

TITLE 5

FINANCE AND TAXATION

CHAPTER

1. MISCELLANEOUS.
2. REAL AND PERSONAL PROPERTY TAXES.
3. PRIVILEGE TAXES.
4. WHOLESALE BEER TAX.
5. CREDIT CARD AND DEBIT CARD PAYMENTS.
6. HOTEL/MOTEL TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Fiscal year.
- 5-102. No purchases from firms owing delinquent business taxes.
- 5-103. Official depository for city funds.
- 5-104. Dollar amount for public advertisement and competitive bidding.
- 5-105. One-time waiver of county school bond proceeds.

5-101. Fiscal year. The fiscal year of the city shall begin on the first day of July and end on the 30th day of the following June. (1988 Code, § 6-101)

5-102. No purchases from firms owing delinquent business taxes. No purchase shall be made or purchase order or contract of purchase issued for tangible personal property or services by city officials or employees, acting in their official capacity, from any firm or individual whose business tax or license is delinquent. (1988 Code, § 6-102)

5-103. Official depository for city funds. (1) All financial institutions or branches located in Dayton, Tennessee are hereby designated the official depositories for the City of Dayton. All deposits totaling more than one hundred thousand dollars (\$100,000.00) shall be secured in a manner satisfactory to the city recorder. All other deposits shall be insured by an agency of the federal government.

(2) In addition, for the temporary investment of City of Dayton funds, those investments authorized by the State of Tennessee, specifically as set forth in Tennessee Code Annotated § 6-56-106, as may be amended from time to time, are allowed upon prior approval by a majority vote of the city council for the City of Dayton, Tennessee. (1988 Code, § 6-103, as replaced by Ord. #559, Oct. 2012)

5-104. Dollar amount for public advertisement and competitive bidding. (1) Public advertisement and competitive bidding will not be required for any item that comes within the purchasing law in excess of twenty-five thousand dollars (\$25,000.00).

(2) All purchases exceeding ten thousand dollars (\$10,000.00) shall be approved in writing by the city manager prior to the purchase being made.

(3) No purchase shall be made by any department head or city employee without the funds for said purchase having been appropriately authorized and/or budgeted by the city council.

(4) All contracts for services, equipment, materials, supplies and goods shall be approved by the city council. (1988 Code, § 6-104, as replaced by Ord. #532, July 2010, Ord. #694, Aug. 2023 *Ch8_12-04-23*, and Ord. #697, Aug. 2023 *Ch8_12-04-23*)

5-105. One-time waiver of county school bond proceeds. The city hereby exercises a one-time waiver of any rights it might have to any portion of the proceeds of the county school bond issue that will be used for repairs to the existing high school to be converted to a county middle school upon completion of the new high school since:

(1) The county will pay a portion of the debt service payments on the county school bonds from local option sales tax revenues that have already been shared with the city, and

(2) The city school students will benefit from such expenditures. As a result, the city desires to waive any rights it might have to any portion of the county's school bond issue that will be used to make repairs to the existing high school for its later use as a middle school for the county and repeals all resolutions and ordinances contrary to this provision. However, this one-time waiver does not affect the distribution of the local option sales tax currently in place. (as added by Ord. #554, Oct. 2011)

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 city 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.² 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. (1988 Code, § 6-202)

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.

5-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.

5-304. Annual privilege tax to be paid to the city recorder.

