

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES GENERALLY.
4. WHOLESALE BEER TAX.
5. LOCAL SALES TAX.
6. HOTEL OCCUPANCY PRIVILEGE TAX.
7. OPERATIONS AND FINANCIAL MANAGEMENT.
8. PURCHASING POLICY.

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

- 5-101. Official depositories for city funds.
5-102. Finance committee.

5-101. Official depositories for city funds. The First National Bank and the Union Bank of Jellico, Tennessee, are hereby designated as the official depositories for all municipal funds. (1968 Code, § 6-601)

5-102. Finance committee. The finance committee shall originate and/or review proposals, plans, or programs concerning budgetary and other fiscal matters of the municipality, and shall make investigations and submit reports and/or recommendations to the board of mayor and aldermen on such matters. (1968 Code, § 6-602)

¹Charter references

Delinquency penalties: § 4.15.

Delinquent taxes: § 4.16.

Due dates and tax bills: § 4.15.

Levy: § 4.14.

Property taxes: § 4.12.

CHAPTER 2

REAL 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 municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1968 Code, § 6-101)

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.³ (1968 Code, § 6-102)

¹State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-5-2010, 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 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 of each succeeding month.

³Charter and state law references

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

- (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,

(continued...)

CHAPTER 3

PRIVILEGE TAXES GENERALLY¹

SECTION

- 5-301. Tax levied.
- 5-302. License required.
- 5-303. Litigation tax levied.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. (1968 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1968 Code, § 6-302)

5-303. Litigation tax levied. (1) Effective on September 1, 2012, the city litigation tax shall become effective as follows: On cases in city court there is hereby levied a city litigation tax to match the state litigation tax of thirteen dollars and seventy-five cents (\$13.75).

(2) The privilege taxes levied pursuant to this chapter shall be paid to the city recorder monthly to be used to assist in paying for the operation of city court and for the police department. (Ord. #105-2012, Aug. 2012)

(...continued)

§ 67-5-2005.

¹Charter reference

Levy of a privilege tax: 6.03.

Municipal code reference

Privilege taxes on fireworks: title 7, chapter 4.

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1968 Code, § 6-401)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of seventeen percent (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

LOCAL SALES TAX

SECTION

5-501. Authorization of tax.

5-502. Collection of tax.

5-503. Effective date.

5-501. Authorization of tax. There is hereby levied by and for the City of Jellico a tax on the same privileges subject to the "Retailers' Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, as the same may be amended, which are exercised within said City of Jellico, which tax hereby levied shall be collected on all such privileges to the extent and in the amount of one-third (1/3) of the rates levied therein; provided that said tax shall not exceed five dollars (\$5.00) on the sale or use of any single article of personal property; provided however, that said tax levy shall not apply on the sale, purchase, use, consumption or distribution of electric power or energy, or of natural or artificial gas or coal and fuel oil; it being the intent to levy said tax on all privileges, together with interest and penalties for delinquencies, in the maximum amount permitted, and to be collected in the manner provided for, by said "Retailers' Sales Tax Act" under Tennessee Code Annotated, title 67, chapter 6, and as authorized to be levied by municipalities under said "1963 Local Option Revenue Act," being Chapter No. 329 of the Public Acts of Tennessee for the year 1963, and any Acts amendatory thereof, and subject to any exclusions, prohibitions and limitations provided for in said Acts. (1968 Code, § 6-501)

5-502. Collection of tax. (1) It is the intent that the City of Jellico avail itself of the services and facilities of the Department of Revenue of the State of Tennessee in the collection of said tax in the manner and to the extent provided for in said "1963 Local Option Revenue Act" and any Acts amendatory thereof, in furtherance of which the mayor of said City of Jellico shall do all things necessary to cause certified copy of this chapter to be delivered to said department of revenue in accordance with regulations prescribed by said department, and as may be otherwise required, and to do any and all other things incident thereto that may be necessary or required by law.

(2) Said tax shall be due and payable at the same time as the state sales tax, and, together with any penalties and interest, collected concurrently with the state sales tax.

