

**TITLE 5****MUNICIPAL FINANCE AND TAXATION****CHAPTER**

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**CHAPTER 1****MISCELLANEOUS****SECTION**

- 5-101. Official depositories for City funds.  
5-102. Fiscal year.

**5-101. Official depositories for City funds.** Bank East, Branch Banking & Trust, Citizens National Bank, Eastman Credit Union, Highlands Union Bank, Home Federal Bank, KTVA Federal Credit Union, Mountain National Bank, Sevier County Bank, Regions Bank, Smart Bank, SunTrust Bank, Tennessee State Bank, and Y-12 Federal Credit Union are hereby designated the official depositories of the City of Sevierville. In addition to the banks specifically named herein, the City may deposit City funds with banks which are named as trustees in any bond resolution of the City of Sevierville. All deposits totaling more than one hundred thousand dollars (\$100,000.00) shall be secured in a manner satisfactory to the City Recorder. Any depository named either in this section or in any future bond resolution shall be required to provide adequate collateral for City funds deposited as required by state law and the City of Sevierville or, in the alternative, to be a member of the Tennessee Collateral Pool. (Ord. #2011-008, Oct. 2011)

**5-102. Fiscal year.** The fiscal year of the City of Sevierville shall begin on the first day of July and end on the 30th day of the following June of each year. (1996 Code, § 5-102)

## CHAPTER 2

**REAL PROPERTY TAXES<sup>1</sup>****SECTION**

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

**5-201. When due and payable.** Taxes levied by the City against real and personal property shall become due and payable annually on the date prescribed in the City charter. (1996 Code, § 5-201)

**5-202. When delinquent--penalty and interest.** All property taxes shall become delinquent on the date and shall thereupon be subject to such penalty and interest as prescribed in the City charter. (1996 Code, § 5-202)

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<sup>1</sup>State law reference

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.

Charter reference

Miscellaneous powers: art. II, §2.

**CHAPTER 3****PRIVILEGE TAXES****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 said 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 said act. (1996 Code, § 5-301)

**5-302. License required.** No person shall exercise any such privilege within the City without a currently effective privilege license, which shall be issued by the Recorder to each applicant therefor upon such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1996 Code, § 5-302)

## CHAPTER 4

### LODGING OCCUPANCY PRIVILEGE TAXES

#### SECTION

- 5-401. Definitions.
- 5-402. Tax levied and exemptions.
- 5-403. Collection.
- 5-404. Taxes remitted to City Recorder.
- 5-405. Method of reporting taxes.
- 5-406. Offer to absorb tax prohibited.
- 5-407. Penalties and interest for delinquent payment.
- 5-408. Tax records.
- 5-409. Administration.
- 5-410. Disposition of tax proceeds.
- 5-411. Tax is additional tax.
- 5-412. Rules and regulations.
- 5-413. Severability.

**5-401. 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 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, tourist cabin, 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) "Religious institutions" shall have the same meaning as that established by Tennessee Code Annotated § 48-3-502(b).

(7) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the municipality tourists, visitors, and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purpose.

(8) "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 thirty (30) continuous days. (1996 Code, § 5-401)

**5-402. Tax levied and exemptions.** 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 two percent (2%) 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.

Those persons acting as representatives of, engaged in duties in conjunction with, and acting under the auspices of those organizations having a valid certificate of exemption issued by the Commissioner of the Tennessee Department of Revenue as provided for in Tennessee Code Annotated § 67-6-322(a)(1) and those religious institutions which have received a determination of exemption from the Internal Revenue Service under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)) and are currently operating under it, are exempt from the provisions of this chapter provided that proof of the existence of such certification of exemption or determination of exemption is presented to the operator prior to the submittal of the invoice to the transient for payment. A copy of such proof shall be submitted to the municipality as part of the required monthly tax return. (1996 Code, § 5-402, as amended by Ord. #2012-008, July 2012, and Ord. #2013-13, June 2013)

**5-403. Collection.** Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel and be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the municipality. 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 in the form of a deduction in submitting his or her return and paying the amount due by such operator, provided the amount was not delinquent at the time of payment.

