

**TITLE 5**

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

**CHAPTER**

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. PROCUREMENT CODE.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

5-101. Official depository for town funds.

**5-101. Official depository for town funds.** The First National Bank of Pikeville, Tennessee, and the Citizens Bank of Pikeville, Tennessee, are hereby designated as the official depositories for all town funds. (1988 Code, § 6-101)

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<sup>1</sup>Charter reference  
Taxation: § 17.

## CHAPTER 2

### REAL AND PERSONAL PROPERTY TAXES

#### SECTION

5-201. When due and payable.

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

**5-201. When due and payable.**<sup>1</sup> Taxes levied by the town against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1988 Code, § 6-201)

**5-202. When delinquent--penalty and interest.**<sup>2</sup> 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 the state law for delinquent county real property taxes.<sup>3</sup> (1988 Code, § 6-202)

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<sup>1</sup>State law references

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

<sup>2</sup>Charter and state law reference

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

<sup>3</sup>Charter and state law references

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, §§ 6-55-201 through 6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, § 67-5-2005.

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

5-301. Tax levied.

5-302. License required.

**5-301. Tax levied.** Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in 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 town at the rates and in the manner prescribed by the act. (1988 Code, § 6-301)

**5-302. License required.** No person shall exercise any such privilege within the town without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax. (1988 Code, § 6-302)

## CHAPTER 4

**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

**5-401. To be collected.** The recorder is hereby directed to take appropriate action to assure payment to the town of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.<sup>1</sup> (1988 Code, § 6-401)

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<sup>1</sup>State law reference

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

## CHAPTER 5

### PROCUREMENT CODE

#### SECTION

- 5-501. Policy.
- 5-502. Roles and responsibilities.
- 5-503. Scope.
- 5-504. Methods of procurement.
- 5-505. Purchases based on price competition.
- 5-506. Sole sources purchases.
- 5-507. Emergency purchases.
- 5-508. Competitive sealed proposal purchases.
- 5-509. Purchases of services from a professional.
- 5-510. Water storage tank painting and maintenance.
- 5-511. Terms and conditions.
- 5-512. Rejection of bids and proposals.
- 5-513. Protests.

**5-501. Policy.** It is the policy of the City of Pikeville to obtain goods and services needed for the efficient operation of city government by using a variety of procurement methods in order to achieve purchases that meet quality, performance and delivery standards with fair and competitive pricing and value by using procedures that are consistent with the city's needs while complying with applicable federal and state laws. It is to achieve these policy goals that this procurement code is adopted. (as added by Ord. #1-13-014, Feb. 2014)

**5-502. Roles and responsibilities.** (1) It is the role and responsibility of the board of mayor and aldermen to fulfill the purchasing duties established by the city charter; to establish a budget; to approve all non-emergency procurements over twenty-five thousand dollars (\$25,000.00); to approve the use of the competitive sealed proposal procedure; and, to receive reports of all emergency procurements.

(2) It is the role and responsibility of the mayor to fulfill the purchasing duties established by the city charter; to recommend all procurements and procurement methods over a fixed dollar amount to the board of mayor and aldermen, to approve all procurements and procurement methods which do not require board approval; and, to establish administrative procedures for procurements consistent with these obligations.

(3) It is the role and responsibility of the city recorder to fulfill the purchasing duties established for that office by the city charter and administrative procedures established by the mayor. The city recorder has the right to review all procurement for consistency with this procurement code and the administrative procedures established by the mayor.

(4) It is the role and responsibility of the city attorney to fulfill the purchasing duties established for that office by the city charter and the administrative procedures established by the city mayor and subject to review and approval all contracts of procurement.

