

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

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5. PURCHASING POLICY.
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CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for city funds.

5-101. Official depository for city funds. Farmer's Bank, Volunteer State Bank, Cumberland Bank of Portland, Tennessee, and the Local Government Investment Pool are hereby designated as the official depositories for all city funds. (1980 Code, § 6-301, modified, as amended by Ord. #07-09, March 2007)

¹Charter reference: art. XI.

CHAPTER 2

PROPERTY TAXES

SECTION

- 5-201. Annual property tax levy.
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5-201. Annual property tax levy. As soon as the assessment role for the City of Portland is complete the city recorder shall submit a certified statement of the total amount of the valuation or assessment of the taxable property within the municipal limits. Upon presentation of such statement by the city recorder, the city council shall proceed by separate ordinance to make the property levy to meet the expenses of the municipality for the current fiscal year. (1980 Code, § 6-101)

5-202. Tax statements. Statements for taxes on real property located in the City of Portland shall be prepared by the city recorder and forwarded by mail to all taxpayers as soon as possible following September 1st each year. (1980 Code, § 6-102)

5-203. When due and payable. Taxes levied by the City of Portland against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1980 Code, § 6-103)

5-204. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by Tennessee Code Annotated, § 67-5-2010(b)(2) for delinquent real property taxes.

ASSESSMENTS

- January 1 Tax assessor makes assessment as of this date. Assessed taxes become lien on property.

- July 1 Municipal tax rate established by ordinance along with adoption of budget.

October 1	Taxes become due and payable. Prior to this date, notices sent to taxpayers of taxes due. City recorder will also give notice of any back-taxes due.
February 21	Reminder sent to taxpayers of taxes due.
February 28	Last day for paying taxes without penalty.

DELINQUENCIES

March 1	Taxes become delinquent. Penalties and interest (1.5 percent per month) accrue.
January 1 following year	City recorder prepares certified list of unpaid delinquent taxes. List forwarded to delinquent tax attorney by January 31 for initiation of tax suit.

TAX SUIT

February/April	Delinquent tax attorney must file suit for enforcement of tax liens during this period. Upon suit being filed, additional costs are added. These taxes are paid through chancery court clerk's office. (1980 Code, § 6-104)
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5-205. Notice of taxes due. With respect to any taxes and penalties remaining due and unpaid on the first day of March of the year following the year for which the taxes were assessed, it shall be the duty of the city recorder to give notice to such delinquent taxpayer in the current years tax statement, advising said taxpayer with the following: **IN ADDITION TO THIS AMOUNT, YOU OWE BACK TAXES. CONTACT THIS OFFICE IMMEDIATELY OR YOUR PROPERTY MAY BE SOLD.** (1980 Code, § 6-105)

5-206. Certified list of delinquent taxes to county trustee or delinquent tax attorney. In the event such taxes and penalties shall not be paid in full prior to the 1st day of March the year following the date specified in § 5-205, then it shall be the duty of the city recorder to deliver the delinquent list showing all unpaid taxes to the delinquent tax attorney, or to a special attorney appointed for such purpose, and to cause said attorney to prepare and file suits in the chancery and circuit courts for Sumner County, Tennessee, for the collection of all delinquent taxes and penalties thereon due the city. The suit shall provide for collection of unpaid taxes, interest, penalties, court costs, costs incurred in connection with any title search, and attorney fees which fees shall not exceed fifteen percent (15%) of the amount of unpaid taxes, interest and penalties. (1980 Code, § 6-106)

5-207. Property tax freeze program. (1) The property tax freeze program is provided for in chapter 581 of the Public Acts of 2007, codified in Tennessee Code Annotated, § 67-5-705, is hereby adopted by the legislative body of the City of Portland.

(2) The property tax freeze program shall be implemented and administered in accordance with Tennessee Code Annotated, § 67-5-705, and the rules promulgated by the State Board of Equalization through the Division of Property Assessments.

(3) The city recorder shall file a copy of the ordinance comprising this chapter with the Division of Property Assessments within forty-five (45) days of its adoption.

(4) The Sumner County Trustee is requested by the City of Portland to process all applications for a fee of ten dollars (\$10.00) per citizen application. (as added by Ord. #08-18, May 2008)

5-208. Partial payments for real and personal property taxes. Partial payments for real and personal property taxes are authorized in the City of Portland, Tennessee. (as added by Ord. #10-24, Oct. 2010)

CHAPTER 3

PRIVILEGE TAXES¹

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 4) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed in the following classifications:

(1) Items: Due November 30; delinquent February 1st.