When a person has maintained occupancy for thirty (30) continuous days, he 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 this municipality. (1996 Code, § 5-403)

**5-404. Taxes remitted to City Recorder.** The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the municipality to the City Recorder of the City of Sevierville, such tax to be remitted to such officer 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 municipality for such tax shall be that of the operator. (1996 Code, § 5-404)

**5-405. Method of reporting taxes.** The City Recorder shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the City Recorder by the operator with such number of copies thereof as the City Recorder 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 City Recorder and approved by the Board of Mayor and Aldermen prior to use. The City Recorder shall audit each operator in the municipality at least once per year and shall report on the audits made on a quarterly basis to the Board. (1996 Code, § 5-405)

**5-406. Offer to absorb tax prohibited.** 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. (1996 Code, § 5-406)

**5-407. Penalties and interest for delinquent payment.** Taxes collected by an operator which are not remitted to the City Recorder 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. 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). (1996 Code, § 5-407)

**5-408. Tax records.** It shall be the duty of every operator liable for the collection and payment to the municipality of the 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 he may have been liable for the collection of and payment to this municipality, which records the City

Recorder shall have the right to inspect at all reasonable times. (1996 Code, § 5-408)

**5-409. Administration.** The City Recorder who is 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 Tennessee Code Annotated, title 67 or otherwise provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67, 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 this chapter. The City Recorder shall also possess those powers and duties as provided in said section for county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this chapter and to direct the refunding of same. Notice of any tax paid under protest shall be given to the City Recorder and any suit may be brought for recovery of such tax paid under protest by filing the same against the City Recorder of the City. (1996 Code, § 5-409, modified)

**5-410. Disposition of tax proceeds.** The proceeds from the tax levied herein shall be retained by the City and distributed as follows:

(1) Two-thirds (2/3) of the proceeds shall be used for the promotion of tourism, including but not limited to funding of the Chamber of Commerce of Sevierville, Tennessee.

(2) One-third (1/3) of the proceeds shall be deposited in the general fund of the City. (1996 Code, § 5-410)

**5-411. 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. (1996 Code, § 5-411)

**5-412. Rules and regulations.** The City Recorder shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further, the City Recorder shall design, prepare, print and make available to all persons who are subject to this chapter all necessary forms for filing returns, and instructions to insure full compliance with the provisions of this chapter. (1996 Code, § 5-412)

**5-413. Severability.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter and to that end the provisions of this chapter are declared severable. (1996 Code, § 5-413)

## CHAPTER 5

### PURCHASING PROCEDURES

#### SECTION

- 5-501. Purchasing agent.
- 5-502. General procedure.
- 5-503. Sealed bid requirements.
- 5-504. Competitive bids.
- 5-505. Purchases and contracts less than ten thousand dollars (\$10,000.00).
- 5-506. Bid deposits.
- 5-507. Performance bond.
- 5-508. Rejection of bids.
- 5-509. Record of bids.
- 5-510. Considerations in determining lowest responsible bidder.
- 5-511. Statement when award not given low bidder.
- 5-512. Award in case of tie bids.
- 5-513. Emergency purchases and contracts.
- 5-514. Purchase of emergency replacement parts for existing equipment.
- 5-515. When written contract required.
- 5-516. Anti-discrimination provision in contracts for work or services.
- 5-517. Disposal of seized property, confiscated property, abandoned property and surplus property.
- 5-518. Participating in the disposal of surplus property.
- 5-519. Items consumed in the course of work or items thought to be worthless.

