

**TITLE 5****MUNICIPAL FINANCE AND TAXATION**<sup>1</sup>**CHAPTER**

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. WHOLESALE BEER TAX.
4. MUNICIPAL PURCHASES.
5. ADEQUATE FACILITIES TAX.
6. HOTEL AND MOTEL OCCUPANCY TAX.

**CHAPTER 1****REAL AND PERSONAL PROPERTY TAXES**<sup>2</sup>**SECTION**

- 5-101. Assessment of property.
- 5-102. Tax rate.
- 5-103. When due and payable.
- 5-104. Collection of real and personal property taxes.
- 5-105. When delinquent - penalty and interest.
- 5-106. Collection of delinquent real and personal property taxes.
- 5-107. General law adopted.

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<sup>1</sup>Charter reference

Finance and taxation: title 6, chapter 22.

<sup>2</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.

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

**5-101. Assessment of property.** The real and personal property lying within the boundaries of the Town of Kingston Springs shall be assessed pursuant to the assessments made by the Cheatham County Assessor of Property for such properties, and such assessments made by the Cheatham County Assessor of Property shall be copied and entered on the tax books of the Town of Kingston Springs.

**5-102. Tax rate.** The tax rate which shall be levied on real and personal property shall be set by the board of commissioners by resolution at or after passing and establishing an annual budget for each fiscal year.

**5-103. When due and payable.** 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 the taxes are levied.<sup>1</sup>

**5-104. Collection of real and personal property taxes.** Real and personal property taxes shall be collected by the town tax collector as provided for in *Tennessee Code Annotated*, § 67-5-1801 and *Tennessee Code Annotated*, § 6-55-101 and § 6-55-301 *et seq.* and as otherwise provided for by law.

**5-105. When delinquent - penalty and interest.** All real and personal 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 state law for delinquent county real and personal property taxes.<sup>2</sup>

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<sup>1</sup>Charter reference

*Tennessee Code Annotated*, § 6-22-110 sets the due date of November 1 of the year for which the taxes are assessed, but *Tennessee Code Annotated*, § 6-22-113 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

<sup>2</sup>Charter reference

*Tennessee Code Annotated*, § 6-22-112 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but *Tennessee Code Annotated*, 6-22-113 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners.)

State law reference

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) ways:

(continued...)

**5-106. Collection of delinquent real and personal property taxes.**

The collection of delinquent real and personal property taxes shall be made by the county trustee pursuant to *Tennessee Code Annotated*, § 67-5-2001 *et seq.*<sup>1</sup>

**5-107. General law adopted.**

All other matters related to the assessment, levy, and collection of real and personal property taxes for the Town of Kingston Springs not specifically provided for herein shall be governed by the applicable general law of the State of Tennessee as it relates to taxation by municipalities.

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<sup>2</sup>(...continued)

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

<sup>1</sup>Charter reference

*Tennessee Code Annotated*, § 6-22-114 directs the finance director to turn over the collection of delinquent property taxes to the county trustee.

**CHAPTER 2****PRIVILEGE TAXES****SECTION**

5-201. License required.

**5-201. 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. (1996 Code, § 5-202)

## CHAPTER 3

WHOLESALE BEER TAX

## SECTION

5-301. To be collected.

**5-301. 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> (1996 Code, § 5-301)

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<sup>1</sup>State law reference

*Tennessee Code Annotated*, title 57, chapter 6 provides for a tax of thirty-five dollars sixty cents (\$35.60) on the sale of beer at wholesale or as otherwise provided in such act. 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 4

### MUNICIPAL PURCHASES

#### SECTION

5-401. Town manager to be responsible.

5-402. Competitive bids.

5-403. Formal sealed bids.

5-404. Rejection of bids.

**5-401. Town manager to be responsible.** The town manager of the Town of Kingston Springs shall be responsible for town purchasing, but the town manager may delegate the duty to make purchases to an appointed subordinate. (1996 Code, § 5-401)

**5-402. Competitive bids.** (1) The town manager or appointed subordinate shall seek competitive prices for all purchases, except for minor items used infrequently or items which must be obtained immediately to avoid disruption of services, and public improvements whenever practicable. The town manager or appointed subordinate may waive the requirement to obtain bids when there is only one (1) source of supply. Further bids need not be taken for professional services and services for which the rates or prices are regulated by public authority or for purchases from other governmental agencies. The town manager or appointed subordinate shall have the authority to make purchases at state and federal surplus sales without having to bid for items in an amount not to exceed the budgeted amount for the items.

