should be placed with vendors who have a good track record with the town.

(c) Suppliers shall furnish sales tickets, delivery slips, invoices, etc., for the supplies or services rendered. Terms of the transactions, indicating price and other data, shall be shown.

(d) As soon as the buy is complete, on the same or following business day, the officer must:

(i) Give the purchasing agent the sales ticket, delivery slips, and invoices confirming the purchase.

(ii) Prepare a report to the chief executive officer and the governing body specifying the amount paid, the item(s) purchased, from whom the purchase(s) was made, and the nature of the emergency.

(5) General information. Emergency purchases are costly and should be kept to a minimum. Avoiding emergency orders will save the city money. (as added by Ord. #14-01, March 2014)

**5-405. Sealed bids or proposals.** Sealed bids are required on purchases of ten thousand dollars (\$10,000.00) or more. Bids must be advertised in a local newspaper of general circulation a minimum of one (1) time not less than five (5) days before bid opening date. In determining when to publish the public bid notice, the purchasing agent should consider the complexity of the purchase or project to insure that all prospective bidders will have sufficient time to obtain the bid documents and prepare completed bids.

- (1) The purchasing agent shall be responsible for:
  - (a) Prepare bid requests.
  - (b) Establish date and time for bid opening.
  - (c) Select possible sources of supply.
  - (d) Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.).
  - (e) Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
  - (f) Receive and open bids.
  - (g) Evaluate bids.
  - (h) Prepare bids and make recommendation on award to governing body for approval.
  - (i) Process purchase order after governing body approval.
  - (j) Maintain all specification and bid data files.
- (2) The following policies shall apply to sealed bids:
  - (a) Bid or proposal opening. Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, with prior approval of the governing body, may be opened privately in cases where the disclosure of the contents of the proposal could not be readily evaluated and would have negative impact on both the vendor and the city.
    - (b) Late bids. No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened.
    - (c) Bid opening schedule. The purchasing agent is responsible for setting bid opening dates and times.
    - (d) Telephone bids. The purchasing agent shall not accept any bid by telephone.
    - (e) Bid form. The purchasing agent shall send duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return

one and maintain a file copy. Bids won't be accepted on any vendor letterhead, vendor bid form, or other substitutions unless special permission is given by the purchasing agent.

(f) Unsigned bids. Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name won't be acceptable without that person's written signature.

(g) Acceptance of bids. The city reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one (1) bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the governing body is in the best interest of the city.

(h) Shipping charges. Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the governing body.

(i) Sample product policy. The purchasing agent may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

(j) Approved equal policy. Specifications in the request for bid are intended to establish a desired quality or performance level or other minimum requirements that will provide the city with the best product available at the lowest possible price.

When a brand name and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing. Brands and/or models other than those designated as "equal to" products shall receive equal consideration.

(k) Alternate bids. Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the city to use, all bids for that item may be rejected and specifications re-drawn to allow all bidders an equal opportunity to submit bids on the alternate item.

(l) Vendor identification. Potential suppliers are selected from existing vendor files, using department's suggestions, and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found.

(m) Tie bids. A tie bid is one in which two (2) or more vendors bid identical items at the same unit cost. Tie bids may be determined by one (1) of the following factors:

- (i) Discount allowed;
- (ii) Delivery schedule;
- (iii) Previous vendor performance;
- (iv) Vendor information;

(v) Trade-in value offered.

(n) Cancellation of invitation for bid or request for proposal. An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the city. The reasons shall be made a part of the bid or proposal file.

(o) Public advertisement. In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It's not required that specifications be included in the invitation to bid. However, this notice should state clearly the purchase to be made.

(p) Sealed bids and sealed proposals. Where a particular situation warrants a deviation from the strict sealed bidding requirements, the town reserves the right call for sealed proposals as discussed in the following excerpt taken from The Model Procurement Code for State and Local Governments. American Bar Association, February, 1979, pages 21-22.

(i) Competitive sealed bidding as defined in this Code, is the preferred method of procurement. Although the formal sealed bid process should remain a standard in public purchasing, there is a place for competitive negotiation (State and Local Government Purchasing. The Council of State Governments (1975) at 2.2). The competitive sealed proposal method (similar to competitive negotiation) is available for use when competitive sealed bidding is either not practicable or not advantageous.

(ii) Both methods assure price and product competition. The use of functional or performance specifications is allowed under both methods to facilitate consideration of alternative means of meeting [state] needs (with evaluation and where appropriate) on the basis of total or life cycle costs. The criteria to be used in the evaluation process under either method must be fully disclosed in the solicitation. Only criteria disclosed in the solicitation may be used to evaluate the items bid or proposed.