**5-501. Purchasing agent.** The City Administrator shall be the purchasing agent for the City. Except as otherwise provided by this chapter, all supplies, materials, equipment, and services of any nature whatsoever shall be acquired by the purchasing agent or his authorized representative. This chapter shall not apply to the Board of Public Utility of the City of Sevierville. The purchasing agent shall establish such rules and regulations necessary to carry out the intent of this chapter. (Ord. #2011-008, Oct. 2011)

**5-502. General procedure.** Competitive bids on all supplies, materials, equipment, and services, except those specified elsewhere in this code, and contracts for public improvements 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 in this code. (1996 Code, § 5-502)

**5-503. Sealed bid requirements.** On all purchases and construction contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except otherwise provided for in this code, 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 Board of Mayor and Aldermen at the next regularly scheduled Board meeting together with the recommendation as to the lowest responsible bidder.

Notice inviting bids shall be published once in a newspaper of general circulation in Sevier County, and at least five (5) days preceding the last day set for the receipt of proposals. The newspaper notice shall include a general description of the articles to be purchased, shall state where bid blanks and written specifications may be secured, and the time and place for opening bids. (1996 Code, § 5-503)

**5-504. Competitive bids.** Competitive bids on all supplies, materials, equipment, and construction contracts estimated to be in excess of ten thousand dollars (\$10,000.00), shall be by competitive bidding and shall be awarded to the lowest responsible bidder. A written record shall be required and be available for inspection showing that competitive bids were obtained by one (1) or more of the following methods:

- (1) Direct mail request to prospective bidders;
- (2) Telephone;
- (3) Public notice posted on the bulletin board in City Hall. (1996 Code, § 5-504)

**5-505. Purchases and contracts less than ten thousand dollars (\$10,000.00).** The purchasing agent is expected to obtain the best prices and services available for purchases and contracts of less than ten thousand dollars (\$10,000.00), but is exempted from formal bid requirements mentioned in the two (2) previous sections. (1996 Code, § 5-505)

**5-506. Bid deposits.** When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bid. 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. (1996 Code, § 5-506)

**5-507. Performance bond.** The purchasing agent shall require a performance bond, before entering a contract, in such amount as he shall find 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 for by Tennessee Code Annotated. (1996 Code, § 5-507)

**5-508. 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 (1) 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 any taxes, licenses, fees, or other monies of whatever nature that may be due the City by said vendor or contractor. (1996 Code, § 5-508)

**5-509. 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 amounts bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection. (1996 Code, § 5-509)

**5-510. Considerations in determining lowest responsible bidder.** In determining the lowest responsible bidder in addition to price, the purchasing agent shall consider:

- (1) The ability, capacity, and skill of the bidder to perform the contract or provide the services 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, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of previous contracts or services.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- (9) The number and scope of conditions attached to the bid. (1996 Code, § 5-510)

**5-511. Statement when award not given low bidder.** When the award for purchases and construction contracts in excess of ten thousand dollars (\$10,000.00) 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 and filed with all the other papers relating to the transaction. (1996 Code, § 5-511)

**5-512. Award in case of tie bids.**

- (1) If all bids received are for the same total amount or unit price, quality and service being equal, the contract or purchase order shall be awarded to a local bidder.

(2) Where a local vendor has not bid or where his bid is not one of the lowest tie bids, the purchasing agent shall award the contract to one of the tie bidders by drawing lots in public. (1996 Code, § 5-512)

**5-513. Emergency purchases and contracts.** When, in the judgment of the purchasing agent, an emergency exists, the purchasing provisions of this code may be waived; provided, however, the City Administrator shall report the purchases and contracts to the Board of Mayor and Aldermen at the next regular Board meeting with the reasons therefor. (1996 Code, § 5-513)

**5-514. Purchase of emergency replacement parts for existing equipment.** Notwithstanding any other provision of this chapter, the purchase of emergency replacement parts for existing equipment shall not require competitive bidding or prior approval of the Board. (1996 Code, § 5-514)

**5-515. When written contract required.**

(1) Except as otherwise provided by this code, and except the services of salaried employees of the City, any services of a professional person or firm, including attorneys, accountants, physicians, architects, and consultants required by the City, whose fee is ten thousand dollars (\$10,000.00) or more, shall be evidenced by written contract signed by the person or firm rendering the service and by the Mayor after authorization to do so by the Board of Mayor and Aldermen; provided, however, that the Board in its discretion, may contract for such services by the adoption of a written resolution defining the services to be rendered. No competitive bidding shall be required for such services.