(2) All purchases pursuant to competitive bidding for goods and services and public improvements shall be made to the lowest responsible bidder also giving consideration to the reliability of the bidder. (Ord. #2016-004, July 2016, modified)

**5-403. Formal sealed bids.** (1) Formal sealed bids shall be obtained in all transactions involving the expenditure of an amount greater than ten thousand dollars (\$10,000.00). The board of commissioners by unanimous resolution or motion of those present at a meeting, based upon the written recommendation of the town manager that it is clearly to the advantage of the town not to contract with competitive bidding, it may authorize non-competitive contracts, when exigent circumstances exist.

(2) All purchases whereby competitive prices are sought or by formal sealed bids shall be consummated by the execution of a purchase order. (1996 Code, § 5-403)

**5-404. Rejection of bids.** The town manager may reject all bids and authorize the making of public improvements or accomplishment of any other town work by any town department. (1996 Code, § 5-404)

**CHAPTER 5****ADEQUATE FACILITIES TAX****SECTION**

- 5-501. Short title.
- 5-502. Purpose.
- 5-503. Findings.
- 5-504. Authority.
- 5-505. Definitions.
- 5-506. Tax levy.
- 5-507. Prohibition on issuance of building permit.
- 5-508. Exemption from tax.
- 5-509. Collection of tax.
- 5-510. Use and segregation of tax funds.
- 5-511. Authority to amend.
- 5-512. Protest of tax.
- 5-513. Additional authority.
- 5-514. Non-repealer.

**5-501. Short title.** This chapter shall be known and cited as the Kingston Springs Municipal Adequate Facilities Tax. (1996 Code, § 5-501)

**5-502. Purpose.** It is the intent and purpose of this chapter to authorize the governing body of the Town of Kingston Springs to impose a tax on new development within the municipality, payable at the time of issuance of a building permit, so as to ensure and require that the person responsible for new development share in the cost of public facilities necessary to serve the residents of Kingston Springs. (1996 Code, § 5-502)

**5-503. Findings.** The town commission hereby finds and declares that:

- (1) Cheatham County, Tennessee, has been one of the fastest growing counties in the state for the past fifteen (15) years, having been impacted by the rapid growth in the standard metropolitan area of Nashville.

- (2) Anticipated continued growth from the expansion of Nashville is expected to accelerate due to the continuing location of manufacturing and commercial businesses in the middle Tennessee area, and from other factors; and

- (3) Current projections show that:

- (a) County population will be forty-two thousand (42,000) persons in the year 2010, an increase of fifty-five (55%) percent from 1990; there will be a demand for approximately five thousand (5,000) additional dwelling units between 1990 and 2010; and new residential

and non-residential development will consume an additional three thousand (3,000) acres of land in Cheatham County.

(b) The majority of the projected growth in Cheatham County between 1990 and 2010 will occur within the boundaries of the incorporated municipalities within the county.

(c) The projected growth and land use development within these municipalities will cause a demand for municipal capital facilities (roads, parks, town governmental facilities, etc.) in an amount well in excess of ten million dollars (\$10,000,000.00) over the next fifteen (15) years.

(4) The municipality is committed, both to present and future residents, to maintaining a level of public facilities and services commensurate with those presently provided.

(5) The municipality is prepared to impose a fair, equitable and reasonable share of the costs of providing the necessary public facilities and services as existing residents of the municipality.

(6) The municipality's present population, employment base, tax base and budget cannot alone support the additional revenues needed to supply facilities to serve new growth without a substantial increase in the property tax rate on existing development.

(7) The municipality has adopted by resolution a capital improvements program indicating the need for and the cost of public facilities anticipated to be funded, in part, by this tax.

(8) Due to these unique circumstances, it is necessary and appropriate that the Town of Kingston Springs utilize the authority granted by the Legislature of the State of Tennessee to impose an adequate facilities tax on the privilege of engaging in the business of development.

(9) The tax herein imposed is in compliance with Chapter No. 54, Private Acts of 1997. (1996 Code, § 5-503)

**5-504. Authority.** This chapter is imposed under the charter powers of the Town of Kingston Springs, Tennessee, and under the authority conferred on the municipality to levy an adequate facilities tax on the privilege of engaging in development by Chapter No. 54, Tennessee Private Acts of 1997. (1996 Code, § 5-504)

**5-505. Definitions.** As used in this chapter, unless a different meaning appears from the context:

(1) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home, but excludes those buildings specified in § 5-508.

(2) "Building permit" means a permit for development issued in Kingston Springs, as herein defined, within Cheatham County.