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 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. (1988 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective to each applicant therefor upon the applicant's payment of the appropriate privilege tax and clerks fee of five dollars (\$5.00). (1988 Code, § 6-302, modified)

5-303. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in Tennessee Code Annotated, § 57-4-301, and any amendments thereto, there is hereby levied a privilege tax (in the same amounts as levied by Tennessee Code Annotated, § 57-4-301 for the City of Dayton General Fund to be paid annually as provided in this chapter) upon any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. engaging in the business of selling at retail in the City of Dayton alcoholic beverages for consumption on the premises where sold. It is the intent of the city council that the said Tennessee Code Annotated, § 57-4-301, and any amendments thereto shall be effective in Dayton, Tennessee, the same if the said Tennessee Code Annotated section was adopted and copied herein verbatim. (as added by Ord. #540, Feb. 2011)

5-304. Annual privilege tax to be paid to the city recorder. Any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc. exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Dayton shall remit annually to the city recorder the appropriate tax described

in § 8-103. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person or legal entity regardless of its form of existence, i.e., sole proprietorship, corporation, limited liability company, partnership, etc., failing to make payment of the appropriate tax when due shall be subject to any penalty provided by law, including revocation of the privilege of selling alcoholic beverages for consumption on the premises in the City of Dayton. (as added by Ord. #540, Feb. 2011)

CHAPTER 4**WHOLESALE BEER TAX****SECTION**

5-401. To be collected.

5-401. To be collected. The city recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1988 Code, § 6-401)

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.

CHAPTER 5

CREDIT CARD AND DEBIT CARD PAYMENTS

SECTION

5-501. Credit card and debit card payments.

5-501. Credit card and debit card payments. (1) The City of Dayton may accept credit card and/or debit card payments for utility charges, property taxes, permits, fees, business licenses, applications, fines and court costs.

(2) The City of Dayton shall charge and collect a processing fee that is equal to the amount paid to the third party processor for processing the payment. However, the processing fee shall not be set in an amount that exceeds five percent (5%) of the amount of the payment collected by credit card or debit card.

(3) In the event that the credit card or debit card company issuing the card does not honor payment of the charge, the City of Dayton shall collect the same fee that it normally charges for returned checks and this fee shall be in addition to the normal fee for using a credit card or debit card for payment of utility bills.

(4) The City of Dayton shall state on any notice to the person owing the utility charges, property taxes, permits, fees, business licenses, applications, fines and/or court cost either the percentage of the processing fee for use of a credit card or debit card or the actual fee imposed for the use of a credit card or debit card.

(5) The City of Dayton shall file a pre-implementation statement with the comptroller's office, as required by Tennessee Code Annotated, § 47-10-119, thirty (30) days prior to implementing the processing fees set forth herein. The City of Dayton shall provide to the Comptroller of the Treasury a post-implementation review of the system between twelve (12) and eighteen (18) months after the date a pre-implementation statement has been filed with the comptroller's office. (as added by Ord. #563, Jan. 2014)

CHAPTER 6

HOTEL/MOTEL TAX

SECTION

- 5-601. Definitions.
- 5-602. Permit required; fee; permit not transferable.
- 5-603. Register required; availability for inspection.
- 5-604. Rooms to be numbered.
- 5-605. Tax levied.
- 5-606. Recorder to collect; disposition of proceeds.
- 5-607. Collection and refund.
- 5-608. Remittance of tax.
- 5-609. Monthly tax return - annual audit.
- 5-610. No advertising of rebates.
- 5-611. Delinquent taxes - interest and penalty.
- 5-612. Records - inspection.
- 5-613. Administration and enforcement - remedies of taxpayers.

5-601. Definitions. (1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever.

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes privately, publicly, or government-owned hotels, inns, tourist camps, tourist courts, tourist cabins, motels, short term rental units, primitive and recreational vehicle campsites and campgrounds, or any place in which rooms, lodgings or accommodations are furnished to transients for consideration.

(3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel.

(4) "Operator" means the person operating the hotel, whether as owner, lessee or otherwise.

(5) "Person" means any individual, or group of individuals, that occupies the same room.

(6) "Tourism" means attracting nonresidents to visit a particular municipality and encouraging those nonresidents to spend money in the municipality, which includes travel related to both leisure and business activities.

(7) "Tourism development" means the acquisition and construction of, and financing and retirement of debt for, facilities related to tourism.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) days. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-602. Permit required; fee; permit not transferable. (1) No person shall conduct, keep, manage, operate or cause to be conducted, kept, managed, or operated, either as owner, lessor, agent or attorney, any hotel as defined in this chapter in the city without having obtained a permit from the city recorder to do so. Hotel permits shall be issued annually and shall expire on the last day of December of each year.