PERCENT OF TAX

- | | | |
|-----|---|---|
| (a) | Retail food, beer | 1/15 of 1% of all retail sales |
| (b) | Lumber, Hardware, Plumbing/ Heating/ Air Conditioning Equipment, Electrical Supplies, Farm Equipment; Gasoline and Other Sales by Service Stations. | 1/60 of 1% of Wholesale Sales of Item (a)

1/40 of 1% of Wholesale Sale of Item (b) |

(2) Items: Due December 31; delinquent March 1st.

PERCENT OF TAX

- | | | |
|-----|--|--------------------------------|
| (a) | New & Used Cars, Boats, Parts & Supplies
Mobile Homes, Campers, Motorcycles | 1/10 of 1% of all retail sales |
|-----|--|--------------------------------|

¹Fee to state: 15% of total gross receipts tax collected, including penalties and interest, but excluding city recorder's fee.

PERCENT OF TAX

- | | | |
|-----|--|--------------------------------------|
| (b) | Ready-made Clothing | |
| (c) | Home Furnishings &
Equipment, Radios,
TV, Record Players | 1/40 of 1% of all wholesale
sales |
| (d) | Drugs | |
| (e) | Coal, Fuel, Oil, LP Gas | |
| (f) | Tangible Personal Property,
Not described elsewhere | |
| (g) | Prepared Food & Drinks,
including alcoholic beverages | |
| (h) | Cut Flowers & Growing Plants | |
| (i) | Advertising Specialties | |
- (3) Items: Due April 30; delinquent June 30th.

PERCENT OF TAX

- | | | |
|-----|---|--------------------------------------|
| (a) | Delicatessens, Candy | 1/8 of 1% of all retail sales |
| (b) | Clothing Made to Order | |
| (c) | Repealed | |
| (d) | Antiques, Art | |
| (e) | Books, Magazines, Office
Supplies | 1/40 of 1% of all wholesale
sales |
| (f) | Sporting Goods, Bicycles | |
| (g) | Mounted Jewelry | |
| (h) | Tobacco | |
| (i) | Repealed | |
| (j) | Toys and Hobbies (except as
in "m") | |
| (k) | Cameras, Film, Photo
Equipment | |
| (l) | Gifts, Souvenirs, Greeting
Cards, Novelties | |
| (m) | Artificial Flowers, Gemstones,
Leather Goods, Luggage,
Typewriters, Pets, Wigs,
Hearing Aids, Etc. | |

Each person making sales of services, except architectural, engineering, medical, dental, veterinary, legal, accounting, banking, insuring, educational & domestic services; leasing agricultural, airport, mining, oil & public utility property; conducting certain athletic matches; operating hotels & motels; etc.

- (4) Items: Due Nov. 30; delinquent Feb. 1st.

PERCENT OF TAX

- | | | |
|-----|---|--|
| (a) | Contractors, Exterminators | 1 / 1 5 of 1 % of Compensation under the contract, whether in form of contract price, commission, fee, or wage, of item (a). |
| (b) | Sale of Livestock, Poultry, and other Farm Products by a Person other than the Producer | 1 / 4 0 of 1 % of gross commissions, margins, fees etc. of item (b) |

- (5) Items:

Taxed only by state.

The minimum tax to be levied under all classifications shall not be less than fifteen dollars (\$15.00). (1980 Code, § 6-201)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1980 Code, § 6-202)

CHAPTER 4**AMUSEMENT TAX****SECTION**

5-401. Privilege license required.

5-401. Privilege license required. It shall be unlawful for any person, firm, or corporation to operate a theater, motion picture or vaudeville show within the corporate limits of the City of Portland without first obtaining a privilege license from the city recorder. (1980 Code, § 6-401)

CHAPTER 5

PURCHASING POLICY

SECTION

- 5-501. Definitions.
- 5-502. Purchasing agent.
- 5-503. General procedures.
- 5-504. Rejection of bids.
- 5-505. Conflict of interest.
- 5-506. Purchasing from employee.
- 5-507. Sealed bid requirements greater than \$15,000.00.
- 5-508. Competitive bidding \$6,000.00 to \$15,000.00.
- 5-509. Purchases and contracts costing less than \$6,000.00.
- 5-510. Bid deposit.
- 5-511. Performance bond.
- 5-512. Record of bids.
- 5-513. Considerations in determining bid awards.
- 5-514. Award splitting.
- 5-515. Statement when award not given to low bidder.
- 5-516. Award in case of tie bids.
- 5-517. Back orders.
- 5-518. Emergency purchases.
- 5-519. Waiver of the competitive bidding process.
- 5-520. Goods and services exempt from competitive bidding.
- 5-521. Procedures upon taking delivery of purchased items.
- 5-522. Property control.
- 5-523. Disposal of surplus property.
- 5-524. Employee participation in disposal of surplus property.
- 5-525. Surplus property: items consumed in the course of work thought to be worthless.
- 5-526. Surplus property: items estimated to have monetary value.
- 5-527. Surplus property: city identification removed prior to sale.
- 5-528. Liability for excess purchases.
- 5-529. Additional forms and procedures.