(5) It is the role and responsibility of the purchasing agent to fulfill the duties established by this procurement code and the administrative procedures established by the mayor. These duties shall include but are not limited to developing the specifications for the goods to be purchased or the scope of work for the services to be purchased; preparing the invitation to bid, request for competitive sealed proposals or request for proposals; arranging for adequate and appropriate public notice or advertisement; evaluating all responses; preparing a purchase recommendation for the board of mayor and aldermen or department head as appropriate; ensuring correct documentation and execution of the contract or purchase order; and, ensuring delivery and/or performance of the purchased goods or services and payment for same. Unless otherwise designated by the mayor, on a continuing or an individual procurement basis, the purchasing agent for each department shall be the employee in the finance department primarily assigned to purchasing agent duties. (as added by Ord. #1-13-014, Feb. 2014)

**5-503. Scope.** This procurement code shall be applicable to all purchases, leases, lease-purchases and rentals of goods and services; it shall not be applicable to interests in land. (as added by Ord. #1-13-014, Feb. 2014)

**5-504. Methods of procurement.** The primary methods of procurement to be used by the city are:

- (1) Purchases based on price competition, which includes competitive bidding;
- (2) Purchases which are not based on price competition because of the existence of a single source or proprietary product;
- (3) Purchases which are not based on price competition because of the existence of an emergency;
- (4) Purchases based on competitive sealed proposals; and
- (5) Purchases of services from a professional based on recognized competence and integrity. (as added by Ord. #1-13-014, Feb. 2014)

**5-505. Purchases based on price competition.** There are a variety of procurement methods based on price competition which the city may use consistent with applicable laws.

- (1) Price competition requires public advertisement and competitive sealed bids by the city for all contracts for more than twenty-five thousand dollars (\$25,000.00) unless there is an applicable exception.
- (2) A purchase based on price competition which does not require public advertisement and acceptance of competitive sealed bids by the city,

regardless of amount, includes a purchase where the competitive process has been undertaken by others. These exceptions include, but are not limited to:

(a) A purchase made under the provisions of contacts or price agreements entered into by the Tennessee central procurement office pursuant to Tennessee Code Annotated, § 12-3-1201, generally referred to as purchasing off the state bid;

(b) A purchase made under the provisions of contracts or bids from the United States General Services Administration in accordance with applicable federal regulations pursuant to Tennessee Code Annotated, § 12-3-1201;

(c) A purchase made from a local vendor of items available for purchase under the provisions of contracts or price agreements entered into by the Tennessee central procurement office if and only if the city is not permitted to purchase the item under said existing contract; the item equals or exceeds the specifications of the item on the state contract; and, the item is available at the same or lower cost than under the state contract, as specified in Tennessee Code Annotated, § 12-3-1201(d);

(d) A purchase of supplies, equipment or services made through another local governmental unit of the state in accordance with Tennessee Code Annotated, § 12-3-1203(a);

(e) A purchase of supplies, goods, equipment or services under contracts entered into by another Tennessee local government in accordance with Tennessee Code Annotated, § 12-3-1203(c) excluding motor vehicles (except those manufactured for a special purpose);

(f) A purchase made from any instrumentality created by two (2) or more cooperating governments, including those established pursuant to the Interlocal Cooperation Act, Tennessee Code Annotated, § 12-9-101, et seq.;

(g) A purchase made from a nonprofit corporation whose purpose, or one (1) of whose purposes, is to provide goods and services specifically to municipalities specifically the Local Government Corporation in accordance with Tennessee Code Annotated, § 6-56-302(6); and

(h) A purchase made through a cooperative purchasing agreement with other local governments within or without Tennessee, in accordance with Tennessee Code Annotated, § 12-3-1205; said purchasing agreements shall be authorized by resolution.

(3) A purchase based on price competition which does not require public advertisement and acceptance of competitive bids by the city, regardless of amount, includes the purchase of used or secondhand goods, equipment, materials, supplies or commodities. If the purchase is from a private individual or entity, purchasing of used or secondhand items is only permissible if the general range of values of the item can be established by a listing in a nationally recognized publication or through a licensed appraiser and the price is not more

than five percent (5%) higher than the highest value of the documented range, in accordance with Tennessee Code Annotated, § 12-3-1202.