(2) Agreements entered into by the City for construction work involving the expenditure of ten thousand dollars (\$10,000.00) or more must be evidenced by written contract. (1996 Code, § 5-515)

**5-516. Anti-discrimination provision in contracts for work or services.** All contracts entered into by the City whereby services are furnished or municipal functions performed shall contain therein a provision that the contractor, in performing the work required by the contract or furnishing the services provided for shall not discriminate against any person seeking employment with or employed by him, because of race, creed, color, national origin or handicap. (1996 Code, § 5-516)

**5-517. Disposal of seized property, confiscated property, abandoned property and surplus property.** The purchasing agent, the Sevierville City Administrator, shall be in charge of the disposal of seized property, confiscated property, abandoned property and surplus property. Said property shall be disposed by way of either a public auction, sealed bids or computer on-line electronic auction, at the discretion of the City Administrator.

The City Administrator is authorized to hire an auctioneer or company engaged in on-line electronic auctions for the purpose of conducting such sales.

The Board of Mayor and Aldermen may accept or transfer surplus real or personal property of the City to or from any local, state, or federal governmental entity, or subdivision thereof, for public use without the requirement of competitive bidding or payment for same by the recipient, or exchange with any local, state, or federal governmental entity, or subdivision thereof, like property, within the sole discretion of the Board of Mayor and Aldermen. (1996 Code, § 5-517, as amended by Ord. #2007-010, April 2007)

**5-518. Participating in the disposal of surplus property.** All City employees shall be permitted to bid on surplus City property. (1996 Code, § 5-518)

**5-519. Items consumed in the course of work or items 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 to any other refuse. Said items shall be simply charged off as a routine cost of doing business. (1996 Code, § 5-519)

**CHAPTER 6**  
**SALES TAXES**<sup>1</sup>

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<sup>1</sup>The City of Sevierville has passed ordinances which purport to impose taxes under the Retailers' Sales Tax Act, which appears in Tennessee Code Annotated § 67-6-101, et seq. Cities and counties may levy local option sales taxes up to a maximum of 2 3/4%. Tennessee Code Annotated § 67-6-702 (Supp. 1992). However, the amount that a City may levy is precluded to the extent that the county in which the City lies has levied the tax. Tennessee Code Annotated § 67-6-703(a)(1). At present, the Sevier County sales tax is 2 3/4%.

**CHAPTER 7****AUDIT REQUIREMENTS****SECTION**

5-701. Audit requirements for City.

**5-701. Audit requirements for City.** The City of Sevierville does hereby adopt the following as audit requirements to comply with Tennessee Code Annotated § 6-54-111(c), such audit requirements being as follows: That the nonprofit organization to be the recipient of funds from the City of Sevierville shall, before receiving such funds from the City, which appropriation has been previously authorized by the City in accordance with Tennessee Code Annotated § 6-54-111:

(1) For contributions from the City of one thousand dollars (\$1,000.00) or less provide annual audit, for that organization's fiscal year most immediately thereto preceding, which audit shall be prepared by either a certified public accountant as defined in Tennessee Code Annotated § 62-1-108 or a public accountant as defined in Tennessee Code Annotated § 62-1-109; and

(2) Contributions exceeding one thousand dollars (\$1,000.00) provide annual audit, for that organization's fiscal year most immediately thereto preceding, which audit shall be prepared by a certified public accountant as defined in Tennessee Code Annotated § 62-1-108. (1996 Code, § 5-701)

## CHAPTER 8

### PROGRAM AND SERVICE RATES AND FEES

#### SECTION

5-801. Establishment.