5-501. Definitions. For the purpose of implementing this policy, the following definitions shall apply:

- (1) "Accept." To receive with approval or satisfaction.
- (2) "Acknowledgment." Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.
- (3) "Agreement." A coming together in opinion or determination; understanding and agreement between two (2) or more parties.

(4) "All or none." In procurement, the city reserves the right to award each item individually or to award all items on an all or none basis.

(5) "Annual." Recurring, done, or performed every year.

(6) "Appropriations." Public funds set aside for a specific purpose or purposes.

(7) "Approved." To be satisfied with, admit the propriety or excellence of, to be pleased with, to confirm or ratify.

(8) "Approved equal." Alike, uniform, on the same plane or level with respect to efficiency, worth, value, amount or rights.

(9) "Attest." To certify to the verity of a public document formally by signature, to affirm to be true or genuine.

(10) "Award." The presentation of a contract to a vendor, to grant, to enter into with all required legal formalities.

(11) "Awarded bidder." Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the city.

(12) "Back order." The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.

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

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

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

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

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

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

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

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

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

(22) "Capital items." Equipment which has a life expectancy of one (1) year or longer and a value in excess of two thousand five hundred dollars (\$2,500.00). Additionally, real estate shall be considered a capital item.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(48) "Public." Open to all.

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

(50) "Purchase requisition." A document from the department desiring item(s) or services to be purchased on their behalf that outlines the description, quantity, estimated cost and the account distribution for the item(s) or services being requested.

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

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

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

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

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

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

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

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

(59) "Vendor." The person who transfers property, goods, or services by sale. (1980 Code, § 6-501, as replaced by Ord. #14-21, July 2014, and amended by Ord. #15-06, Feb. 2015)

5-502. Purchasing agent. The city recorder shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be approved and acquired by the purchasing agent or his/her representative (purchasing administrator). (1980 Code, § 6-502, as replaced by Ord. #14-21, July 2014)

5-503. General procedures. Our charter requires that the purchasing policy be established and implemented by ordinance with the bid limits established at an upper limit of no greater than twenty-five thousand dollars (\$25,000.00) and a lower limit at forty percent (40%) of the upper limit. As such this purchasing policy is establishing an upper limit of twenty-five thousand dollars (\$25,000.00) and the lower limit of forty percent (40%) of the upper limit, ten thousand dollars (\$10,000.00).

All purchases made from funds subject to the authority of this policy shall be made within the limits of the approved budget and/or the appropriations for the department, office or agency for which the purchase is made. The following procedures shall be followed by all city employees when purchasing goods or services on behalf of the city.

The department head of the using department shall deliver to the purchasing administrator a written or electronic purchase requisition for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item(s) being purchased, the estimated cost of the item(s), shall indicate whether the item(s) have been approved in the annual budget and the account distribution for the purchase. Additionally at least three (3) quotes should be obtained and included with the purchase requisition if practical. A minimum of two (2) quotes are required unless a single source purchase. A Department Head can approve a purchase that is within a budgeted line item up to a limit of five thousand dollars (\$5,000.00). Amounts over five thousand dollars (\$5,000.00) must be approved by the mayor unless they have been previously approved by action of the council.

The purchasing administrator shall review the purchase requisition for completeness and accuracy and proper approvals. A purchase order will be generated from the information and a purchase order package completed to be given to the purchasing agent (city recorder) for review and approval. Orders will be placed from approved purchase orders.

For specific dollar limits additional procedures will be followed as follows:

(1) Items expected to cost more than twenty-five thousand dollars (\$25,000.00). These item(s) or service(s) should have followed the additional procedures for sealed bid requirements.

(a) The person issuing the requisition should additionally include a copy of the resolution/ordinance number approving the bid.

(b) The purchasing administrator shall review that the respective board approved resolution or ordinance authorizing the acceptance of the bid for the respective item(s) or service(s) is attached.

(2) Items expected to cost ten thousand dollars (\$10,000.00) to twenty-five thousand dollars (\$25,000.00).

(a) The person issuing the requisition should additionally include the quotes, tally sheets or other quote information from at least two (2) suppliers for the item(s) being purchased. The normal should be three (3) quotes for all purchases, but three (3) will be acceptable if a third is not readily available. The lowest quote information should be used to generate the purchase requisition. If the lowest quote is not used then an explanation should be attached explaining the reasoning for the deviation. The requisition package should be presented to the mayor for approval before being delivered to the purchasing administrator for processing.

