

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. PURCHASE REGULATIONS.
5. MUNICIPAL PURCHASING LAW OF 1983.

CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depositories for city funds.

5-101. Official depositories for city funds. The Macon Bank and Trust Company, Red Boiling Springs, Tennessee, branch and Citizens Bank, Red Boiling Springs, Tennessee, branch, are hereby designated as the official depositories for all municipal funds. (1980 Code, § 6-101)

¹Charter reference: art. IV.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-201. When due and payable.¹ The city's property taxes are due and payable on and after October 1 in the year for which assessed and shall become delinquent on March 1 of the following year. (1980 Code, § 6-201, as replaced by Ord. #14-9, Sept. 2014)

5-202. When delinquent--penalty and interest.² Penalties and interest on delinquent taxes shall be fixed at one-half (1/2) of one percent (1%) for penalties and one percent (1%) for interest and shall be added on the first day of March, following the tax due date and on the first day of each succeeding month. (1980 Code, § 6-202, as replaced by Ord. #14-9, Sept. 2014)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

CHAPTER 3**PRIVILEGE TAXES****SECTION**

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act, subject to the minimum tax set forth therein, plus a fee of one dollar (\$1.00) for collecting and recording amounts from the business tax. The taxes shall be collected in the manner prescribed by said act. The proceeds of the privilege taxes herein levied shall accrue to the general fund. (1980 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the city clerk to each applicant therefor upon the payment of the appropriate privilege tax. (1980 Code, § 6-302)

CHAPTER 4

PURCHASE REGULATIONS

SECTION

- 5-401. Purchasing categories.
- 5-402. Formal competitive bidding procedure.
- 5-403. Determining the lowest responsible bidder.
- 5-404. Award to other than low bidder.
- 5-405. Tie bid: manner of resolution.
- 5-406. Rejecting bids.
- 5-407. Clause required in all contracts.
- 5-408. Exceptions.

5-401. Purchasing categories.¹ All purchase of contracts for equipment, materials, supplies or services, except for professional services or the services for which the rates or prices are made by public authorities, shall be made as follows:

(1) When the dollar amount of purchases or contract does not exceed four-thousand dollars (\$4,000.00), the purchasing agent shall make purchases or contracts in the open market after such inquiry as he or she deems necessary to ensure that the price is most advantageous to the city.

(2) When the dollar amount of purchases or contracts is more than four-thousand dollars (\$4,000.00), but less than ten-thousand dollars (\$10,000.00) the need for purchases or contracts must first be determined by the city council and upon the determination of the city council of such need, the purchasing agent shall solicit bids, orally or by telephone or in writing, from at least three (3) suppliers, if so many be available in the locality, and to make the purchases or contracts from the lowest and best bidder and he or she shall keep on file a list of the bids received.

(3) When the dollar amount of purchases or contracts is more than ten-thousand dollars (\$10,000.00), formal competitive bidding shall be required. (1980 Code, § 1-901, as replaced by Ord. #03-2, March 2003, and Ord. #08-7, Sept. 2007)

5-402. Formal competitive bidding procedure. All formal bids shall be solicited, opened and awards made thereon as follows:

(1) Solicitation of bids. Bids shall be solicited by notice inviting bids published in the official city newspaper, at least once each week for three

¹State law reference

Tennessee Code Annotated, §§ 6-56-305 and 6-56-306.

successive weeks with the first publication being at least twenty days prior to the time of bid opening.

(2) Contents of notice. Notice inviting bids shall include a general description of the supplies or services to be purchased or contracted for, shall state where bid forms and specifications may be secured and shall specify the time and place for the receipt and opening of bids.

(3) Minimum number of bids. Whenever possible, at least two bids shall be obtained.

(4) Form of bids. All bids shall be in writing.

(5) Bid opening. Bids shall be opened by the city council at the time and place designated in the notice inviting bids.

(6) Awards: rejection. Awards shall be made by the city council to the lowest responsible bidder. However, the city council may reject any or all bids, the city council may solicit new bids, or may determine that the work or service may be performed more economically or more satisfactorily by the city with its own employees. (1980 Code, § 1-902)

5-403. Determining the lowest responsible bidder. In determining the lowest responsible bidder, the following shall be considered in addition to price:

(1) The quality of supplies offered.

(2) The ability, capacity, and skill of the bidder to perform the contract or to provide the supplies or services required.

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

(4) The sufficiency of the bidder's financial resources and the effect thereof on his ability to perform the contract or to provide the supplies or services.

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

(6) The quality of bidders performance on previous orders or contracts for the city.

(7) Litigation by the bidder on previous orders or contracts with the city.

(8) The previous and existing compliance by the bidder with laws and ordinances relating to the subject of the purchase or contract.