5-802. Rates and fees reviewed annually.

5-803. Rates and fees repealed and superseded.

**5-801 Establishment.** Program and service rates and fees are hereby established. (1996 Code, § 5-801)

**5-802. Rates and fees reviewed annually.** All rates and fees for City programs and services shall be reviewed annually as follows:

(1) Rate schedules shall be reviewed with regard to market rates for comparable programs or services, to return on investment, to desired levels of participation and public service, and to compliance with established City fiscal policies.

(2) Rate schedules will be developed by the department head and staff, reviewed by any applicable advisory boards or committees, and approved by the City Administrator prior to presentation to the Board of Mayor and Aldermen.

(3) The City Administrator shall attach the rate schedule to the annual budget document for approval by the Board of Mayor and Aldermen.

(4) Temporary rate adjustments may be made, with City Administrator approval, to explore promotions, adjust to market changes, and maximize return on investment. Such changes will be incorporated into the annual budget presentation of the rate schedule for approval by the Board of Mayor and Aldermen. (1996 Code, § 5-802)

**5-803. Rates and fees repealed and superseded.** All rates and fees in existence prior to passage of the budget ordinance are repealed and superseded on July 1<sup>st</sup> of the new fiscal year. (1996 Code, § 5-803)

## CHAPTER 9

### RESTAURANT PRIVILEGE TAX

#### SECTION

- 5-901. Levy of tax.
- 5-902. Tax added to food invoice.
- 5-903. Remittance to City Recorder.
- 5-904. Exemptions.
- 5-905. Penalties and interest for delinquency.
- 5-906. Records.
- 5-907. Administration.
- 5-908. Tax is additional tax.
- 5-909. Rules and regulations.
- 5-910. Use of records.
- 5-911. Severability.

**5-901. Levy of tax.** There is hereby levied a privilege tax upon the privilege of purchasing food from any establishment selling prepared food in the City of Sevierville, whether for consumption on-premises or off-premises, including but not limited to restaurants, cafes, cafeterias, caterers delicatessens, snack bars, ice cream parlors, lunch rooms or counters within other retail businesses, and other similar establishments engaged in selling prepared food. Without limiting the forgoing, the establishments covered by this chapter include, but are not limited to, any "food service establishment" as defined in Tennessee Code Annotated, Title 68, and include commercially operated establishments located within hospitals. Said privilege tax shall be in an amount equal to two percent (2%) of the consideration charged by the operators of said establishments. Said tax so imposed is a privilege upon the purchasing of food by patrons of said establishments and is to be collected and distributed as hereinafter provided. (Ord. #2013-011, June 2013)

**5-902. Tax added to food invoice.** Said tax shall be added by each and every operator of establishments covered by this chapter to each invoice prepared by the operator of said establishment. Said invoice shall be given directly to the purchaser and shall be collected by the operator from the purchaser at the time of sale. Where the tax calculated includes any fraction of a cent, the next highest full cent shall be charged. (Ord. #2013-011, June 2013)

**5-903. Remittance to City Recorder.** The tax hereby levied shall be remitted by all operators of establishments subject to said tax to the City Recorder. Said tax shall be remitted to the City Recorder not later than the twentieth day of each month next following collection from the purchaser. The City Recorder may promulgate reasonable rules and regulations for the



enforcement and collection of tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods. (Ord. #2013-011, June 2013)

**5-904. Exemptions.** The provisions of this chapter shall not apply to food prepared to be served at churches, schools, senior citizen centers or nursing homes, and at boarding houses where the cost of food is included in the rental rate. The provisions of this chapter shall not apply to the sale of alcoholic beverages in any form, manner, time or place. (Ord. #2013-011, June 2013)

