

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. PRIVILEGE TAXES.
2. WHOLESALE BEER TAX.
3. PURCHASING.
4. DEBT MANAGEMENT POLICY.

CHAPTER 1

PRIVILEGE TAXES

SECTION

- 5-101. Scope of taxation.
- 5-102. Definitions.
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- 5-106. Payment of taxes to state.

5-101. Scope of taxation. Pursuant to § 67-4-701 et seq., Tennessee Code Annotated, known as the "Business Tax Act" (the "act"), there are hereby levied annually taxes for the privilege of making sales or performing services within the City of McEwen (the "city") on any person engaged in any of the vocations, occupations, businesses or business activities declared so taxable pursuant to the act by municipalities, to the fullest extent therein provided, according to the classifications and upon and at the maximum rates of taxation as therein allowed to be imposed by municipalities, payable in such manner and at such times as provided in the act. (Ord. #173, July 1995)

5-102. Definitions. Definitions for the interpretation, application, operation and enforcement of this chapter shall be in accordance with and shall be the same as those definitions contained in the act. (Ord. #173, July 1995)

5-103. Prohibition and penalties. (1) No person shall exercise any privilege or perform any service taxable under the act unless at all times relevant thereto such person shall then hold a currently effective license, tax receipt or other indicia of payment of the taxes imposed by this chapter, duly

¹Charter references: §§ 21, 29, and 31.

issued by the recorder to such person, after having complied with the provisions of this chapter by the payment of the appropriate taxes herein provided.

(2) Any person who shall exercise such privileges without having complied with the provisions of this chapter shall, notwithstanding, be fully liable for the taxes that would otherwise have been required to have been paid. Any person who shall exercise such privileges without having fully complied with the provisions of this chapter shall thereby commit an offense against the city. Upon being found guilty of the commission thereof such person shall be fined \$50 and shall be required to pay the court costs as imposed in addition thereto. Each separate day of violation shall be considered a separate offense. (Ord. #173, July 1995)

5-104. Administration of chapter. The provisions for the administration, collection, computation, exemptions, credits allowable, making of returns and payment, requirements for the keeping of books and records, disclosure of information and the other provisions of the act governing the same are hereby adopted as the rules and regulations for the administration of this chapter by the city. (Ord. #173, July 1995)

5-105. Intention of chapter. It is the intention of this chapter to provide for the full taxation of all privileges allowed to be taxed by municipalities pursuant to the act and for the administration of the same within the city to be in accordance with all provisions of the act. (Ord. #173, July 1995)

5-106. Payment of taxes to state. The city shall pay to the State of Tennessee, as shall be required to be paid by local collectors annually, the percentage of such taxes as collected by the city as may by law be due the State of Tennessee. (Ord. #173, July 1995)

CHAPTER 2**WHOLESALE BEER TAX****SECTION**

5-201. To be collected.

5-201. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1970 Code, § 6-301)

¹State law reference

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

CHAPTER 3**PURCHASING****SECTION**

5-301. Purchases exceeding \$5,000.00.

5-301. Purchases exceeding \$5,000.00. Pursuant to the Municipal Purchasing Law of 1983, codified as § 6-56-301 et seq., Tennessee Code Annotated, there is increased the dollar amount from \$2,500 to \$5,000 for which public advertisement and competitive bidding shall be required for procurement, purchasing and lease or lease-purchasing of goods and services by the municipality. (as added by Ord. #195, June 1999)

CHAPTER 4

DEBT MANAGEMENT POLICY¹

SECTION

- 5-401. Definition of debt.
- 5-402. Approval of debt.
- 5-403. Transparency.
- 5-404. Role of debt.
- 5-405. Issuance term of debt.
- 5-406. Types and limits of debt.
- 5-407. Use of variable rate debt.
- 5-408. Use of derivatives.
- 5-409. Costs of debt issuance.
- 5-410. Refinancing outstanding debt.
- 5-411. Professional services.
- 5-412. Review of debt policy.

5-401. Definition of debt. For the purposes hereof debt shall consist of all obligations 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 city resources. Debt includes, but is not limited to, notes, bond issues, capital leases, and loans of any type (whether from an outside source such as a bank or from another internal fund of the city). (as added by Ord. #268, Nov. 2011)

5-402. Approval of debt. Proposed bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes shall be submitted to the Comptroller of the State of Tennessee ("Comptroller") and to the board prior to issuance or entering into the obligation. A plan for refunding an existing debt issue shall also be submitted to the Comptroller prior to issuance. Capital or equipment leases may be entered into by the board without prior Comptroller approval; provided, however, details on the lease agreement shall be forwarded to the Comptroller on the specified form required within forty-five (45) days. (as added by Ord. #268, Nov. 2011)

5-403. Transparency. (1) All legal requirements for notice and for public meetings related to a debt issuance shall be met as a condition precedent for the issuance of debt. Notices shall be posted in the customary and required

¹Ordinance 266 (June 14, 2014) adopts various governmental accounting policies and practices and is of record in the recorder's office.

posting locations throughout the city, including publication as required in local newspapers, posting on public bulletin boards, and on municipal websites.

(2) All costs (including principal, interest, issuance, continuing, and one-time incurred) shall be clearly presented and disclosed to the public, to the board and to others in interest in a timely manner.

(3) The terms and life of each debt issue shall be clearly presented and disclosed to the public, to the board and to others in interest in a timely manner.

(4) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the public, to the board and to others in interest in a timely manner (as added by Ord. #268, Nov. 2011)

5-404. Role of debt. (1) Long-term debt shall not be used to finance current operations.