(4) A purchase based on price competition which does not require public advertisement and acceptance of competitive bids by the city, regardless of amount, include the purchase of new or second hand goods, equipment, supplies and commodities at a publicly advertised auction but only pursuant to written procedures established by resolution by the board in accordance with Tennessee Code Annotated, § 12-3-1006.

(5) A purchase based on price competition which does not require public advertisement by the city include those where the value of the good or services are twenty-five thousand dollars (\$25,000.00) or less. The approved methods of procurement will vary depending on the price or type of item. The city mayor will establish consistent procedures for such procurement. If the dollar amount is between seven thousand five hundred dollars (\$7,500.00) and twenty-five thousand dollars (\$25,000.00) three (3) competitive quotations, when possible, must be obtained in writing.

(6) A purchase based on price competition which does not require sealed bids is a purchase made by a reverse auction in accordance with Tennessee Code Annotated, § 12-3-1208. The reverse auction process may be utilized only after the city's plan, policy and procedures have been filed with the comptroller of the treasury. The reverse auction process allows offerors to bid on specified goods or services electronically and to adjust their offer price during a specified time period.

(7) A purchase of perishable commodities made on the open market does not require public advertisement and competitive bids if a record is made by the person authorizing the purchase which specifies the amount paid, the items purchased and from whom the purchase was made in accordance with Tennessee Code Annotated, § 6-56-304(7). Any such purchases shall be reported at least monthly to the board of mayor and aldermen. If this method is used for fuel and fuel products, the purchase should be based, whenever possible, on three (3) competitive prices. (as added by Ord. #1-13-014, Feb. 2014)

**5-506. Sole sources purchases.** The purchase of a particular good or service does not require public advertisement and competitive bidding, regardless of amount, if there is a single or sole source of supply of the good or service needed by the city. The board shall be informed of all reason making the proposed sold source procurement appropriate if the item costs more than twenty-five thousand dollars (\$25,000.00). If the item costs less than twenty-five thousand dollars (\$25,000.00), a record of such purchase specifying the amount paid, the item purchased and the vendor shall be made by the person authorizing the purchase. (as added by Ord. #1-13-014, Feb. 2014)

**5-507. Emergency purchases.** (1) The city mayor is authorized to make emergency purchases of supplies and materials in the open market for



immediate delivery in actual emergencies arising from unforeseen causes including delays by contractors, delays in transportation, unanticipated volumes of work, the failure to receive competitive bids from prospective bidders and other similar emergencies.

(2) The mayor shall attempt to receive competitive quotations from supplies before making said emergency purchases. The mayor may also use competitive sealed proposals for emergency purchases.

(3) A report of such emergency purchases in writing shall be made together with a record of the prices secured together with a full and complete account of the circumstances of such emergency. Such a report shall be made within two (2) working days following the date of such purchase or purchase order and shall be kept on file in the office of the city recorder and shall be open to public inspection. A copy of the report shall be presented to the board at or before the next regular board meeting.

(4) The limit for such emergency purchases shall be fifty thousand dollars (\$50,000.00) except for emergency purchases involving the health, safety or welfare of the city residents, such as but not limited to emergency purchases for the water and sewer department, where repairs and parts cannot wait for the bidding process or council approval at a regular meeting. In these cases, such emergency purchases shall not exceed two hundred thousand dollars (\$200,000.00) and shall require the approval of the mayor and vice-mayor in the absence of the mayor. For the purposes of this section, in the absence of the mayor, the vice-mayor has authority to act for and on behalf of the mayor. (as added by Ord. #1-13-014, Feb. 2014)

**5-508. Competitive sealed proposal purchases.** (1) The use of competitive bids may not be practical or advantageous to the city when qualifications, experience or competence are more important than price in making a purchase. In such events, the board may decide to use competitive sealed proposals. Competitive sealed proposals may be used with board approval only in the event of an actual emergency which emergency must be documented.