(iii) These two (2) methods of source selection differ in the following ways:

(A) Under competitive sealed bidding, judgmental factors may be used only to determine if the supply, service, or construction item bid meets the purchase description. Under competitive sealed proposals, judgmental factors may be used to determine not only if the items being offered meet the purchase description, but may also be used to evaluate competing proposals. The effect of this different use of



judgmental evaluation is that under competitive sealed bidding, once the judgmental evaluation is completed, award is made on a purely objective basis to the lowest responsive and responsible bidder. Under competitive sealed proposals, the quality of competing products or services may be compared and tradeoffs made between price and quality of the products or services offered (all set forth in the solicitation). Award under competitive sealed proposals is then made to the responsible offer or whose proposal is most advantageous to the city.

(B) Competitive sealed bidding and competitive sealed proposals also differ in that, under competitive sealed bidding, no change in bids is allowed once they have been opened, except for correction of errors in limited circumstances. The competitive sealed proposal method on the other hand, permits discussions after proposals have been opened to allow clarification and changes in proposals provided that adequate precautions are taken to treat each offer or fairly and to ensure that information gleaned from competing proposals is not disclosed to other offers.

(3) In addition to price, the following points should be considered when awarding a bid:

- (a) The ability of the bidder to perform the contract or provide the material or service required;
- (b) Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference;
- (c) The character, integrity, reputation, experience, and efficiency of the bidder;
- (d) The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service;
- (e) The ability of the bidder to provide future maintenance and service for the use of the subject contract;
- (f) Terms and conditions stated in bid; and
- (g) Compliance with specifications or request for proposal. (as added by Ord. #14-01, March 2014)

**5-406. Non-performance policy.** Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- (1) Removal of a vendor from bid list for a period to be determined by the governing body;
- (2) Allowing the vendor to find the needed item for the city from another supplier at no additional cost to the city;
- (3) Allowing the city to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase; and/or
- (4) Allowing monetary settlement. (as added by Ord. #14-01, March 2014)

**5-407. Delinquent delivery.** Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the using department says the items haven't been received. If this happens, the purchasing agent will initiate action, either written or verbal as time allows, to investigate the delay. The using department will be advised of any further problems or a revised delivery date. (as added by Ord. #14-01, March 2014)

**5-408. Contractual purchase.** Such materials, supplies, or services that are constantly needed for city operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the city. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be ten thousand dollars (\$10,000.00) or more within the fiscal year. For amounts below ten thousand dollars (\$10,000.00), the award will be made in accordance with procedures described in § 5-401. (as added by Ord. #14-01, March 2014)

**5-409. Items covered by warranty or guarantee.** The town may buy many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee.

The purchasing agent shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt. (as added by Ord. #14-01, March 2014)

**5-410. Signatures.** Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the purchasing agent, by action of the governing body, or by town charter. (as added by Ord. #14-01, March 2014)

**5-411. Sale of surplus property.** When a department head decides there is excess equipment or material in the department, he or she shall notify

the purchasing agent in writing. The purchasing agent will figure out the best way to dispose of those items with an estimated value of less than one hundred dollars (\$100.00) and let the department head know. Items with an estimated value of more than one hundred dollars (\$100.00) may be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Items may also be sold at public auction and/or by the online service of govdeals.com as alternate equipment disposal methods. Such equipment or materials will be sold to the highest bidder.

However, the purchasing agent may transfer surplus equipment or material from one department to another. He or she must be sure the finance officer knows about the transfer or sales. With approval of the governing body, equipment or material may also be sold at public auction. (as added by Ord. #14-01, March 2014)

**5-412. Inspection and testing.** When necessary, the purchasing agent may have all deliveries of supplies, materials, equipment, or contractual services inspected to be sure their performance is meeting specifications made in an order or contract.

The purchasing agent may also require chemical and physical tests of materials submitted with bids and delivery samples, or after products have been delivered. These tests may be necessary to be sure the quality of materials is up to the desired standards. When performing such tests, the purchasing agent may use lab facilities of any outside lab. (as added by Ord. #14-01, March 2014)

**5-413. General information.** (1) Federal excise tax. The city is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices.

(2) Standardization requirements. Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards the minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be bought on the basis of requirements for a six-month period.

(3) Inspection of deliveries. No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head.

(4) Correspondence with suppliers. Copies of any correspondence with suppliers concerning prices, adjustments, and defective merchandise shall be forwarded to the purchasing agent. All invoices, bills of lading, delivery tickets, and other papers relation to purchases shall be sent to the purchasing agent.

(5) Claims. The purchasing agent shall prosecute all claims for shortages, breakages, or other complaints against shipper or carrier in connection with shipments.

