

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. PURCHASING.
2. REAL AND PERSONAL PROPERTY TAXES.
3. WHOLESALE BEER TAX.
4. PRIVILEGE TAXES.
5. MUNICIPAL DEBT POLICY.

CHAPTER 1

PURCHASING

SECTION

- 5-101. Purchases not exceeding \$10,000.00.
- 5-102. Purchases in excess of \$10,000.00.
- 5-103. Exceptions to bidding requirement.

5-101. Purchases not exceeding \$10,000.00. The town administrator is authorized to make the following purchases whose estimated costs do not exceed ten thousand dollars (\$10,000.00) without formal sealed bids and written specifications: commonly used items of material, supplies, equipment, and services used in the ordinary course of maintaining and repairing the town's real or personal property; building or maintaining stocks of town material, supplies and equipment used in the ordinary course of town operations; and minor construction, repair or maintenance services. However a record of all such purchases shall be maintained describing the material, supplies, equipment or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation signed by the person receiving payment. (as added by Ord. #96-12-01, Jan. 1997, and replaced by Ord. #03-04-01, May 2003, and Ord. #12-02-01, Feb. 2012)

5-102. Purchases in excess of \$10,000.00. The town administrator is required to make purchases in excess of ten thousand dollars (\$10,000.00) based on written specifications, awarded by written contract let to the lowest responsive and responsible bidder following advertisement for, and the

¹For authority to tax see section 10 of the Charter.

submission of, sealed bids. (as added by Ord. #03-04-01, May 2003, and replaced by Ord. #12-02-01, Feb. 2012)

5-103. Exceptions to bidding requirement. The town administrator is authorized to make the following purchases whose estimated cost is in excess of ten thousand dollars (\$10,000.00) without written specifications or bids:

(1) Emergency purchases of material, supplies, equipment, or services. However, a report of the emergency purchase, including the nature of the emergency, the material, supplies, equipment, or services purchased, and the appropriate documentation similar to that required under the first subsection above shall be filed with the board of mayor and aldermen at its next regular meeting.

(2) The purchase of unique, special, or proprietary material, supplies, equipment, or services the town administrator determines is in the best interest of the town to acquire. However, a report of the purchase, including a full description of the material, supplies, equipment, or services purchased, the reason the same is unique, special, or proprietary, the interest of the town served by the purchase, and from whom the purchase will be made shall be filed with the board of mayor and aldermen at its regular meeting prior to purchase.

(3) Purchases of equipment which, by reason of training of town personnel or an inventory of replacement parts maintained by the town, are compatible with the existing equipment owned by the town. However, a full report of the purchase, including a full description of the equipment, an outline of the municipal training or parts inventory factors that made the purchase economically advantageous to the town, and from whom the purchase will be made shall be filed with the board of mayor and aldermen at its regular meeting prior to purchase.

(4) Purchases which can be made only from a sole source. The minimum geography for determining the "sole source" shall be the municipal limits. However, the town administrator shall have the discretion to enlarge the geography of the sole source to whatever extent he determines is in the economic interest of the town. However, a full report of the purchase, including a full description of the purchase, evidence that the purchase was made legitimately a sole source purchase, and from whom the purchase will be made shall be filed with the board of mayor and aldermen at its regular meeting prior to purchase. (as added by Ord. #03-04-01, May 2003, and replaced by Ord. #12-02-01, Feb. 2012)

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.¹ 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.

5-202. When delinquent; penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they

¹State law reference

Tennessee Code Annotated, sections 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.

²State law reference

Tennessee Code Annotated, section 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.

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.¹

¹Charter 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, sections 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, section 67-5-2005.

CHAPTER 3

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. To be collected. The town 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 6.¹

¹State law reference

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

Municipal code reference

Alcohol and beer regulations: title 8.

CHAPTER 4

PRIVILEGE TAXES

SECTION

5-401. Tax levied.

5-402. License required.

5-401. 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. (as added by Ord. #02-05-02, June 2002)

5-402. 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 the applicant's payment of the appropriate privilege tax. Violations of this section shall be punished under the general penalty provisions of this code of ordinances. (as added by Ord. #02-05-02, June 2002)

CHAPTER 5

MUNICIPAL DEBT POLICY¹

SECTION

- 5-501. Purpose.
- 5-502. Definition of debt.
- 5-503. Transparency.
- 5-504. Role of debt.
- 5-505. Types and limits of debt.
- 5-506. Costs of debt.
- 5-507. Refinancing outstanding debt.
- 5-508. Professional services.
- 5-509. Conflicts.
- 5-510. Review of policy.
- 5-511. Compliance.