(2) Competitive sealed proposals may only be used if there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution or if there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

(3) Competitive sealed proposals shall be used in accordance with the provisions of Tennessee Code Annotated, § 12-3-1207.

(4) Adequate public notice of competitive sealed proposals must be given. The notice method(s) used shall be the same as for competitive bids for purchases of more than twenty-five thousand dollars (\$25,000.00).

(5) The request for competitive sealed proposals shall state the factors to be used to evaluate the proposals, including price, and shall state their relative importance in the evaluation. The request for competitive sealed

proposals shall state that the evaluation shall determine whose proposal is the most advantageous to the city taking into consideration all of the stated factors. The request for competitive sealed proposals may state that price shall be separately submitted and included in the evaluation through a multi-step process. A multi-step process may include submission of pricing before or after the evaluation and any discussion of the proposals with the proposers.

(6) The competitive sealed proposals shall not be disclosed during the negotiation and evaluation process, which shall follow their submittal and opening, but they shall be made open for public inspection after the intent to award the contract to a particular proposer is announced.

(7) After the competitive sealed proposals are submitted, the city may but is not required to, conduct discussions to clarify and to assure full understanding of the proposal and its responsiveness to the city's requirements, provided that all responsible proposers whose proposals are reasonably capable of being selected are afforded fair and equal treatment. During these discussions, the city may not disclose to one proposer information derived from another proposal.

(8) As a result of these discussions, proposers may but are not required to be allowed to make revisions to their proposals so that the city may obtain the best and final offer from each proposer if said revisions are submitted and received before the city's intent to award to a particular proposer is announced.

(9) In recommending a particular proposal for acceptance, the purchasing agent shall describe the basis on which the award is made.

(10) Each proposer shall be notified of the proposer selected for recommendation to the board before the proposed board action. A protest by an aggrieved proposer who is not selected will be heard by the board if filed with the board, through the city recorder, within seven (7) days after the intended award is announced.

(11) Any issue raised by the protesting party after the seven (7) day period shall not be considered as part of the protest. The board may stay an award due to a pending protest without financial or other obligation to the proposer recommended to the board. The board may, by resolution, adopt rules and procedures applicable to protests. (as added by Ord. #1-13-014, Feb. 2014)

**5-509. Purchases of services from a professional.** (1) Contracts from services to be performed by a lawyer, accountant, architect, engineer, fiscal agent, financial advisor, educational consultant, or a similar service to be performed by a professional person or group of professional persons shall not be based upon competitive bids but upon the basis of recognized competence and integrity in accordance with Tennessee Code Annotated, § 12-3-1209 and other provisions of state law.

(2) In procuring professional services the city may, but is not required to, issue a Request for Qualifications (RFQ) or/and a Request for Proposals

(RFP) or to help it identify individuals or firms with relevant qualifications and experiences.

(3) If the city is seeking architectural or engineering services and it does not choose to obtain them from an architectural or engineering service provider with whom it has a satisfactory existing working relationship or if the scope of needed services is outside the known technical competencies of the city's existing professional services providers, the city shall comply with Tennessee Code Annotated, § 12-4-107.

(4) If the RFQ and/or RFP process is used for architectural or engineering services, the purchasing agent shall seek information from any firm licensed in Tennessee relevant to their qualifications and experience relative to the scope of the work, the complexity of the work, the professional disciplines required to satisfactorily perform the work and the estimated value of the services to be rendered. The purchasing agent, or a selection committee, as specified in the RFQ and/or RFP, may interview the firm regarding the furnishing of the required services. The purchasing agent or selection committee shall then select the firm deemed qualified and seek to negotiate a contract for the needed services for compensation determined to be fair and reasonable to the city. If these negotiations do not result in a satisfactory contract, negotiations may continue with other qualified individuals or firms until an agreement is reached.

(5) For fiscal agent, financial advisor or advisory services to be provided to the city, a written contract must be entered into prior to, or promptly upon, the inception of the relationship specifying the services to be rendered and the costs and expenses to be covered under the contract.