(3) The Department of Revenue of the State of Tennessee shall collect such tax concurrently with the collection of the state sales tax in the same manner that said state tax is collected, in accordance with the provisions of said 1963 Local Option Revenue Act and said Retailers' Sales Tax Act, as the same

may be amended, and the rules and regulations promulgated by the Commissioner of Revenue of the State of Tennessee, all of which are by reference adopted; provided that said department or the said commissioner of revenue has determined that such collection of said tax is feasible, and has promulgated rules and regulations governing such collection. The department shall remit the proceeds of the said tax to the City of Jellico, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection.

(4) Upon any claim of illegal assessment and collection of said tax, the taxpayer or taxpayers shall have the remedy provided in Tennessee Code Annotated, § 67-6-710 and the other statutes of the State of Tennessee referred to therein together with any other applicable statutes of said state, for the recovery of any such taxes illegally assessed and collected, and paid under protest as therein provided for; and the recorder of the City of Jellico, Tennessee, is hereby designated as the municipal officer against whom suit may be brought for recovery in the event the tax is collected by the department of revenue. (1968 Code, § 6-502)

5-503. Effective date. This chapter shall not become operative until approved in an election to be held and conducted in said City of Jellico by and under the direction of the county election commission in and for Campbell County, Tennessee, within sixty (60) days after receipt by said county election commission of a certified copy of this chapter, as authorized and provided for by said "1963 Local Option Revenue Act" being Chapter No. 329 of the Public Acts of Tennessee for the year 1963, and any Acts amendatory thereof.

The mayor of said city shall do all things necessary to cause said certified copy of this chapter to be furnished to said county election commission, and to do any and all other things necessary or deemed necessary and advisable to cause and stable said county election commission to call, hold and conduct said election as required by the laws of the State of Tennessee. (1968 Code, § 6-503)

CHAPTER 6

HOTEL OCCUPANCY PRIVILEGE TAX

SECTION

- 5-601. Definitions.
- 5-602. Tax levied.
- 5-603. Tax is additional tax.
- 5-604. Purpose--allocation and distribution of tax proceeds.
- 5-605. Collection of tax by operator--refund.
- 5-606. Monthly tax return and remittance of tax--compensation of operator--form of return--annual audit.
- 5-607. Delinquent taxes--penalty and interest.
- 5-608. Restrictions on operator advertisement--violation of restriction and civil penalty.
- 5-609. Operator required to keep records--inspection of records by clerk--violation and civil penalty.
- 5-610. Civil penalty for willful refusal to collect, remit or pay tax.
- 5-611. Administration and enforcement--powers and duties of clerk.
- 5-612. Taxpayer remedies--tax refunds--time limitation on claims--notice of payment under protest and suit on claim for refund.

5-601. Definitions. For purposes of this chapter and as herein used:

- (1) The word "city" means the City of Jellico, Tennessee.
- (2) The word "clerk" means the city recorder.
- (3) The phrase "city legislative body" means the board and mayor of aldermen of the city.
- (4) The word "consideration" means the consideration charged, whether or not received, for 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 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.
- (5) The word "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 any hotel, inn, tourist cabin, tourist court, tourist camp, motel, or any space or place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (6) The word "occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, spaces or accommodations in any hotel.

(7) The word "operator" means the person operating the hotel whether as owner, lessee or otherwise.

(8) The word "person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental entity, or any other group or combination acting as a unit.

(9) The word "transient" means any person who exercises occupancy or is entitled to exercise the occupancy of any rooms, lodgings or accommodations in a hotel for any period of time less than thirty (30) continuous days.