5-501. Purpose. The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Atoka, Tennessee. This policy reinforces the commitment of the town and its officials to manage the financial affairs of the town so as to minimize risk, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the town. A debt management policy signals to the public and the rating agencies that the town is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt. (as added by Ord. #11-11-03, Dec. 2011)

5-502. Definition of debt. All obligations of the town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of town resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any

¹State law references

Tennessee Code Annotated, 7, part 9 - Contracts, Leases, and Lease Purchase Agreements.

Tennessee Code Annotated, 9, part 21 - Local Government Public Obligations Law.

type - whether from an outside source such as a bank or from another internal fund.

Approval of debt. Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the board of aldermen prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the comptroller's office prior to issuance. Capital or equipment leases may be entered into by the board of aldermen; however, details on the lease agreement will be forwarded to the comptroller's office on the specified form within forty-five (45) days. (as added by Ord. #11-11-03, Dec. 2011)

5-503. Transparency. (1) The town shall comply with legal requirements for notice and for public meetings related to debt issuance.

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

(3) All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the citizens, board of aldermen, and other stakeholders in a timely manner.

(4) The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, board of aldermen, and other stakeholders in a timely manner.

(5) A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, board of aldermen, and other stakeholders in a timely manner. (as added by Ord. #11-11-03, Dec. 2011)

5-504. Role of debt. (1) Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; the town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.

(2) In accordance with Generally Accepted Accounting Principles (GAAP) and state law:

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

(b) Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence. (as added by Ord. #11-11-03, Dec. 2011)

5-505. Types and limits of debt. (1) The town will seek to limit total outstanding debt obligations to no more than eight percent (8%) of total assessed valuation, excluding overlapping debt, enterprise debt, and revenue debt.

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

(3) The town's total outstanding debt obligation will be monitored and reported to the board of aldermen as a part of the annual budget process. The town administrator shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The town administrator shall also report to the board of aldermen any matter that adversely affects the credit or financial integrity of the town.

(4) The town is authorized to issue general obligation bonds, revenue bonds, TIFs, loans, notes and other debt allowed by law.

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

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

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

(8) Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The town may use its general obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the town. The board of aldermen and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the town's general fund.

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

(ii) The town also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks, including:

(A) The town will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.

(B) Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the board of aldermen shall be informed

of the potential effect on rates as well as any additional costs that might be incurred should the insurance fail.

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

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

(E) The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation.

(b) Use of derivatives. (i) The town chooses not to use derivative or other exotic financial structures in the management of the town's debt portfolio.

(ii) Prior to any reversal of this provision:

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

(B) The board of aldermen must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the state funding board guidelines. (as added by Ord. #11-11-03, Dec. 2011)

5-506. Costs of debt. (1) All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the board of aldermen in accordance with the notice requirements stated above.

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

(3) Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e., general obligations bonds in context of the general fund, revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes). (as added by Ord. #11-11-03, Dec. 2011)

5-507. Refinancing outstanding debt. (1) The town will refund debt when it is in the best financial interest of the town to do so, and the town administrator shall have the responsibility to analyze outstanding bond issues

for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.

(2) The town administrator will consider the following issues when analyzing possible refunding opportunities:

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

(b) Restructuring for economic purposes. The town will refund debt when it is in the best financial interest of the town to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the town administrator if the refunding generates positive present value savings, and the chief financial officer must establish a minimum present value savings threshold for any refinancing.

(c) Term of refunding issues. The town will refund bonds within the term of the originally issued debt. However, the town administrator may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The town administrator may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.

(d) Escrow structuring. The town shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the town from its own account.

(e) Arbitrage. The town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding. (as added by Ord. #11-11-03, Dec. 2011)

5-508. Professional services. The town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the town and the lender or conduit issuer, if any. This includes "soft" costs or compensations in lieu of direct payments.

(1) Counsel. The town shall enter into an engagement letter agreement with each lawyer or law firm representing the town in a debt transaction. No engagement letter is required for any lawyer who is an employee of the town or lawyer or law firm which is under a general appointment or contract to serve as counsel to the town. The town does not need

an engagement letter with counsel not representing the town, such as underwriters' counsel.

(2) Financial advisor. If the town chooses to hire financial advisors, the town shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.

Whether in a competitive sale or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance or broker any other debt transactions for the town.

(3) Underwriter. If there is an underwriter, the town shall require the underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the town with respect to that issue. The underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the entity. The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the town in advance of the pricing of the debt. (as added by Ord. #11-11-03, Dec. 2011)

5-509. Conflicts. (1) Professionals involved in a debt transaction hired or compensated by the town shall be required to disclose to the town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the town to appreciate the significance of the relationships.

(2) Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct. (as added by Ord. #11-11-03, Dec. 2011)

5-510. Review of policy. This policy shall be reviewed annually by the board of aldermen with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this policy, with opportunity for public input. (as added by Ord. #11-11-03, Dec. 2011)

5-511. Compliance. The town administrator is responsible for ensuring compliance with this policy. (as added by Ord. #11-11-03, Dec. 2011)