(3) "Capital improvement program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expense, for the purchase, construction, or replacement of the physical assets of the community are included.

(4) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or non-residential use.

(5) (a) "Floor area" for nonresidential development means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such building or portions thereof, or within lines drawn parallel to and two feet (2') within the roof line of any building or portions thereof without walls but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, services, or production areas.

(b) "Floor area," for residential development means the total or the gross horizontal area of all floors, including basements, cellars, or attics which is heated and/or air-conditioned living space, or designed to be finished into heated and/or air-conditioned living space at a future date.

(6) "General plan" means the official statement of the municipal planning commission which sets forth major policies concerning future development of the jurisdictional area and meeting the provisions set forth in *Tennessee Code Annotated*, §§ 13-4-201, 13-4-203 and 13-4-302. For the purposes of this chapter only, a general plan may consist solely of the land development plan element which sets out a plan of scheme of future land usage.

(7) "Governing body" means the town commission of Kingston Springs, Tennessee.

(8) "Major street or road plan" means the plan adopted by the municipal planning commission, pursuant to *Tennessee Code Annotated*, §§ 13-4-201 and 13-4-303, showing among other things, "the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways."

(9) "Municipality" means the Town of Kingston Springs.

(10) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this chapter.

(11) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or

other group or combination action as a unit, and the plural as well as the singular number.

(12) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(13) "Public buildings" means buildings owned by the State of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(14) "Public facility or facilities" means a physical improvement undertaken by the municipality, including, but not limited to the following: roads and bridges, parks and recreational facilities, jail and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefitting the citizens of the municipality.

(15) "Residential" means the development of any property for a dwelling unit or units.

(16) "Subdivision regulations" means the regulations adopted by the governing body, as amended, pursuant to *Tennessee Code Annotated*, § 13-4-303, by which the municipality regulates the subdivision of land.

(17) "Zoning resolution" means the ordinance adopted by the governing body, as amended, pursuant to *Tennessee Code Annotated*, § 13-7-201, by which the municipality regulates the zoning, use and development of property. (1996 Code, § 5-505)

**5-506. Tax levy.** There is hereby levied a tax on each person engaging in the business of development in the municipality, which tax is to be paid at the time of application for a building permit for development, as provided in § 5-509.

Tax Rate Schedule

New residential development	\$0.40 per gross square foot of floor area
New non-residential development	\$0.00 per gross square foot of floor area

(1996 Code, § 5-506)

**5-507. Prohibition on issuance of building permit.** No building permit for development shall be issued within the municipality unless the tax has been paid in full to the municipality, as provided in § 5-509. (1996 Code, § 5-507)

**5-508. Exemption from tax.** No tax shall be assessed or collected for the development of:

- (1) Public buildings;
- (2) Places of worship;
- (3) Barns or outbuildings used for agricultural purposes;
- (4) Replacement structures for previously existing structures destroyed by fire or other disaster;
- (5) Additions to a single-family dwelling;
- (6) A structure owned by a non-profit corporation which is a qualified 501(c)(3) corporation under the Internal Revenue Code; or
- (7) Permanent residential structures replacing mobile homes where the mobile home is removed within thirty (30) days of the issuance of the certificate of occupancy for the permanent residential structure, provided that the permanent structure is a residence for the owner and occupant of the mobile home and that owner and occupant has resided on the property for a period of not less than three (3) years. (1996 Code, § 5-508)

**5-509. Collection of tax.** (1) Each applicant for a building permit for development, as herein defined, shall state on a form provided by the municipality, the proposed use (residential or non-residential) and the amount of gross square footage of floor area contained in the development for which the permit is sought.

(2) The municipal office designated in the administrative guidelines shall calculate the tax due on the development and collect such tax prior to acceptance of the application for the permit.

(3) In its sole discretion, the municipality may permit a person engaging in the business of development to defer payment of the tax due until the time for issuance of the building permit. (1996 Code, § 5-509)

**5-510. Use and segregation of tax funds.** All tax funds collected within the municipality as authorized herein, shall be deposited and accounted for in a special revenue of capital projects fund, and shall be used for the purpose of provided public facilities to serve the residents of the municipality. (1996 Code, § 5-510)

**5-511. Authority to amend.** The municipality may, from time to time, amend the tax herein imposed on development, based upon adoption of a revised capital improvements program. (1996 Code, § 5-511)

**5-512. Protest of tax.** Any person aggrieved by the decision of the municipal building official or other responsible official concerning any aspect of Chapter No. 54, Private Act of 1997, or this chapter may obtain a review of the officials decision in the manner provided in said act. (1996 Code, § 5-512)

