TITLE 5
MUNICIPAL FINANCE AND TAXATION

CHAPTER
1. MISCELLANEOUS.
2. PURCHASING PROCEDURES.
3. PRIVILEGE AND BUSINESS TAX.
4. PROPERTY TAX COLLECTION.

CHAPTER 1
MISCELLANEOUS

SECTION
5-102. Fiscal year of the city.

5-101. Official depository for city funds. Any bank insured by the FDIC and located in the general geographic area of the City of Baneberry is hereby designated as an official depository for funds of the City of Baneberry, Tennessee.² (Ord. #90-3, March 1991)

5-102. Fiscal year of the city. The fiscal year of the city is hereby fixed and determined to commence on the first day of July of each year.³ (Ord. #87-2, Feb. 1987)

¹Charter reference
Finance and taxation: title 6, chapter 22.

²Charter reference
Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

³Charter reference
Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.
CHAPTER 2

PURCHASING PROCEDURES

SECTION
5-201. Purchasing agent.
5-203. Rejection of bids.
5-204. Conflict of interest.
5-205. Purchases from employees.
5-206. Sealed bid requirements - $5,000,000 or greater.
5-207. Competitive bidding - $500.00 - $5,000.00.
5-208. Purchases and contract less then $500.00.
5-209. Bid deposit.
5-211. Record of bids.
5-212. Considerations in determining bid award.
5-213. Statement with award not given to low bidder.
5-214. Award in case of tie bids.
5-216. Emergency purchases.
5-217. Waiver of competitive bidding.
5-218. Property control
5-219. Disposal of surplus property.
5-220. Employees participating in the disposal of surplus property.
5-221. Items consumed in the course of work thought to be worthless.
5-222. Items estimated to have monetary value.
5-223. Surplus property painted with city colors or with city emblems
5-224. Definitions.
5-225. Liability for excess purchases.
5-226. Additional forms and procedures.

5-201. Purchasing agent. The city manager shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment and services of any nature whatsoever shall be approved and acquired by the purchasing agent or his/her representative. (Ord. #93-4, July 1993)

5-202. General procedures. Competitive bids on all supplies, materials, equipment, services and contracts for public improvements, except those specified elsewhere in this policy, shall be obtained, whenever practicable, and the purchase or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed by this policy. (Ord. #93-4, July 1993)
5-203. **Rejection of bids.** The purchasing agent shall have the authority to reject any and all bids, parts of all bids, or all bids for any one 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. (Ord. #93-4, July 1993)

5-204. **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 Baneberry, and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant interest. (Ord. #93-4, July 1993)

5-205. **Purchasing from employee.** It shall be the policy of the city not to purchase any goods or service from any employee or close relative of any employee without prior approval of the city manager. (Ord. #93-4, July 1993)

5-206. **Sealed bid requirements - $5,000.00 or greater.** On all purchases and contracts estimated to be in excess of five thousand dollars ($5,000.00), except as otherwise provided for in this policy, formal sealed bids shall be required to be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit the bids for award by the city commission at the next regularly scheduled commission meeting or special-called commission meeting together with tie recommendation as to the lowest responsible bidder.

Notice inviting bids shall be published once in a newspaper of general circulation in Jefferson County, and at least five days preceding the last day of the bids. The newspaper notice shall contain a general description of the article(s) to be purchased, shall state where the written specifications may be secured, and the time and place for opening bids. 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. This may be accomplished by delivery, verbally, by mail, or posting in a public place. (Ord. #93-4, July 1993)

5-207. **Competitive bidding - $500.00 - $5,000.00.** All purchases of supplies, equipment, services and contracts estimated to be in excess of five hundred dollars ($500.00) but less than five thousand dollars ($5,000.00), shall be by competitive bidding and may be awarded to the lowest responsible bidder. A written record shall be required and available for inspection showing that competitive bids were obtained by: direct mail, telephone bids, or public notice. Such bids shall be received by the purchasing agent who shall award the bid to the lowest responsible bidder.
The city recorder shall verify account balances, prior to purchasing agent approval, for all purchases over one thousand dollars ($1,000.00).

In the purchasing agent's absence, the city recorder shall approve the bid. (Ord. #93-4, July 1993)

5-208. **Purchases and contracts less than $500.00.** The purchasing agent is expected to obtain the best prices and services available for purchases and contracts of less than $500.00, but is exempted from formal bid requirement mentioned in the two previous sections. (Ord. #93-4, July 1993)

5-209. **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 return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter a contract within ten (10) days after the award. (Ord. #93-4, July 1993)

5-210. **Performance bond.** The purchasing agent may require a performance bond before entering a contract, in such amount as he 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. (Ord. #93-4, July 1993)

5-211. **Record of bids.** The purchasing agent shall keep a record of all open market orders and the 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.