(9) The ability of the bidder to provide future maintenance and service where such maintenance and service is essential. (1980 Code, § 1-903)

5-404. Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons thereof shall be prepared by the city council, approved by the city attorney and filed with the other papers related to the transaction. (1980 Code, § 1-904)

5-405. Tie bid: manner of resolution. If two or more bids are for the same total amount of unit price, quality and a service being equal, and if the public interest will not permit the delay or readvertising for bids, the city council may award the contract to one of the bidders by drawing lots in public or may negotiate with the tie bidders and accept the lowest bid; provided, however, that when the same Macon County firm is involved in a tie bid with one or more firms from outside the County of Macon, all other things being equal, the award shall be made to the Macon County firm. (1980 Code, § 1-905)

5-406. Rejecting bids. The city council may reject any and all bids. (1980 Code, § 1-906)

5-407. Clause required in all contracts. There shall be inserted in all contracts and contractors shall be required to insert in all contracts the following provision: "No council member, officer, or employee of the City of Red Boiling Springs, during his tenure or for one year thereafter has any interest directly or indirectly in this contract or the proceeds thereof." (1980 Code, § 1-907)

5-408. Exceptions. In the event there is any conflict between a provision of chapter 4 and a provision of chapter 5 of this title, the provision of chapter 5 shall control and shall be deemed an exception to this chapter. (as added by Ord. #03-2, March 2003)

CHAPTER 5

MUNICIPAL PURCHASING LAW OF 1983

SECTION

5-501. Purpose.

5-502. Application of chapter.

5-503. Limits on purchase.

5-504. Advertising and bidding--exceptions.

5-505. Advertising and bidding--exceptions of less than \$10,000.

5-501. Purpose. The purpose of this chapter is to use the provisions and implementation authority of the Tennessee Municipal Purchasing Law of 1983 instead of the provisions of Section 4.06, Centralized Purchasing, of the charter. This use of the Municipal Purchasing Law of 1983 instead of Section 4.06 is made pursuant to the authority given under Section 5.02 of the charter, thereby substituting this law for Section 4.06 of the charter. (as added by Ord. #03-2, March 2003)

5-502. Application of chapter. This chapter shall apply to all purchases by authorized officials in this municipality using or encumbering municipal funds, except as follows:

(4) This chapter shall not apply to purchases made under the provisions of Tennessee Code Annotated, § 12-3-101, purchases for municipalities by the state department of general services;

(5) This chapter shall not apply to investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, § 9-17-105 [repealed];

(6) This chapter shall not apply to purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Interlocal Cooperation Act, compiled in title 12, chapter 9, of the Tennessee Code; and

(7) This chapter shall not apply to purchases from nonprofit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one (1) of whose purposes is to provide goods or services specifically to municipalities.¹ (as added by Ord. #03-2, March 2003)

5-503. Limits on purchase. All purchases made from funds subject to the authority of this chapter shall be made within the limits of the approved

¹State law reference

Tennessee Code Annotated, § 6-56-302.

budget, when required, and the appropriations, when required, for the department, office or agency for which the purchase is made.¹ (as added by Ord. #03-2, March 2003)

5-504. Advertising and bidding—exceptions. Except as hereinafter provided, all purchases and leases or lease-purchase agreements shall be made or entered into only after public advertisement and competitive bid except as follows:

(1) Purchases costing less than ten thousand dollars (\$10,000.00); provided, that this exemption shall no apply to purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year;

(2) Any goods or services which may not be procured by competitive means because of the existence of a single source of supply or because of a proprietary product. A record of such sole source or proprietary purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such sole source or proprietary purchases shall be made as soon as possible to the council and the mayor and shall include all items of information as required for the record;

(3) Purchases or leases of any supplies, materials or equipment for immediate delivery in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. A record of any such emergency purchases shall be made by the person or body authorizing such emergency purchases, and shall specify the amount paid, the items purchased, from whom the purchase was made and the nature of the emergency. A report of any emergency purchase shall be made as soon as possible to the council and the mayor, and shall include all items of information as required in the record;

(4) Leases or lease-purchase agreements requiring total payments of less than ten thousand dollars (\$10,000) in each fiscal year the agreement is in effect; provided that this exemption shall not apply to leases of like or related items which individually may be leased or lease-purchased with total payments of less than ten thousand dollars (\$10,000) in any fiscal year, but which are customarily leased or lease-purchased in numbers of two (2) or more, if the total lease or lease-purchase payments for such items under a single agreement would be ten thousand dollars (\$10,000) or more in any fiscal year;

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

¹State law reference

Tennessee Code Annotated, § 6-56-303.

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

(7) Purchases of perishable commodities from the requirements of public advertisement and competitive bidding, when such items are purchased in the open market. A record of such purchases shall be made by the person or body authorizing such purchases and shall specify the amount paid, the items purchased, and from whom the purchase was made. A report of such purchases shall be made, at least monthly, to the mayor and the council, and shall include all items of information as required in the record. Fuel and fuel products may be purchased in the open market without public advertisement, but shall whenever possible be based on at least three (3) competitive bids. Fuel and fuel products may be purchased from the state department of general services' contract where available; and

(8) Purchases, for resale, of natural gas and propane gas.¹ (as added by Ord. #03-2, March 2003)

5-506. Advertising and bidding—expenditures of less than \$10,000.

All purchases, leases, or lease-purchase arrangements with expenditures of less than ten thousand dollars (\$10,000) but more than one thousand dollars (\$1,000) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive bids. Purchases, leases, or lease-purchases of one thousand dollars (\$1,000) or less in any fiscal year shall not require any public advertisement or competitive bidding.² (as added by Ord. #03-2, March 2003)

¹State law reference
Tennessee Code Annotated, § 6-56-304.

²State law reference
Tennessee Code Annotated, § 6-56-305.