**5-905. Penalties and interest for delinquency.** Taxes collected by an operator which are not remitted to the City Recorder 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 six percent (6%) per annum and in addition for penalty of one-half of one percent (1/2 of 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. Willful refusal of an operator to collect or remit the tax or willful refusal of a purchaser to pay the tax imposed is hereby declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving food services paid by a customer to the operator in those cases where the operator fails or refuses to pay the tax payable to the City Recorder. (Ord. #2013-011, June 2013)

**5-906. Records.** It shall be the duty of every operator liable for the collection and payment of this tax, to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the City Recorder shall have the right to inspect at all reasonable times. (Ord. #2013-011, June 2013)

**5-907. Administration.** In administering and enforcing the provisions of this chapter, the City Recorder shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67 or otherwise provided by law for county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter. The City Recorder shall possess those powers and duties provided in Tennessee Code Annotated, § 67-1-707 with respect to the adjustment and refund of the taxes provided for in this chapter. With respect to the adjustment and settlement with taxpayers of all errors of taxes collected by the City Recorder under the authority of this chapter, the City Recorder shall

have the power to refund same. Notice of any tax paid under protest shall be given to the City Recorder, and suit for recovery shall be brought against the City Recorder. (Ord. #2013-011, June 2013)

**5-908. 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. (Ord. #2013-011, June 2013)

**5-909. Rules and regulations.** The City Recorder shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further the City Recorder shall design, prepare, print and make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure full compliance with the provisions of this chapter. (Ord. #2013-011, June 2013)

**5-910. Use of proceeds.** Tax proceeds generated by the provisions of this chapter shall be used as determined by the Board of Mayor and Aldermen of the City of Sevierville; provided, however, that seventy-five percent (75%) of the proceeds shall be used for tourism promotion, tourism advertising or tourism infrastructure, including, but not limited to, municipally owned or operated event centers and golf courses. (Ord. #2013-011, June 2013)

**5-911. Severability.** If any provision of this chapter is deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid application, and to that end, the provisions of this chapter are declared severable. (Ord. #2013-011, June 2013)

## CHAPTER 10

### AMUSEMENT TAX

#### SECTION

- 5-1001. Definitions.
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**5-1001. Definitions.** As used in this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) "Admission" means admission into or for an amusement after consideration paid by single ticket, season or subscription; for any admission charged within any enclosure in addition to the initial charge for admission to such enclosure; and for the use of sporting or recreational facilities or equipment, including the rental of such facilities or equipment; and shall apply on admission fees or charges, whether or not a ticket is actually issued;

(2) "Amusement" means any theater, motion picture house, cinema, athletic contest, exhibition, pageant, show, production, demonstration, play, performance, concert, musicale, recital, reading, circus, carnival, act, exhibit, lecture, address, nightclub, cabaret, dance, dance hall, restaurant which provides either floor show, singing, dancing, or dancing facilities for patrons, and ride or excursion where passengers are taken on and discharged within the county boundaries, and shooting galleries, as well as all mechanical or electrical devices operated for pleasure or skill where a fee is charged for admission or entrance or for the purpose of playing them, or where there is any charge whatever for them or in connection with them either directly or indirectly, where such games or devices are located in any amusement park or amusement center; provided, however, that actual play on coin operated machines of skill or chance is exempt from the provisions of this tax;

(3) "Consideration" means the consideration charged, whether or not received, for an admission for an amusement 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 service provided to the person is complimentary from the operator and no consideration is charged to or received from any person;

(4) "Consumer" means any person who pays consideration into, or for, an amusement;

(5) "Operator" means the person operating the amusement;

(6) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit; and

(7) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the City of Sevierville tourists, visitors and other interested persons from outside the area, and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business. (Ord. #2013-12, June 2013)

**5-1002. Levy of tax.** There is hereby levied a privilege tax upon the privilege of a consumer paying consideration for admission into or for an amusement in the City of Sevierville in the amount of two percent (2%) of the consideration charged by the operator. Such tax so imposed is a privilege tax upon the consumer enjoying the amusement and is to be collected and distributed as hereinafter provided. (Ord. #2013-12, June 2013)