**5-513. Additional authority.** The authority to impose this privilege tax and new development within the municipality is in addition to all other authority to impose taxes, fees, assessments, or other revenue-raising or land development regulatory measures granted either by the private or public acts of the State of Tennessee and the imposition of such tax, in addition to any authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation. (1996 Code, § 5-513)

**5-514. Non-repealer.** The provisions of this chapter shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to the Town of Kingston Springs, Chapter No. 54, Private Act of 1997, and this chapter shall be deemed to create an additional and alternative method for the municipality to impose and collect taxes for the purpose of provided public facilities within the municipality. (1996 Code, § 5-514)

## CHAPTER 6

### HOTEL AND MOTEL OCCUPANCY TAX

#### SECTION

- 5-601. Definitions.
- 5-602. Tax levied.
- 5-603. Billings, refunds, and credits.
- 5-604. Remittance and timing.
- 5-605. Report required.
- 5-606. Tax not to be absorbed.
- 5-607. Delinquency and penalties.
- 5-608. Treasurer's powers.
- 5-609. Proceeds to be placed in general fund.

**5-601. Definitions.** As used in this chapter unless context otherwise requires:

(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; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, motel, or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration.

(3) "Occupancy" means the use or possession, or the right to the 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, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Tax collector" means, for the purposes of this section, the town recorder or his designee.

(7) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days. (Ord. #17-005, July 2017)

**5-602. Tax levied.** There is hereby levied a tax on the privilege of occupancy of a hotel in an amount equal to four percent (4%) of the consideration paid by any transient to any hotel or motel operator for occupancy. The proceeds from this tax shall be used solely to promote tourism and economic development in the town and for no other purposes. (Ord. #17-005, July 2017, as amended by Ord. #22-005, May 2022 *Ch2\_11-17-22*, and replaced by Ord. #22-007, July 2022 *Ch2\_11-17-22*)

**5-603. Billings, refunds, and credits.** (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel that is given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the town.

(2) When a person has maintained occupancy for ninety (90) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to said person, and the operator shall receive credit for the amount of such tax if previously paid or reported to the Town of Kingston Springs. (Ord. #17-005, July 2017)

**5-604. Remittance and timing.** The tax hereby levied shall be remitted by all hotel and motel operators who lease, rent, or charge for any occupancy in a hotel within the town to the town's tax collector no later than the twentieth 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 such occupancy whether prior to occupancy or after 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 town entitled to such tax shall be that of the operator. (Ord. #17-005, July 2017)

**5-605. Report required.** (1) The town tax collector shall be responsible for collection of such tax. A monthly tax return, signed under oath, shall be filed with the tax collector by each operator and shall include all facts and information as may be deemed reasonable by the tax collector for the verification of the tax due. The tax collector shall audit each operator at least once per year to ensure compliance with this chapter and shall report on same to the board of commissioners.

(2) It is the duty of every hotel or motel operator liable for the collection and payment to the town 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 as said operator may have been liable for the collection of the payment to the town, which records the tax collector shall have the right to inspect at all reasonable times. (Ord. #17-005, July 2017)

**5-606. Tax not to be absorbed.** No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof 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. (Ord. #17-005, July 2017)

**5-607. Delinquency and penalties.** Taxes collected by an operator which are not remitted to the tax collector on or before the due dates are delinquent. 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 is liable for an additional 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 herein required to be remitted. Each occurrence of willful 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 not in excess of fifty dollars (\$50.00). (Ord. #17-005, July 2017)

**5-608. Treasurer's powers.** The tax collector shall have as additional powers in the collection of this tax those powers and duties with respect to collecting taxes as provided in *Tennessee Code Annotated*, title 67, or as otherwise provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in *Tennessee Code Annotated*, title 67, chapter 23, it being the intent of this section that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The tax collector shall also possess those powers and duties as provided in *Tennessee Code Annotated*, § 67-1-707 for the county clerks with respect to the adjustment and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors for taxes collected by the tax collector under authority of this section shall be refunded by the town. The tax collector shall have authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the tax collector. The tax collector is hereby designated as the officer against whom suit may be brought for recovery of tax illegally assessed and collected. (Ord. #17-005, July 2017)

**5-609. Proceeds to be placed in general fund.** The tax collector is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund for the Town of Kingston Springs. The proceeds of such tax shall be used solely to promote tourism and economic development in the town and for no other purposes. (Ord. #17-005, July 2017)