(10) The word "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 purposes. It also means the acquisition, construction and remodeling of facilities useful in the attraction and promoting of tourist, convention and recreational business. (Ord. #18-2005, June 2005)

5-602. Tax levied. Pursuant to Chapter No. 40 of the Private Acts of the General Assembly of the State of Tennessee for the year 1981 as amended by Chapter No. 42 of the Private Acts of the General Assembly of the State of Tennessee for the year 2005, there is hereby levied a privilege tax of five percent (5%) on the rate charged or to be charged by the operator upon the occupancy of any transient in any hotel located within the municipal boundaries of the City of Jellico, Tennessee. (Ord. #18-2005, June 2005)

5-603. Tax is additional tax. The tax herein levied is in addition to all other taxes levied or authorized to be levied whether in the form of excise, sales, license, or privilege taxes and are in addition to any other fees and taxes now levied or authorized to be levied. (Ord. #18-2005, June 2005)

5-604. Purpose--allocation and distribution of tax proceeds. It is hereby declared to be the purpose of this chapter to provide revenues both for the purpose of promoting tourism and for the support of the general governmental functions of the city, accordingly, one fourth (1/4) of the proceeds from the tax herein levied shall be allocated and used for the promotion of tourism and three fourths (3/4) shall be deposited to the general funds of the city. (Ord. #18-2005, June 2005)

5-605. Collection of tax by operator--refund. (1) (a) The tax herein levied shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the operator's hotel and given directly or transmitted to the transient.

(b) The operator is required to collect the tax so invoiced from the transient at the time of the presentation of the invoice for occupancy and if credit is extended or granted therefor by the operator to the transient, then the obligation to the city will be the obligation of the operator.

(c) The tax so invoiced by the operator shall be remitted to the clerk as provided in § 5-606 of this chapter.

(2) When a person has maintained occupancy in the same room, space, lodging or accommodation for a continuous thirty (30) consecutive days, without interruption, that person shall receive from the operator a refund or credit for the tax previously collected or charged to that person and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (Ord. #18-2005, June 2005)

5-606. Monthly tax return and remittance of tax--compensation of operator--form of return--annual audit. (1) A monthly tax return shall be filed with the clerk and the tax herein levied shall be remitted to the clerk by all operators who lease, rent or charge for any rooms or spaces in hotels located within the municipal boundaries of the city no later than the twentieth (20) day of each calendar month for the preceding calendar month.

(2) For the purpose of compensating the operator in accounting for the collection and remittance of this tax to the clerk, the operator shall be allowed two percent (2%) of the amount of the tax due in the form of a deduction; provided, that the return and the amount due is not delinquent; and, provided further, that the maximum deduction allowable to the operator for any one (1) calendar month shall not exceed the sum of twenty-five dollars (\$25.00).

(3) The monthly tax return filed by the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such return shall be as developed by the clerk and approved by the city legislative body.

(4) The clerk shall audit each operator in the city at least once each year and shall report on the audits made on a quarterly basis to the city legislative body. (Ord. #18-2005, June 2005)

5-607. Delinquent taxes--penalty and interest. (1) Tax returns and taxes collected by an operator which are not filed and remitted to the clerk on or before the due dates provided in § 5-606 of this chapter are delinquent.

(2) An operator is 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. The maximum penalty shall not exceed twenty-five (25%) percent of the tax due, provided, however, that there shall be a minimum penalty in the amount of ten dollars (\$10.00) on each delinquent return regardless of the amount of the tax due or whether there is any tax due. Such

interest and penalty shall become a part of the tax herein required to be remitted. (Ord. #18-2005, June 2005)

5-608. Restrictions on operator advertisement--violation of restriction and civil penalty. (1) No operator of a hotel shall advertize or state in any manner, whether directly or indirectly, that the tax levied by this chapter or any part thereof will be assumed or absorbed by the operator or that the tax will not be added to the consideration charged or, if added, that any part thereof will be refunded.

(2) Each occurrence of any such advertisement or statement by or on the part of an operator is a violation of this chapter and shall be punishable, upon conviction, by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #18-2005, June 2005)

5-609. Operator required to keep records--inspection of records by clerk--violation and civil penalty. (1) (a) Every operator liable for the collection and remittance of the tax imposed by this chapter is required to keep and preserve, for a period of three (3) years, all records which may be necessary to determine the amount of any such tax for which the operator may be liable or obligated to the city; and

(b) The clerk shall have the right, at all reasonable times, to inspect any and all such records.