(2) Long-term debt may be used for capital purchases or construction identified through capital improvement, regional development, transportation, and master processes or plans as from time-to-time formulated.

(3) Short-term debt may be used for certain project and equipment financing as well as for operational borrowing; however, the board will minimize the use of short-term cash flow borrowing by maintaining adequate working capital and close budget management. (as added by Ord. #268, Nov. 2011)

5-405. Issuance term of debt. In accordance with generally accepted accounting principles and state law,

(1) Maturity of an underlying debt will not be longer than the useful life of the assets being purchased or built with the debt, and in no event to exceed thirty (30) years; provided, however, an exception may be made with respect to federally sponsored loans if such exception is consistent with law and accepted practices.

(2) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #268, Nov. 2011)

5-406. Types and limits of debt. (1) The board shall limit the total outstanding debt obligations of the city at any one (1) time to an aggregate of two million five hundred thousand dollars (\$2,500,000.00) excluding overlapping debt, enterprise debt, and revenue debt.

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

(3) Total outstanding debt obligation of the city shall be monitored and reported to the board by the city recorder at least annually. The city recorder shall monitor maturities, terms and conditions of all obligations to ensure compliance. The city recorder shall also promptly report to the board on any matter that adversely affects the credit or financial integrity of the city.

(4) The city has variously issued in the past and/or is authorized to issue general obligation bonds, revenue bonds, tax increment financing, loans, notes and other debt allowed by law.

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

(6) As a rule, debt will not be incurred using backload, wrap-around techniques, balloon payments or other exotic formats to pursue financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, non-level debt methods may be used; provided, however, the use of such methods must be thoroughly discussed in a public meeting and the board must determine such use is justified and in the best interest of the city.

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

(8) Bonds backed with a general obligation pledges often have lower interest rates than revenue bonds. The board may use a general obligation pledge on the part of the city with a revenue bond issue when the population served by the revenue bond projects an overlap of revenue significantly the same as the property tax base of the city. The board is committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the general funds of the city. (as added by Ord. #268, Nov. 2011)

5-407. Use of variable rate debt. (1) The board recognizes the value of variable rate debt obligations in municipal financing benefit exists from the use of variable rate debt in the financing of needed infrastructure and capital improvements.

(2) The board also recognizes there are inherent risks associated with the use of variable rate debt and the board will implement steps to mitigate such risks:

(a) By annually including in the city budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

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

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

(d) Prior to entering into any variable rate debt obligation, the board will become informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.

(e) The board will consult with persons familiar with arbitrage rules to determine applicability, legal responsibility, and potential

consequences associated with any variable rate debt obligation. (as added by Ord. #268, Nov. 2011)

5-408. Use of derivatives. (1) The city shall not use derivative or other exotic financial structures in the management of the city debt portfolio.

(2) Before any reversal of the foregoing provision:

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

(b) The board must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements which complies with state funding board guidelines. (as added by Ord. #268, Nov. 2011)

5-409. Costs of debt issuance. (1) All costs associated with 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.

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

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded, that is, general obligations bonds in context of the general fund and revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes. (as added by Ord. #268, Nov. 2011)

5-410. Refinancing outstanding debt. (1) The city may refund debt when it is in the best financial interest of the city to do so, and the city recorder shall have the responsibility to analyze or cause to be analyzed outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the board and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The following issues shall be considered when analyzing possible refunding opportunities:

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

(b) When it is in the best financial interest of the city to meet unanticipated revenue expectations, to achieve cost savings, to mitigate irregular debt service payments, and to release reserve funds.

(c) If refunding will generate a positive minimum present value savings.

(d) The refunding is within the term of the originally issued debt; provided, however, a maturity extension may be considered when necessary to achieve a desired outcome if such extension is legally permissible.

(e) A shortened term of the originally issued debt if it will realize greater savings.

(f) The remaining useful life of the financed facility with the concept of inter-generational equity guiding any decision.

(3) The board shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the city from its own account nor shall the city purchase any such escrow securities.

(4) The board shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #268, Nov. 2011)

5-411. Professional services. (1) All professionals engaged in the process of issuing debt shall be required to clearly disclose all compensation and consideration received which is related to services provided in the debt issuance process paid or to be paid by both the city, the lender or any conduit issuer. This includes so called soft costs or compensations in lieu of direct payments.

(2) An engagement letter agreement shall be entered into with each lawyer or law firm representing the city in a debt transaction; provided, however, no engagement letter shall be required of any lawyer who is an employee of the city or under a general appointment or contract to serve as legal counsel to the city. No engagement letter with counsel shall be required of a lawyer not representing the city such as an underwriters counsel.

(3) If a financial advisor is engaged the city shall enter into a written agreement with each person or firm serving as a financial advisor in debt management and transactions which shall include provision that the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which it is or has been providing advisory services for the issuance.

(4) If there is no financial advisor then in advance of pricing of the debt in a publicly offered, negotiated sale, the underwriter must provide to the board pricing information both as to interest rates and as to take down per maturity.

(5) Professionals involved in a debt transaction hired or compensated by the city shall be required to disclose existing client and business relationships between and among the professionals to the transaction including, but not limited to, financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent, as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include

information reasonably sufficient to allow the board to appreciate the significance of the relationships.

(6) 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 will be required that violates any rule or regulation of professional conduct. (as added by Ord. #268, Nov. 2011)

5-412. Review of debt policy. The provisions of this legislation as an established municipal policy shall be reviewed annually by the board during the approval of the annual budget. (as added by Ord. #268, Nov. 2011)