(b) The purchasing administrator shall review that the required quotes are attached and that either the lowest quote was accepted or that proper explanation for acceptance of the higher quote is included along with proper approval by the mayor. (1980 Code, § 6-503, as replaced by Ord. #14-21, July 2014, and amended by Ord. #15-06, Feb. 2015, and Ord. #17-87, Jan. 2018)

5-504. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for any one (1) or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the city by said vendor or contractor. (1980 Code, § 6-504, as replaced by Ord. #14-21, July 2014)

5-505. Conflict of interest. All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of the City of

Portland and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest. (1980 Code, § 6-505, as replaced by Ord. #14-21, July 2014)

5-506. Purchasing from employee. It shall be the policy of the city not to purchase any goods or services from any employee or close relative of any city employee without the prior approval of the mayor for purchases under one thousand dollars (\$1,000.00). Amounts over one thousand dollars (\$1,000.00) require board of alderman approval. (1980 Code, § 6-506, as replaced by Ord. #14-21, July 2014)

5-507. Sealed bid requirements greater than \$25,000.00. (1) On all purchases and contracts estimated to be in excess of twenty-five thousand dollars (\$25,000.00), except as otherwise provided in this policy, formal sealed bids shall be submitted at a specified time and place to the purchasing agent or the purchasing administrator. The purchasing agent and/or the respective department head shall submit all such bids for award by the board of mayor and aldermen at the next regularly scheduled board meeting or special-called meeting together with the recommendation as to the lowest responsive bidder.

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

(3) In addition to publication in a newspaper, the purchasing agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media. (1980 Code, § 6-507, as replaced by Ord. #14-21, July 2014, and amended by Ord. #15-06, Feb. 2015, and Ord. #17-87, Jan. 2018)

5-508. Competitive bidding \$10,000.00 to \$25,000.00. (1) All purchases of supplies, equipment, services, and contracts estimated to cost between ten thousand dollars (\$10,000.00) and twenty-five thousand dollars (\$25,000.00), shall be by competitive bidding and may be awarded to the lowest responsive bidder.

(2) Bids shall be requested from at least three (3) suppliers (preferably three (3)) of the goods or services to be purchased or leased; and these requests for bids shall be made by the representative department head and shall be submitted, along with the purchase requisition, for approval by the mayor and/or city recorder. A written record shall be required and available for public inspection showing that competitive bids were obtained by one (1) of the following methods:

(a) Direct mail advertisement;

- (b) Telephone bids;
- (c) Public notice.

(3) The purchasing agent shall verify account balances, prior to issuing approval to purchase.

(4) In the purchasing agent's absence, the mayor shall designate a suitable substitute to perform the purchasing agent's duties. (1980 Code, § 6-508, as replaced by Ord. #14-21, July 2014, and amended by Ord. #17-87, Jan. 2018)

5-509. Purchases and contracts costing less than \$10,000.00. The purchasing agent is expected to obtain the best prices and services available for purchases and contracts estimated to be less than ten thousand dollars (\$10,000.00), but are exempted from the formal bid requirements specified in §§ 5-507 and 5-508 of this policy. However, at least three (3) quotes should be obtained in order to assure the best pricing is being obtained when practical. The quotes should be attached to the purchase requisition. (as added by Ord. #14-21, July 2014, and amended by Ord. #17-87, Jan. 2018)

5-510. Bid deposit. When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the purchasing agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within fifteen (15) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within fifteen (15) days after the award. (as added by Ord. #14-21, July 2014)

5-511. Performance bond. The purchasing agent may require a performance bond before entering into a contract, in such amount as he/she shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in the penalty of not less than the amount provided by Tennessee Code Annotated. (as added by Ord. #14-21, July 2014)

5-512. Record of bids. The purchasing agent shall keep a record of all open market orders and bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained in the city recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request of start bid procedures;
- (2) A copy of the bid advertisement;
- (3) A copy of the bid specifications;
- (4) A list of bidders and their responses;
- (5) A copy of the purchase order. (as added by Ord. #14-21, July 2014)

5-513. Considerations in determining bid awards. The following criteria shall be considered in determining all bid awards:

- (1) The ability of the bidder to perform the contract or provide the material or service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder. This should be documented evidence.
- (4) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.
- (6) The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.
- (7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.
- (8) Compliance with all specifications in the solicitation for bids.
- (9) The ability to deliver and maintain any requisite bid bonds or performance bonds.
- (10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance. (as added by Ord. #14-21, July 2014)

5-514. Award splitting. If total savings generated is less than one thousand dollars (\$1,000.00), bids awards shall not be split among two (2) or more bidders. (as added by Ord. #14-21, July 2014)

5-515. Statement when award not given to low bidder. When the award for purchases and contracts in excess of ten thousand dollars (\$10,000.00) is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent or department head and filed with all the other papers relating to the transaction. (as added by Ord. #14-21, July 2014, and amended by Ord. #17-87, Jan. 2018)

5-516. Award in case of tie bids. When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

- (1) If all bids received are for the same amount, quality of service being equal, the purchase contract shall be awarded to the local bidder.
- (2) If two (2) or more local bidders have submitted the low bid, the criteria of § 5-513 will be used to award the bid. If the criteria of § 5-513 being equal, the purchase contract shall be awarded by a coin toss or drawing lots.
- (3) If no local bids are received and two (2) or more out-of-town bidders have submitted the low bid, the criteria of § 5-513 will be used to award the bid.