The bid file shall contain the following information:
(1) Request to start bid procedures.
(2) A copy of the advertisement.
(3) A copy of the specifications.
(4) A list of bidders and their responses.
(5) A copy of the purchase order.
(6) A copy of the invoice. (Ord. #93-4, July 1993)

5-212. **Considerations in determining bid award.** (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, judgement, experience, and efficiency of the bidder.
(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.
(6) The sufficiency of the financial resources and 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) Terms and conditions stated in the bid.
(9) Compliance with specifications.
(10) Total cost of the bid, including expected Life, maintenance costs, and performance.

AWARD SPLITTING - If total savings generated is less than $200.00, do not split the bid award. (Ord. #93-4, July 1993)

5-213. Statement when award not given to low bidder. When the award for purchases and contracts in excess of $500.00 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. (Ord. #93-4, July 1993)

5-214. Award in case of tie bids. (1) If all bids received are for the same amount, quality service being equal, the purchase contract shall be awarded to a local bidder.
(2) Where a local vendor has not bid or where his bid is not the lowest tie bid, the purchasing agent shall award the purchase or contract to one of the bidders by drawing lots in public. (Ord. #93-4, July 1993)

5-215. 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 will be cancelled from the purchase order and the check will be issued to the equal amount of the purchase order. (Ord. #93-4, July 1993)

5-216. Emergency purchases. When in the judgement of the purchasing agent an emergency exists, the purchasing divisions of this policy may be waived, provided, however, the purchasing agent shall report the purchases/contracts to the city commission at the next regular commission meeting stating the item, the amount paid, from whom the purchase was made, and nature of the emergency.

POOR PLANNING AND MANAGEMENT DOES NOT CONSTITUTE AN EMERGENCY. (Ord. #93-4, July 1993)

5-217. Waiver of competitive bidding. Upon recommendation of the city manager, that it is clearly to the advantage of the city not to contract by
competitive bidding, the requirements of competitive bidding may be waived under the following circumstances:

1. Single source of supply. The availability of only one vendor of a product or service within a reasonable distance of the city as determined after a complete search by the using department and the purchasing department. A written statement must be filed verifying single source supplier.

2. State Department of General Services. These are purchases made through or in conjunction with the State Department of General Services (state contract). Municipalities may take advantage of the so-called "state prices" regardless of any charter or general law requirements. These bids may be viewed on the file received from the state.

3. Purchases from other governments. Any municipality may purchase from any federal, state or local government unit or agency, second-hand articles of equipment or other materials, supplies, commodities, and equipment. The purchasing agent, all department heads, and city staff will be authorized to sign for these purchases. These purchases may be made without competitive bidding and public advertising regardless of charter requirements.

4. Purchases from nonprofit corporations. Any municipality may purchase from any non-profit corporation whose sole purpose is to provide goods and services specifically to municipalities, such as Local Government Data Processing.

5. Purchases from Tennessee State Industries.

6. Purchases from instrumentalities created by two or more cooperating governments.

7. Certain insurance. Municipalities may purchase tort liability insurance, without competitive bidding from the Tennessee Municipal League, or any other plan authorized and approved by any organization by governmental entities representing cities and counties.

---

1. State law reference
   Tennessee Code Annotated, § 12-3-1001.

2. State law reference

3. State law reference

4. State law reference

5. State law reference
(8) Investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated, § 29-20-407.

(9) Purchases of fuels, fuel products, or perishable commodities.

(10) Professional Service Contracts. Any services of a professional person or firm, including attorneys, accountants, physicians, architects, and consultants required by the city, whose fee is $500.00 or more, shall be evidenced by written contract. The contract will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. Competitive bidding shall be prohibited for such services.¹

(11) In those cases where city commission indicates by formal unanimous resolution of those present at the meeting, based upon recommendation of the city manager, that it is clearly to the advantage of the city not to contract with competitive bidding, it may authorize noncompetitive contracts. (Ord. #93-4, July 1993)

5-218. Property control. A physical inventory of the city's fixed assets must be taken annually. A system of fixed asset records provides a simple method of positive identification for each piece of equipment. It prevents the purchase of:

(1) Unneeded and duplicate assets;
(2) Provides a basis for insurance claims;
(3) Theft and negligence are decreased;
(4) Sets replacement schedules for equipment; and
(5) Notes transfer or disposal of surplus property.

To be classified as a fixed asset, an item must:

(a) Be tangible.
(b) Have a life longer than the current year.
(c) Have a value of over $100.00.

