

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. REAL PROPERTY TAXES.
2. PRIVILEGE TAX - BUSINESS TAX.
3. PRIVILEGE TAX - ACCOMMODATION FOR TRANSIENTS.
4. WHOLESALE BEER TAX.

CHAPTER 1

REAL PROPERTY TAXES

SECTION

5-101. Administration of taxes and special assessments.

5-101. Administration of taxes and special assessments. The assessment, levy, and collection of taxes and special assessments shall be in charge of the department of finance and taxation, subject to the provisions of the municipal code.

All real property taxes and personal property taxes of the city shall be due and payable on the tenth day of November of the year for which the taxes are assessed.

The city treasurer shall be the custodian of the tax books and shall be the tax collector of the city.

All municipal taxes on real property and personal property in the city and all penalties and costs accruing thereon are hereby declared to be a lien on said property from and after the first day of January of each year hereafter for which same are assessed, which lien shall be superior to all liens except liens of the United States and the State of Tennessee for taxes legally assessed thereon.

No assessment shall be invalid because of inadequate description of the property or if the same is assessed to an unknown owner or in the name of a person or persons who are not the lawful owner thereof. The city council shall have the power to have corrected any errors in the tax assessments.

If such taxes are not paid on or before the date fixed for the delinquencies thereof, to the amount of tax due and payable 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 April, following the tax due date and on the first day of each succeeding month.

¹Charter reference

Collection of taxes: § 6-35-301.

The city treasurer shall turn over to the city attorney for collection on July 1, all delinquent taxes assessed for the previous year and an attorney's fee of ten percent (10%) shall be added on that date and the city attorney shall be required, no later than October 1 following, to file with the clerk and master of the chancery court a list of all delinquent taxes on real estate and personal property for the sale of said real estate and personal property, for the collection of taxes, or which is liable for sale for other taxes and the same will be sold in a like manner and upon the same terms as property is sold for delinquent state and county taxes. (2000 Code, § 5-201)

CHAPTER 2

PRIVILEGE TAX - BUSINESS TAX¹

SECTION

5-201. Tax levied.

5-202. "Business Tax Act" implemented.

5-203. License required.

5-201. 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 state² to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said laws. (2000 Code, § 5-301)

5-202. "Business Tax Act" implemented. The taxes provided for in Tennessee Code Annotated, title 67, chapter 4, known as the "Business Tax Act," are hereby enacted, ordained, and levied on the businesses, business activities, vocations, or occupations carried on in Elizabethton, Tennessee, at the rates and in the manner prescribed by the said act.

The provisions of this section shall be retroactive to June 1, 1971, to coincide with the effective date of the public act. (2000 Code, § 5-302)

5-203. License required. No person shall exercise any privilege taxed by the city without a currently effective privilege license which shall be issued by the city clerk to each applicant therefor upon such applicant's payment of the appropriate privilege tax. (2000 Code, § 5-303)

¹Chapter name changed by Ord. #59-8, April 2023 *Ch3_02-08-24*.

²State law reference
Tennessee Code Annotated, title 67.

CHAPTER 3

PRIVILEGE TAX - ACCOMMODATIONS FOR TRANSIENTS

SECTION

- 5-301. Definitions.
- 5-302. Tax levied.
- 5-303. Collection of tax.
- 5-304. Tax to be remitted to the finance department.
- 5-305. Finance department to collect tax.
- 5-306. No advertising of rebates.
- 5-307. Delinquent taxes.
- 5-308. Records.
- 5-309. Administration and enforcement; remedies of taxpayers.
- 5-310. Tax placement and use.
- 5-311. Severability.
- 5-312. Tax is additional tax.

5-301. Definitions. As used in this chapter unless the 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. 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 space, or any portion thereof, that 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, tourist cabin, motel, 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 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, or group of individuals, that occupies the same room;

(6) "Tourism" means attracting nonresidents to visit the City of Elizabethton and encouraging those nonresidents to spend money in the city, 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) continuous days. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-302. Tax levied. There is hereby levied 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 by this chapter. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-303. Collection of tax. This privilege tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his/her hotel and be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the City of Elizabethton.

When a person has maintained the occupancy for thirty (30) continuous days, they shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-304. Tax to be remitted to the finance department. The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the city to the finance department of the City of Elizabethton, such tax to be remitted to such office no later than the twentieth (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 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 city for such tax shall be that of the operator. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-305. Finance director to collect tax. The finance director shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the finance department by the operator with such number of copies thereof as the finance director may reasonably require for the collection of such tax. 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 finance director and approved by the City Council of the City of Elizabethton prior to use. The finance director shall audit each operator in the city at least once per year and shall report on all audits made on a quarterly basis to the Elizabethton City Council. The city council is authorized

to adopt ordinances or resolutions to provide reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-306. 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 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. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-307. Delinquent taxes. Taxes collected by an operator, or due from an operator, which are not remitted to the finance department 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 in addition, a 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. 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 declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). Each occurrence shall constitute a separate offense. As used herein above, "each occurrence" means each day.

Nothing in this section shall be construed to prevent the authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this chapter. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-308. Records. It shall be the duty of every operator liable for the collection and payment to the city of the tax imposed by this ordinance 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 he may have been liable for the collection of and payment to the city, which records the finance director shall have the right to inspect at all reasonable times. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-309. Administration and enforcement; remedies of taxpayers. The finance director 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 in title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks. The finance director shall also possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707(a)(b), for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by the recorder under authority of this ordinance and to direct the refunding of same. Upon any claim

of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this chapter 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 the chapter. Notice of any tax paid under protest shall be given to the finance director and any suit brought shall be brought against the finance director in the director's official capacity as the collector of the tax. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-310. Tax placement and use. The finance director is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the city general fund or such other fund as the city council shall designate. Such funds may be used only for the purposes of tourism or tourism development. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-311. Severability. If any provision of this chapter or the application thereof to any person circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

5-312. Tax is additional tax. The tax herein levied shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied. (as added by Ord. #59-8, April 2023 *Ch3_02-08-24*)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The city clerk is hereby directed to collect for the city the seventeen percent (17%) wholesale beer tax levied by the "Wholesale Beer Tax Act" as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (2000 Code, § 5-401, as renumbered and replaced by Ord. #59-8, April 2023 *Ch3_02-08-24*)

¹Municipal code references
Alcohol and beer regulations: title 8.
Privilege tax: § 8-217.