If the criteria of § 5-513 being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses. (as added by Ord. #14-21, July 2014)

5-517. Back orders. All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items shall be cancelled from the purchase order and the check will be issued to the equal amount of the amended purchase order. (as added by Ord. #14-21, July 2014)

5-518. Emergency purchases. When in the judgment of the mayor and/or purchasing agent that an emergency exists, the provisions of this policy may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the board of mayor and aldermen at the next regular board meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (as added by Ord. #14-21, July 2014)

5-519. Waiver of the competitive bidding process. Upon the recommendation of the mayor, and the subsequent approval of the board of mayor and aldermen through resolution, that it is clearly to the advantage of the city not to contract by competitive bidding, the requirements of competitive bidding may be waived provided that the following criteria are met and documented in the resolution:

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

(2) State Department of General Services. Purchase the product or service through or in conjunction with the State Department of General Services or via a state contract.

(3) Purchase from other governmental entities. Purchase of used or secondhand items from any other government. In addition the purchase of used or secondhand items can be purchased from any private individual or entity as long as the city documents the range of value of the purchased item through a nationally recognized publication or licensed appraiser and the price paid is no more than five percent (5%) higher than the documented range.

(4) Purchase on other governmental entities bid. Purchase equipment from a vendor under the same price and terms of a legal bid initiated by any other governmental unit of the state. This authorization does not apply to the purchase of new general purpose motor vehicles or purchases related to any

transportation infrastructure project. Special purpose vehicles are allowed under this provision.

(5) Cooperative purchasing agreements. Purchase of any supplies, services or joint construction with one (1) or more local governments under a cooperative purchasing agreement. An agreement must be entered into between the participants.

(6) Joint or multi-party agreements. Participation in a joint or multi-party master agreement by adopting a resolution accepting the terms of the master agreement. Documentation must be acquired and maintained showing that the procuring entity complied with its own purchasing requirements. This authorization does not apply to new motor vehicles, construction engineering or architectural services or construction materials. This provision applies to in-state and out-of-state organizations.

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

(8) Purchases from Tennessee state industries. A thorough effort was made to purchase the goods or services from Tennessee state industries (prison industries). (as added by Ord. #14-21, July 2014)

5-520. Goods and services exempt from competitive bidding. The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the purchasing agent and/or department head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the city:

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

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

(3) Motor fuel products, or perishable commodities. Such commodities may be purchased without competitive bidding.

(4) Professional service contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required by the city may be hired without competitive bidding. In those instance where such professional service fees are expected to exceed one thousand dollars (\$1,000.00), a written contract shall be developed and approved by the board of mayor and aldermen prior to the provision of any goods or services. Contracts for professional services shall not be awarded on the basis of competitive bidding; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity. (as added by Ord. #14-21, July 2014, and amended by Ord. #17-87, Jan. 2018)

5-521. Procedures upon taking delivery of purchased items. Before accepting delivery of purchased equipment, supplies, materials and other tangible goods, the department head of the using department shall:

- (1) Inspect the goods to verify that they are in acceptable condition.
- (2) Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
- (3) Verify that the number of items purchased has been delivered; making special note when part or all of a particular purchase has been back ordered.
- (4) Record serial numbers for all capital items, notifying the city recorder of same.
- (5) Complete and return to the purchasing agent a material receiving report form. (as added by Ord. #14-21, July 2014)

5-522. Property control. A physical inventory of the city's fixed assets shall be taken at least once every three (3) years. The goals of the inventory shall be as follows:

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

To be classified as a fixed asset, an item must be tangible, have an expected life longer than the current fiscal year, and have a value of at least two thousand five hundred dollars (\$2,500.00). Any property or equipment that meets these criteria shall be assigned an asset number (affixed with a property sticker) and have a completed property card. Such records shall be controlled and maintained by the city recorder. (as added by Ord. #14-21, July 2014)

5-523. Disposal of surplus property. The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the board of mayor and aldermen after the items are disposed of. When a department head determines there is surplus equipment or materials within the department, he/she shall notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. (as added by Ord. #14-21, July 2014)

5-524. Employee participation in disposal of surplus property. City employees shall only be permitted to bid on surplus property in a sealed bid process or auction process; and no surplus property shall be given to a city employee by the board of mayor and aldermen, the purchasing agent or any city department head. For the purposes of this policy, members of the board of mayor and aldermen cannot bid on or receive surplus property. This provision is not applicable to items of nominal value (less than twenty dollars (\$20.00)).