(6) Public inspection of records. The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

(7) Designee. When a position such as purchasing agent, finance officer, or department head is mentioned in this policy, their assistants or designees are acceptable substitutes if they have written permission to do so. (as added by Ord. #14-01, March 2014)

**5-414. Definitions.** (1) "Customarily purchased." Items that are regularly purchased under specific circumstances considered reasonable and appropriate. (Example: After two (2) consecutive years, then, not required after two (2) consecutive years of not attaining the total amount of ten thousand dollars (\$10,000.00)).

(2) "Like items." Items that are similar and may be bought at the lowest common denominator, such as size, color, etc.

(3) "Lot." A single grouping of like items to be purchased at one (1) time. (as added by Ord. #14-01, March 2014)

## CHAPTER 5

### HOTEL AND MOTEL OCCUPANCY TAX

#### SECTION

- 5-501. Definitions.
- 5-502. Tax Levied.
- 5-503. Billings, refunds and credits.
- 5-504. Remittance and timing.
- 5-505. Report required.
- 5-506. Tax not to be absorbed.
- 5-507. Delinquency and penalties.
- 5-508. Treasurer's powers.
- 5-509. Proceeds to be placed in general fund.

**5-501. Definitions.** As used in this chapter unless context otherwise requires:

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

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

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

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

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

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

(7) "Tax collector" means, for the purposes of this section, the city recorder or his/her designee.

(8) "Town" means the Town of Pleasant View, Tennessee.

(9) "Short term rental" refers to any structure, or any portion of any structure, furnished for dwelling, lodging, or sleeping purposes to transients for a consideration for less than thirty (30) days where the original intent and/or design of the structure was not to serve as lodging for transients; this includes apartments, houses, single family dwellings, and multifamily dwellings repurposed or temporarily used to dwell, lodge, or otherwise accommodate transients for sleeping purposes; this definition applies regardless of whether the owner and/or operator is a resident of the structure or any portion of the structure. (as added by Ord. #18-37, Dec. 2018)

**5-502. Tax levied.** There is hereby levied a tax on the privilege of occupancy of a hotel in an amount equal to five percent (5%) of the consideration paid by any transient to any hotel or motel operator for occupancy. The proceeds from this tax shall be used solely to promote tourism and economic development in the town and for no other purposes. (as added by Ord. #18-37, Dec. 2018)

**5-503. Billings, refunds, and credits.** Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel that is given directly or transmitted to the transient. Such tax is to be collected by such operator from the transient and remitted to the town.

When a person has maintained occupancy for ninety (90) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to said person, and the operator shall receive credit for the amount of such tax if previously paid or reported to the Town of Pleasant View. (as added by Ord. #18-37, Dec. 2018)

**5-504. Remittance and timing.** The tax hereby levied shall be remitted by all hotel and motel operators who lease, rent, or charge for any occupancy in a hotel within the town to the town's tax collector no later than the 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 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 town entitled to such tax shall be that of the operator. (as added by Ord. #18-37, Dec. 2018)

**5-505. Report required.** The town tax collector shall be responsible for the collection of such tax. A monthly tax return, signed under oath, shall be filed with the tax collector by each operator and shall include all facts and information as may be deemed reasonable by the tax collector for the verification of the tax due. The tax collector shall audit each operator at least

once per year to ensure compliance with this ordinance and shall report on the same to the board of mayor and aldermen.

It is the duty of every hotel operator liable for the collection and payment to the Town of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may deem necessary to determine the amount of such tax as said operator may have been liable for the collection of the payment to the town, which records the tax collector shall have the right to inspect at all reasonable times. (as added by Ord. #18-37, Dec. 2018)

**5-506. Tax not to be absorbed.** No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that, if added, any part will be refunded. (as added by Ord. #18-37, Dec. 2018)

**5-507. Delinquency and penalties.** Taxes collected by an operator which are not remitted to the tax collector on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of 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). Each day an operator willfully refuses to collect or remit the tax constitutes a separate offense for which the civil penalty shall apply. (as added by Ord. #18-37, Dec. 2018)

**5-508. Treasurer's powers.** The tax collector shall have as additional powers in the collection of this tax those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, title 67, or as otherwise provided by law for the county clerks.

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

With respect to the adjustment and settlement with taxpayers, all errors for taxes collected by the tax collector under authority of this section shall be refunded by the town. The tax collector shall have authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the tax collector. The tax collector is hereby designated as the officer against whom suit

may be brought for recovery of tax illegally assessed and collected. (as added by Ord. #18-37, Dec. 2018)

**5-509. Proceeds to be placed in general fund.** The tax collector is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund for the Town of Pleasant View. The proceeds of such tax shall be used solely to promote tourism and economic development in the town and for no other purposes. (as added by Ord. #18-37, Dec. 2018)