(2) The fee for each hotel permit shall be twenty-five dollars (\$25.00).

(3) No permit issued under this chapter shall be transferred or assigned. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-603. Register required; availability for inspection. Every person to whom a business license is issued under this chapter shall, at all times, keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his/her hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-604. Rooms to be numbered. Each sleeping room and in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-605. Tax levied. There is hereby levied, assessed and imposed, and shall be paid and collected, a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount equal to four percent (4%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided herein. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-606. Recorder to collect; disposition of proceeds. The city recorder is hereby charged with the duty of collection of the tax herein levied and the proceeds received by the city from the tax shall be used exclusively for tourism and tourism development within the city as required by Tennessee Code Annotated, § 67-4-1403. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-607. Collection and refund. (1) Such tax shall be added by the operator to each invoice that the operator prepares and gives directly, or transmits, to the transient for the occupancy of the operator's hotel. The tax so invoiced shall be collected from the transient by the operator and remitted to the City, or if the occupancy was secured through a short-term rental unit marketplace, remitted to the State of Tennessee pursuant to Tennessee Code Annotated, title 67, chapter 4, part 15. However, if a short-term rental unit marketplace was not used, then the tax shall be collected from the transient by the operator and remitted to the city.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to that person, and the operator shall receive credit for the amount of such tax if previously paid or remitted to the city. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-608. Remittance of tax. (1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within the city to the city recorder with the tax to be remitted to the city recorder not later than the 20th day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city of such tax shall be that of the operator.

(2) For the purpose of compensating the operator in accounting for remitting the tax levied pursuant to this chapter, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city recorder in the form of a deduction in submitting the operator's report and paying the amount due by such operator; provided, that the amount due was not delinquent at the time of payment.

(3) The tax levied pursuant to this chapter when levied upon the occupancy of a short-term rental unit secured through a short-term rental unit marketplace, must be collected and remitted in accordance with Tennessee Code Annotated, title 67, chapter 4, part 15. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-609. Monthly tax return--annual audit. (1) The city recorder shall be responsible for the collection of such tax. A monthly tax return shall be filed under oath with the city recorder by the operator with such number of copies of the return as the city recorder may reasonably require for the collection of such tax.

(2) The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city recorder and approved by the city council prior to use.

(3) The city recorder shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the city council.

(4) The city recorder shall have the authority and right to audit and inspect records of each operator in the city. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-610. No advertising of rebates. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part of the tax will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-611. Delinquent taxes interest and penalty. (1) Taxes collected by an operator that are not remitted to the city on or before the due dates shall be delinquent.

(2) An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition, for the penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax required to be remitted under this chapter.

(3) Each occurrence of knowing refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty of fifty dollars (\$50.00) each occurrence. As used herein, "each occurrence" shall mean each day. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-612. Records--inspection. It is the duty of every operator liable for the collection of and payment to the city of any tax imposed by this chapter to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax for which the operator may have been liable for the collection of and payment to the city, which records the city recorder shall have the right to inspect at all times. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)

5-613. Administration and enforcement--remedies of taxpayers.

(1) The city recorder, or other authorized collector of the tax, in administering and enforcing the provisions of this chapter, shall have, as additional powers, those powers and duties with respect to collecting taxes as provided by law for the county clerks.

(2) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, title 67; provided, that the city recorder shall possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707 for the county clerks.

(3) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city recorder under the authority of this chapter and Tennessee Code Annotated, title 67, shall be refunded by the city recorder.

(4) Notice of any tax paid under protest shall be given to the city recorder. Any suit filed to recover taxes paid under protest may be brought by filing the same against the city recorder. (as added by Ord. #658, Feb. 2022 *Ch8_12-04-23*)