Additionally, no city employee is allowed to bid in any manner on items that they have been involved in the confiscation of or determination of surplus of the property. (as added by Ord. #14-21, July 2014)

5-525. Surplus property; items consumed in the course of work thought to be worthless. City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. For accounting purposes, such items shall be charged off as a routine cost of doing business. (as added by Ord. #14-21, July 2014)

5-526. Surplus property; items estimated to have monetary value. When disposing of surplus property estimated to have monetary value, the purchasing agent shall comply with the following procedures:

(1) Obtain from the board of mayor and aldermen a resolution declaring said items to be surplus property and fixing the date, time and location for the purchasing agent to receive bids.

(2) A copy of the resolution shall be posted in at least three (3) locations in the community.

(3) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within twenty-four (24) hours, the item shall be awarded to the second highest bidder.

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

(5) The advertisement, bids, and property cards shall be retained for a minimum period of five (5) years. (as added by Ord. #14-21, July 2014)

5-527. Surplus property; city identification removed prior to sale. No surplus city property shall be sold unless and until all decals, emblems, lettering, or coloring which identifies the item as belonging to the City of Portland have been removed or repainted. (as added by Ord. #14-21, July 2014)

5-528. Liability for excess purchases. This chapter shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the board of mayor and aldermen. The city shall have no liability for any purchase made in violation of this chapter. (as added by Ord. #14-21, July 2014)

5-529. Additional forms and procedures. The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (as added by Ord. #14-21, July 2014)

CHAPTER 6

UNCLAIMED PROPERTY

SECTION

- 5-601. Purpose.
- 5-602. Definitions.
- 5-603. Policy.
- 5-604. Procedure.
- 5-605. Sanctions.

5-601. Purpose. The unclaimed property policy provides direction for reporting and disposing of unclaimed property. It is to ensure compliance with the laws of the State of Tennessee concerning the identification and disposition of unclaimed property while under the control of the City of Portland, improve internal controls, and establish unclaimed property procedures. (as added by Ord. #09-75, Jan. 2010)

5-602. Definitions. (1) "Dormancy period." The period in which the holder may hold the property interest before it is presumed to be abandoned. During this period, the unclaimed property is not required to be reported to the state. Most property falls under the five (5) years for dormancy with the exception of payroll checks which is one (1) year, and utility deposits/refunds which is two (2) years. During this time, the holder should perform due diligence in trying to locate the true owners of the unclaimed property. The holder of the unclaimed property does not have to wait until the dormancy period is over to report unclaimed property.

(2) "Due diligence." Tennessee Code Annotated, § 66-29-113 requires due diligence on all unclaimed property of fifty dollars (\$50.00) or more. All holders are legally bound to perform due diligence – a good faith effort to find the true owners of unclaimed property. Due diligence is performed by mailing a first-class or registered letter to the last known address of the property owner.

(3) "Due diligence period." Due diligence must take place no more than one hundred twenty (120) days or less than sixty (60) days to filing the report which is due May 1st. This would be the period after the year ended December 31st from January 1 to February 28th/29th.

(4) "Holder." The entity that is in possession or controls the property until it is transferred to the state on behalf of the lost owner.

(5) "Unclaimed property." Unclaimed property consists of funds or collateral in the city's possession that have gone unclaimed by, or undelivered to the true owner for the statutory period (dormancy period for most property is five (5) years in the State of Tennessee). Examples include, but are not limited to: outstanding checks, accounts receivable credit balances (utility, tax and court

overpayments), outstanding wage checks and vendor credit balances. This policy does not address lost and found items. (as added by Ord. #09-75, Jan. 2010)

5-603. Policy. The City of Portland is subject to the State of Tennessee's Uniform Disposition of Unclaimed Property Act in accordance with the Unclaimed Property Law, Tennessee Code Annotated, §§ 66-29-101 through 66-29-134 and Regulations 1700-2-1-.01 through 1700-2-1-.36. This act requires the city to exercise due diligence in attempting to locate owners of unwanted property in its custody and to annually report certain unclaimed property to the state. Tennessee law requires filing of an annual report of unclaimed property in accordance with the provisions of Tennessee Code Annotated, § 66-29-101, et. seq. Any unclaimed property will be written off the city's books and the funds will be deposited with the state treasurer as unclaimed property. These funds then become the property of the state. A claim from the original owner of the property must be made with the state treasurer's office in order to receive the funds.