**5-1003. Tax added to amusement price.** Such tax shall be added by each and every operator to each ticket sold for a consideration for admission into and for such amusement, and shall be collected by such operator from the consumer and remitted to the City Recorder. The tax shall not be assumed by the operator. Where the tax calculated on any individual admission ticket includes any fraction of a cent, the next highest full cent shall be charged. (Ord. #2013-12, June 2013)

**5-1004. Remittance to City Recorder.** The tax hereby levied shall be remitted by all operators who lease, rent, or own an amusement to the City Recorder, to be remitted to such officer not later than the twentieth day of each month next following collection from the consumer. The City Recorder may promulgate reasonable rules and regulations for the enforcement and collection of the tax, shall prescribe any necessary forms, and may, by regulations, set other reporting and paying dates and periods. (Ord. #2013-12, June 2013)

**5-1005. Offer to absorb tax prohibited.** No operator of an amusement 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 be added to the consideration, or that, if added, any part will be refunded. (Ord. #2013-12, June 2013)

**5-1006. Exemptions.** The tax shall not apply to activities sponsored by any religious or charitable organization or any public or private educational institution where the receipts are devoted exclusively to the use of such organization or institution. Neither shall it apply to charges for admission to any activity sponsored or operated by the City. (Ord. #2013-12, June 2013)

**5-1007. Penalties and interest for delinquency.** Taxes collected by an operator which are not remitted to the City Recorder on or before the due date are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of six percent (6%) per annum, and in addition for penalty of one-half of one percent (1/2 of 1%) for each month or a fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a consumer to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving an amusement taxable by this chapter when the operator fails or refuses to pay the tax payable to the City Recorder. (Ord. #2013-12, June 2013)

**5-1008. Records.** It shall be the duty of every operator liable for the collection and payment to the municipality of any tax levied under the authority granted by this chapter to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax for whose collection and payment to the municipality he may have been liable, which records the City Recorder shall have the right to inspect at all reasonable times. (Ord. #2013-12, June 2013)

**5-1009. Administration.** In administering and enforcing the provisions of this chapter, the City Recorder shall have as additional powers the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, title 67 or otherwise provided by law for county clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, title 67, it being the intent of this chapter that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this chapter. The City Recorder shall possess those powers and duties provided in Tennessee Code Annotated, § 67-1-707 with respect to the

adjustment and refund of the taxes provided for in this chapter. With respect to the adjustment and settlement with taxpayers of all errors of taxes collected by the City Recorder under the authority of this chapter, the City Recorder shall have the power to refund same. Notice of any tax paid under protest shall be given to the City Recorder, and suit for recovery shall be brought against the City Recorder. (Ord. #2013-12, June 2013)

**5-1010. Use of proceeds.** Tax proceeds generated by the provisions of this chapter shall be used as determined by the Board of Mayor and Aldermen of the City of Sevierville; provided, however, that seventy-five percent (75%) of the proceeds shall be used for tourism promotion, tourism advertising or tourism infrastructure, including, but not limited to, municipally owned or operated event centers and golf courses. (Ord. #2013-12, June 2013)

**5-1011. 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. (Ord. #2013-12, June 2013)

**5-1012. Rules and regulations.** The City Recorder shall have the power to make and public reasonable rules and regulations not inconsistent with this chapter or other laws, for the enforcement of the provisions of this chapter and the collection of revenues hereunder. Further the City Recorder shall design, prepare, print and make available to all persons who are subject to this chapter, all necessary forms for filing returns and instructions to insure full compliance with the provisions of this chapter. (Ord. #2013-12, June 2013)

**5-1013. Severability.** If any provision of this chapter is deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid application, and to that end, the provisions of this chapter are declared severable. (Ord. #2013-12, June 2013)