(6) Contracts for energy related services that include both engineering services and equipment and which have as their purpose the reduction of energy costs in public facilities shall be awarded on the same basis as contracts for professional services in accordance with Tennessee Code Annotated, § 12-4-110. (as added by Ord. #1-13-014, Feb. 2014)

**5-510. Water storage tank painting and maintenance.** The city, in accordance with Tennessee Code Annotated, § 12-4-112, may use a request or proposal process for the painting and maintenance of water storage tanks and appurtenant facilities or may competitively bid such contracts. (as added by Ord. #1-13-014, Feb. 2014)

**5-511. Terms and conditions.** (1) Any and all notices, advertisements, invitations to bid or requests to propose, or other procurement method shall state that the city has and retains the power to reject any and all bids or proposals. This power shall exist whether or not expressly so reserved.

(2) In evaluating any bid or proposal, including those based on price competition and those using competitive sealed bids, the city may consider whether the bidder or proposer is responsible and disqualify from consideration

any non-responsible bidder or proposal. A bid or proposal may be disqualified based on any of the following:

- (a) Ability to perform the contract or to provide the material or service required;
  - (b) Ability to provide the material or service within the time specified without delay or interference;
  - (c) The character, integrity, reputation, experience and efficiency of the bidder or proposer;
  - (d) The previous and existing compliance by the bidder or proposer with laws and regulations relating to the contract or service;
  - (e) The ability of the bidder or proposer to provide future maintenance and/or service;
  - (f) The terms and conditions stated in the bid or proposal; and
  - (g) Past performance with the city by bidder or proposer.
- (3) The city may, but only to the extent the city attorney deems allowed by federal and state law, give preference in competitive procurements to Tennessee goods and services.
- (4) The city shall use life cycle cost of commodities as developed and disseminated by the federal government in accordance with Tennessee Code Annotated, § 12-3-903.
- (5) The city shall if required, and may if authorized by federal or state law, use energy efficiency standards in its procurement process in accordance with Tennessee Code Annotated, §§ 12-3-904 through 12-3-911, et seq.
- (6) The city shall include re-refined or recycled motor oil in its specifications for competitive bids for lubricating motor oil, if any, in accordance with Tennessee Code Annotated, § 12-3-807 unless specialized equipment or circumstances require specialized treatment.
- (7) The city shall not be obligated to award any contract or to make any purchase if:
- (a) The contract or purchase would violate conflict of interest laws or the city's ethical standard policy;
  - (b) The vendor does not provide or complete all requirements for a valid city contract including but not limited to: non-collusion affidavits; illegal immigrant affidavits; payment and performance bonds; proof of insurance; retainage agreements; grants assurance certifications; drug free workplace policy certifications; proof of corporate existence and good standing; and, proof of required licenses or permits.
- (8) Bid specifications for the purchase of chemical products shall require that the manufacturer create and maintain a material safety data sheet in accordance with Tennessee Code Annotated, § 6-56-307. (as added by Ord. #1-13-014, Feb. 2014)

**5-512. Rejection of bids and proposals.** The mayor shall have the right to reject all submittals for a particular procurement (whether submitted

as quotations, bids, proposals, or in some other format) and to authorize the reissuance (with or without revision) of the procurement. Any such rejection and reissuance may be timely appealed to the board in accordance with § 5-513, Protest. (as added by Ord. #1-13-014, Feb. 2014)

**5-513. Protests.** A participant in a city procurement may protest any such procurement. If the board is required to approve the procurement award, the decision on the protest shall be made by the board. If the procurement does not require the board approval in advance of the award, the decision on the protest shall be made by the mayor. Protests of competitive sealed proposals shall be made in accordance with § 5-508 and any resolution related thereto. Protests of procurements made by other methods shall be made in accordance with such rules and procedures as the council may adopt by resolution. (as added by Ord. #1-13-014, Feb. 2014)