Any property and equipment that meets these criteria shall be assigned an asset number (affixed with a property sticker), have a completed property card, and be inventoried annually. Such records shall be controlled and maintained by the city recorder. (Ord. #93-4, July 1993)

5-219. Disposal of surplus property. The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the city commission after the items are disposed of. When a department determines there is surplus equipment or materials within the department, he/she will notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. (Ord. #93-4, July 1993)

¹State law reference
5-220. Employees participating in the disposal of surplus property. No city employee above the rank of foreman shall be permitted to bid on surplus property. (Ord. #93-4, July 1993)

5-221. 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. These items shall be simply charged off as a routine cost of doing business. (Ord. #93-4, July 1993)

5-222. Items estimated to have monetary value. When disposing of items estimated to have monetary value, the purchasing agent shall follow the following procedures:

1. Obtain from city commission a resolution declaring said item(s) surplus property and fixing the date, time, and place for the purchasing agent to receive bids.
2. A copy of the resolution shall be posted in three locations in the city.
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 hours, the item shall be awarded to the second highest bidder.
4. All pertinent information will be noted in the fixed asset records of the city as to the disposal of the items.
5. The advertisement, bids, and property cards shall be retained for a minimum period of five years. (Ord. #93-4, July 1993)

5-223. Surplus property painted with city colors or with city emblems. No surplus city property painted with city colors and/or with a city emblem shall be disposed of unless it is repainted with colors other than those of the city and/or the emblem removed. (Ord. #93-4, July 1993)

5-224. Definitions. When used in the context of this manual and in the authorization of the purchase order, contractual agreements, invitations to bid, or other pertinent documents, the words, conditions and phrases below shall have the following meanings:

1. "Accept." To receive with approval or satisfaction.
2. "Acknowledgement." Written confirmation from the vendor to purchaser of an order implying obligation or incurring responsibility.
3. "Agreement." A coming together in opinion or determination; understanding and agreement between two or more parties.
4. "All or none." Baneberry 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.
(7) "Approved." To be satisfied with; admit the propriety or excellence of; to be pleased with; to conform, to 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; 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 purchasing agent and offering to enter into contracts with the city. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.
(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 tabulations form 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 of a product for a specified time. The vendor is then informed of the city's expected usage duration of the contract. The city will order small quantities of these items from the vendor over the life 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 an expected lifespan of one year or longer and value (usually) in excess of $1,000.00.
(23) "Cash discount." A discount from the purchase price allowed to the purchaser if payment is made within a specified time.
(24) "Caveat emptor." Let the buyer beware; used in proposals or contracts to caution a buyer to avoid mispresentation.
(25) "Certify." To testify in writing; to make known or establish as a fact.
(26) "City." Baneberry, Tennessee.
(27) "Competitive bidding." Bidding on the same undertaking or material items by more than one vendor.
(28) "Conspicuously." To be prominent or obvious; located, positioned, or designed to be noticed.
(29) "Construction." The building, alteration, demolition or repair (including, but not limited to, dredging, excavating and painting) of public buildings, structures and 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 greed 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." 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, other characteristics of the bid that determine the eventual selection of a winning bid.
(36) "Fiscal year." An accounting period of 12 months, July 1 through June 30.
(37) "F.O.B. destination." An abbreviation for "free on board" that refers to the point of delivery of goods. The seller absorbs transportation charges and retains title to and responsibility for the goods until Baneberry has received and signed for the goods.
(38) "Goods." All materials, equipment, supplies, 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 from date of ordering to date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.
(42) "Life cycle costing." A procurement technique which considers the total cost of purchasing, maintaining, operating and disposal of a piece of equipment when determining low bid.
"Material receiving report." A form used by the receiving function of an agency to inform others of the receipt of goods purchased.

"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 time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

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

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

"Public." Open to all.

"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.

"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.

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

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

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

"Seated bids." Written proposals or offers which are submitted by potential vendors before a certain date to a purchasing agent who has provided complete information regarding specifications and quantities required.

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

"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 item for delivery.

"Standardization." The making, causing, or adapting of items to conform to recognized qualifications.
(57) "Telephone bids." Contacting one or more vendors to obtain oral quotes for items of a value less than $500.00.

(58) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #93-4, July 1993)

5-225. 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 city commission. The municipality shall have no liability for any purchase made in violation hereof. In the event any provision of this chapter shall be construed to be in conflict herewith, then the provisions of this section shall prevail. (Ord. #93-4, July 1993)

5-226. Additional forms and procedures. The purchasing agent is authorized to develop additional procedures and forms in furtherance of these policies. (Ord. #93-4, July 1993)
CHAPTER 3

PRIVILEGE AND BUSINESS TAX

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 business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed. (as added by Ord. #99-1, July 2000)

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. (as added by Ord. #99-1, July 2000)
CHAPTER 4

PROPERTY TAX COLLECTION

SECTION
5-401. Trustee of Jefferson County to collect taxes.
5-402. Delinquent taxes.
5-403. Fee for service.

5-401. **Trustee of Jefferson County to collect taxes.** Commencing with the real property tax year of 2001, the Trustee of Jefferson County is hereby authorized to collect the ad valorem taxes assessed by the City of Baneberry on real property located within the city's corporate limits. (as added by Ord. #201-5, Sept. 2001)

5-402. **Delinquent taxes.** The Trustee of Jefferson County, Tennessee, is hereby authorized to collect all delinquent ad valorem taxes for the City of Baneberry for the year 2000. (as added by Ord. #201-5, Sept. 2001)

5-403. **Fee for service.** The city will pay to Jefferson County, through the county's trustee's office, the designated fee set by the Tennessee Legislature and the yearly computer conversion cost. (as added by Ord. #201-5, Sept. 2001)