The city recorder's office is responsible for the proper disposition of unclaimed property. The city will recognize unclaimed property as a general liability. (as added by Ord. #09-75, Jan. 2010)

5-604. Procedure. The city recorder is responsible for the proper disposition of unclaimed property. This process includes the identification, recognition, notification, reporting and remittance functions for all unclaimed property such as accounts receivable credit balances, outstanding vendor checks, and outstanding wage checks.

(1) At the end of the calendar year, December 31, each department within the city shall identify and report all property that meets the definition of unclaimed property to the city recorder's office. If departments are unclear or have questions about whether certain items meet the definition, contact the city recorder's office. The various responsible departments of the city shall maintain sufficient detailed accounting records. In particular, the utility, accounts payable, and payroll departments should report on unclaimed property to the city recorder.

(2) Prior to making a determination as to whether property such as credit accounts receivable balances or vendor credits is unclaimed, balances over fifty dollars (\$50.00) must be researched to determine validity. Once credits have been substantiated, they are treated as unclaimed property. If balances are not accurate, corrections and/or adjustments must be made and documented.

(3) If balances are below fifty dollars (\$50.00), research and due diligence is required. However, the property must be included on the report provided to the city recorder's office.

(4) Such department should determine the dormancy period for the type of property under review. The dormancy for most property is five (5) years. Some exceptions include wages (one (1) year) and utility deposits/refunds (two

(2) years). Departments should document the last transaction date. The city does not have to wait the full statutory period to report property items. The property may be reported at any time, provided due diligence has been exercised in attempting to notify the property owner to eliminate the city's accountability and responsibility.

(5) The city recorder's office is responsible for exercising due diligence in attempting to notify the property owner by sending notification of unclaimed property by first-class or registered mail to the last known address of the property owner.

(6) Mail returned as "undeliverable" is evidence that the owner cannot be located. If the owner cannot be located, the property should be considered abandoned and reported as unclaimed. Unreturned mail is considered a contact (i.e. the owner received the notification and is now aware of the property's location).

(7) If contact is established, the property is no longer considered to be abandoned and should not be reported to the state. If the owner does not claim the property or provide the city directions for disposing of the property within ninety (90) days of the date of contact, the city may then assume ownership of the property. Non-cash items may be sold or disposed of as surplus property in accordance with city policy. Cash items will revert back to the city.

(8) Each department will provide to the city recorder a report of all items determined to be unclaimed property with the name, mailing address, social security number, last transaction date, account and/or check number, property type, and amount. This report should be provided to the city recorder's office by March 15th.

(9) The city recorder's office will review and compile all information submitted by each department. After review, the recorder's office will record the appropriate accounting entries and ensure that reconciliation has occurred.

(10) The city recorder's office shall determine if any further due diligence is required prior to reporting property as unclaimed. Due diligence must be exercised not more than one hundred twenty (120) days and not less than sixty (60) days before filing a report with the state.

(11) The city shall file a report containing all property presumed abandoned and held as of December 31. At the time of filing such report, the city shall, with that report, pay or deliver to the state treasurer all unclaimed funds and intangible property specified in the report. The report must be filed on or before May 1 of each year. Property reports should be delivered to: Treasury Department, Unclaimed Property Division, P.O. Box 198649, Nashville, TN 37219-8649. The report shall include a notarized verification and affidavit under the signature of the Mayor of the City of Portland.

(12) This report shall contain detail sufficient to make a proper account and remittance to the state treasurer. The city shall elect to use the electronic media for reporting provided by the state at no cost to the city. The media is available at the website listed under "references."

(13) Lost and found items are not considered to be unclaimed property and should not be reported in the unclaimed property reporting. These items should be disposed of in accordance with city security procedures.

(14) Confiscated property will not be considered abandoned and should be treated as city surplus property for disposal purposes. Confiscated firearms and other hazardous items should be disposed of in accordance with local statutes. (as added by Ord. #09-75, Jan. 2010)

5-605. Sanctions. Failure to comply with this policy may result in disciplinary actions as set forth in the city's policies and procedures. (as added by Ord. #09-75, Jan. 2010)

CHAPTER 7

AUDIT COMMITTEE

SECTION

5-701. Established.

5-702. Members and terms of appointment.

5-703. Meetings.

5-704. Financial expert.

5-705. Duties and responsibilities of committee.

5-706. Funding.

5-707. Approval of comptroller and board of mayor and aldermen.