(2) Each occurrence of a refusal or failure on the part of an operator to keep and maintain the records required of such operator by this section and each occurrence of a refusal or failure, on the part of an operator, to permit the clerk reasonable inspection of any such records shall constitute a violation of this chapter and shall be punishable, upon conviction, by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #18-2005, June 2005)

5-610. Civil penalty for willful refusal to collect, remit or pay tax.

Each occurrence of willful refusal on the part of an operator to collect and/ or remit the tax herein levied and each occurrence of a willful refusal on the part of a transient to pay such tax shall constitute a violation of this chapter and shall be punishable, upon conviction, by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #18-2005, June 2005)

5-611. Administration and enforcement--powers and duties of clerk. (1) It shall be the duty of the clerk to administer and enforce the provisions of this chapter.

(2) In addition to the powers and duties specifically provided for herein, the clerk, in administering and enforcing the provisions of this chapter, shall have those powers and duties with respect to collecting taxes as are provided for in Tennessee Code Annotated, title 67 and as are otherwise provided by law for clerks. (Ord. #18-2005, June 2005)

5-612. Taxpayer remedies--tax refunds--time limitation on claims--notice of payment under protest and suit on claim for refund.

(1) Upon any claim of illegal assessment or collection, the taxpayer, vis a vis the city, shall have the same remedies provided in Tennessee Code Annotated, title 67 which apply to the recovery of state taxes illegally assessed and collected and the provisions of § 67-1-707 shall be applicable to adjustments and refunds.

(2) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the clerk under the authority of this chapter shall be refunded by the clerk; provided, however, that any claim for such refund for taxes alleged to have been erroneously or illegally paid shall be filed with the clerk, supported by proper proof, within one (1) year from the date of payment, otherwise the taxpayer shall not be entitled to a refund and the claim for refund shall be barred.

(3) Notice of any tax paid under protest shall be given to the clerk in writing and the mayor is hereby designated to be the municipal officer of the city against whom suit may be brought for recovery. (Ord. #18-2005, June 2005)

CHAPTER 7

OPERATIONS AND FINANCIAL MANAGEMENT

SECTION

- 5-701. Balanced cash-basis budget.
- 5-702. Employment of certified municipal finance officer.
- 5-703. Financial management polices and procedures.
- 5-704. Educational programs.

5-701. Balanced cash-basis budget. The board of mayor and aldermen's duty, as construed in Tennessee Code Annotated, § 8-47-101 is to well-manage the finances and operations of the city and to adopt by June 30 of every year a balanced cash-basis budget meeting all obligations like a well-managed municipality and maintain that balanced cash-basis budget throughout the year by monthly monitoring, appropriate amendment, and by only authorizing expenditures if cash is available at the time of authorization. (Ord. #116-2013, Oct. 2013)

5-702. Employment of certified municipal finance officer. The board of mayor and aldermen have a duty to employ as the chief financial officer of the city an individual with the necessary training and qualifications to maintain the city's accounting records in a proper manner and that is a certified municipal finance officer, an exempt individual as defined in Tennessee Code Annotated, title 6, chapter 56 part 4, or is able to meet the qualifications to become a certified municipal finance officer within the statutorily required time period. (Ord. #116-2013, Oct. 2013)

5-703. Financial management policies and procedures. The board of mayor and aldermen have a duty with the city's chief financial officer to develop, implement, execute and monitor effective accounting, budgeting, cash management, human resource, purchasing, risk management, and other financial management policies as well as implementing effective related procedures that will provide adequate internal controls for accounting and reporting, to safeguard the city's assets, and to ensure compliance with the State Constitution, state statutes, the city's charter, and federal laws. (Ord. #116-2013, Oct. 2013)

5-704. Educational programs. The board of mayor and aldermen has a duty to develop and maintain sufficient knowledge to well-manage the finances and operations of the city through the educational programs offered through The University of Tennessee's Municipal Technical Advisory Service. (Ord. #116-2013, Oct. 2013)

CHAPTER 8

PURCHASING POLICY

SECTION

5-801. Purchasing policy.

5-801. Purchasing policy. The City of Jellico shall establish a purchasing policy in accordance with all applicable state law and guidelines issued by the Tennessee Comptroller. Said policy is available in the recorder's office.