5-701. Established. Pursuant to the provisions of Tennessee Code Annotated, § 9-3-405, the Mayor and Board of Aldermen of the City of Portland does hereby establish an audit committee to provide independent review and oversight of the city's financial reporting processes and the city's internal controls, a review of the external auditor's report and follow up on management's corrective action, and compliance with laws, regulations and ethics. (as added by Ord. #15-25, April 2015)

5-702. Members and terms of appointment. The audit committee will consist of three (3) members, to be comprised of one (1) member from the standing board of alderman and two (2) citizens of the City of Portland. To insure the committee's independence and effectiveness, no audit committee member will be an employee, spouse of an official/employee or a person that comingles assets with an official/employee of the City of Portland. While committee members need not be accountants, they should possess sufficient knowledge and experience in finance, business and accounting to discharge the committee's duties. The members of the audit committee shall be appointed by the mayor and approved by resolution by the board of aldermen for staggered two (2) year terms. To establish staggered terms, the initial members of the committee shall be appointed so that one (1) citizen is appointed to a one (1) year term and one (1) citizen is appointed to a two (2) year term with the member of the board of aldermen appointed to a two (2) year term. Thereafter all members shall be appointed to serve two (2) year terms. All terms will commence on April 1. (as added by Ord. #15-25, April 2015)

5-703. Meetings. Meetings of the audit committee shall be held in accordance with the provisions of Tennessee Code Annotated, § 9-3-405. Meetings shall be subject to the open meetings provisions of Tennessee Code Annotated, title 8, chapter 44, except that upon a majority vote of those members in attendance for the public portion of a meeting, the audit committee

may hold confidential, nonpublic executive sessions to discuss the following items as authorized in Tennessee Code Annotated, § 9-3-405:

(1) Items deemed not subject to public inspection under Tennessee Code Annotated, §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged;

(2) Current or pending litigation and pending legal controversies;

(3) Pending or ongoing audits or audit related investigations;

(4) Information protected by federal law; and

(5) Matters involving the reporting of illegal, improper, wasteful, or fraudulent activity under Tennessee Code Annotated, § 9-3-406, where the informant has requested anonymity.

The audit committee will follow Roberts Rules of Order. Each year at its first meeting, the committee will elect a chairman, vice-chairman and secretary. Meeting agendas will be prepared by the chairman and provided in advance to members along with appropriate briefing materials. Minutes of the audit committee meetings will be filed in the office of the city recorder. (as added by Ord. #15-25, April 2015)

5-704. Financial expert. The committee shall have access to the services of a financial expert, either through a committee member or an outside party engaged by the committee for this purpose. Such financial expert should, through both education and experience, and in a manner specifically relevant to the city government sector, possess

(1) An understanding of generally accepted accounting principles and financial statements;

(2) Experience in preparing or auditing financial statements of comparable entities;

(3) Experience in applying such principles in connection with the accounting for estimates, accruals, and reserves;

(4) Experience with internal accounting controls; and

(5) An understanding of audit committee functions. (as added by Ord. #15-25, April 2015)

5-705. Duties and responsibilities of committee. The duties and responsibilities of the audit committee are:

(1) To review the proposals from the external audit firms and make a recommendation to the mayor and board of aldermen on the firm that should be contracted with for the annual audit. Audit contracts will be for a three (3) year period.

(2) To carefully review, upon completion of the city's annual audit, all audit findings in audit report and consult with the external auditors regarding any irregularities and deficiencies disclosed in the annual audit. The audit committee is empowered to meet with management to discuss audit findings and/or disagreements with the external auditors. The committee should satisfy

itself that appropriate and timely corrective action has been taken by management to remedy any identified weaknesses. The committee should determine what corrective action, if any, should be recommended to the mayor and board of aldermen.

(3) To consider the effectiveness of the internal control system, including information technology security and control, review the effectiveness of the system for monitoring compliance with laws and regulations, and review the process for communicating the city's ethics policies to the city's personnel and monitoring compliance therewith.

(4) To establish a process by which employees, taxpayers, or other citizens may confidentially report suspected illegal, improper, wasteful or fraudulent activity under provisions of Tennessee Code Annotated, § 9-3-406.

(5) To annually present a written committee report detailing how it discharged its duties and nay committee recommendations to the full board of alderman. (as added by Ord. #15-25, April 2015)

5-706. Funding. The audit committee will be adequately funded to carry out the duties and responsibilities as set out in this chapter and under applicable law. (as added by Ord. #15-25, April 2015)

5-707. Approval of comptroller and board of mayor and aldermen. This chapter creating the duties and responsibilities of the audit committee has been submitted to the comptroller prior to approval by this legislative body, and this chapter conforms with the report issued by the comptroller. (as added by Ord. #15-25, April 2015)

CHAPTER 8

HOTEL-MOTEL TAX

SECTION

5-801. Hotel-motel tax.

5-801. Hotel-motel tax. The governing body of the City of Portland, Tennessee, has approved that a two and one half percent (2.5%) hotel-motel tax shall be imposed. (as added by Ord. #17-57, Sept. 2017)