

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
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4. WHOLESALE BEER TAX.
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6. HOTEL/MOTEL TAX.
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CHAPTER 1

MISCELLANEOUS

SECTION

5-101. Official depository for city funds.

5-101. Official depository for city funds. The First State Bank of Jacksboro, Tennessee, is hereby designated as the official depository for all city funds. (1979 Code, § 6-101)

¹Charter references

For specific charter provisions on depositories of municipal funds, see Tennessee Code Annotated, § 6-4-402.

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. 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. (1979 Code, § 6-201)

5-202. When delinquent--penalty and interest. 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. (1979 Code, § 6-202)

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 municipality at the rates and in the manner prescribed by the said act. (1979 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 such applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1979 Code, § 6-302)

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 (1979 Code, § 6-401)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 5

LITIGATION TAX

SECTION

5-501. Levied.

5-502. Paid to city recorder.

5-501. Levied. Effective the first day of the month following the passage of this ordinance comprising this chapter, the city litigation taxes in effect in the City of Caryville City Court shall be 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). Said litigation tax is in addition to court costs otherwise previously established by ordinance. (Ord. #97-4, Dec. 1997, as replaced by Ord. #2005-01, March 2005)

5-502. Paid to city recorder. The privilege taxes levied pursuant to the ordinance comprising this chapter shall be paid to the city recorder monthly to be used for any municipal purposes. (Ord. #97-4, Dec. 1997, as replaced by Ord. #2005-01, March 2005)

CHAPTER 6

HOTEL/MOTEL TAX

SECTION

- 5-601. Definitions.
- 5-602. Tax levied.
- 5-603. Purpose—disposition and deposit of proceeds.
- 5-604. Tax is additional tax.
- 5-605. Collection of tax—refund.
- 5-606. Remittance of tax—monthly tax return—annual audit.
- 5-607. Restriction on operator.
- 5-608. Delinquent taxes—interest and penalty.
- 5-609. Records—inspection.
- 5-610. Administration and enforcement—taxpayers remedies.

5-601. Definitions. For purposes of this chapter:

- (1) "City" means the incorporated Town of Caryville, Tennessee.
- (2) "Clerk" means the City Recorder of the Town of Caryville, Tennessee.
- (3) "City legislative body" means the Board of Mayor and Aldermen of the Town of Caryville, Tennessee.
- (4) "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 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) "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 camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (6) "Occupancy" means the use or possession, or the right to the use of possession, of any room, lodgings, spaces or accommodations in any hotel.
- (7) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (8) "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) "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 thirty (30) continuous days. (Ord. #99-3, July 1999)

5-602. Tax levied. There is hereby levied a privilege tax of five (5.00%) percent on the rate charged by the operator upon the occupancy of each transient in any hotel located within the municipal boundaries of the Town of Caryville, Tennessee. (Ord. #99-3, July 1999)

5-603. Purpose-disposition and deposit of proceeds. It is hereby declared to be the purpose of this chapter to provide revenues for the support of the general functions of the municipal government of the Town of Caryville and the proceeds of the tax received from the tax levied pursuant to this chapter are allocated to and shall be placed in the general fund. (Ord. #99-3, July 1999)

5-604. 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, license, or privilege taxes and are in addition to all other fees and taxes now levied or authorized to be levied. (Ord. #99-3, July 1999)

5-605. Collection of tax-refund. (1)(a) The tax 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 tax so invoiced shall be collected by such operator from the transient and remitted to the clerk as provided in §5-606 of this chapter.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected 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. #99-3, July 1999)

5-606. Remittance of tax-monthly tax return-annual audit.

(1) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the city to the clerk no later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy as may be the custom of the operator and if credit is granted by the operator to the transient then the obligation to the city shall be that of the operator.

(2) For the purpose of compensating the operator in accounting for the remitting of this tax, the operator shall be allowed two (2.00%) percent of the amount of the tax due and accounted for and remitted in the form of a deduction

in submitting the operator's report or return and paying the amount due by such operator, provided that the return and the amount due is not delinquent at the time of payment and provided further that the maximum deduction allowable to the operator for any one month shall not exceed the sum of twenty-five dollars (\$25.00).

(3) (a) The clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in the account provided for the general funds of the municipality.

(b) A monthly return shall be filed with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of the tax.

(c) 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 clerk and approved by the city legislative body prior to use.

(d) The clerk shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the city legislative body. (Ord. #99-3, July 1999)

5-607. Restriction on operator. No operator of a hotel shall advertise 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 rent or, if added, that any part thereof will be refunded. Each occurrence of any such advertisement or statement by an operator is a violation of this chapter and shall be punishable by a civil penalty not to exceed fifty dollars (\$50.00). (Ord. #99-3, July 1999)

5-608. Delinquent taxes-interest and penalty. (1) Taxes collected by an operator which are not 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 (12.00%) per annum, and is liable for an additional penalty of one percent (1.00%) for each month or fraction thereof such taxes are delinquent. The maximum penalty shall not exceed twenty-five percent (25.00%) of the tax due, provided, however that there shall be a minimum penalty in the amount of ten dollars (\$10.00) regardless of the amount of 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.

(3) 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 a violation of this chapter and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (Ord. #99-3, July 1999)

5-609. Records-inspection. It is the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax for which the operator may have been liable for the collection and payment to the city, which records, the clerk shall have the right to inspect at all reasonable times. (Ord. #99-3, July 1999)

5-610. Administration and enforcement-taxpayers remedies.

(1) The clerk in administering and enforcing the provisions of this chapter has, as additional powers, those powers and duties with respect to collecting taxes as are provided in Tennessee Code Annotated, title 67, or otherwise provided by law for clerks.

(2) Upon any claim of illegal assessment and collection, the taxpayer shall, vis a vis the city, 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 Tennessee Code Annotated, § 67-1-707, shall be applicable to adjustments and refunds.

(3) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the clerk under authority of this chapter shall be refunded by the clerk; provided, however, that any claim for such refund 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 refund and the claim for refund shall be barred.

(4) 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. #99-3, July 1999)

CHAPTER 7

PURCHASING

SECTION

5-701. Purchase order required.

5-702. Local vendors.

5-703. Sealed bids.

5-704. Board of mayor and aldermen approval required.

5-705. Emergency or time limit.

5-701. Purchase order required. All purchasing excluding monthly utilities, gasoline, insurance, lease payments, retainers, janitorial services, state dues, authorized employee deductions, payroll and tax deposits will require a purchase order to be issued by the mayor, vice mayor, department head or city recorder or administrative assistant. Purchase orders must have three (3) signatures by members of the board of mayor and aldermen prior to ordering. (Ord. #85-39, Dec. 1985, as replaced by Ord. #2013-01, Feb. 2013)

5-702. Local vendors. All purchase orders are to be made from local vendors when possible. If the local vendor is close to same cost of an out-of-town vendor's price, including freight, the local vendor shall be used. (Ord. #85-39, Dec. 1985, as replaced by Ord. #2013-01, Feb. 2013)

5-703. Sealed bids. Contracts shall be put for sealed bid on the town's need for items over one thousand five hundred dollars (\$1,500.00), such as paving, repairs, construction and janitorial services. (Ord. #85-39, Dec. 1985, as replaced by Ord. #2013-01, Feb. 2013)

5-704. Board of mayor and aldermen approval required. The board of mayor, vice mayor, aldermen, department head, city recorder or administrative assistant has the authority to purchase up to five hundred dollars (\$500.00) with three (3) signatures. Purchases in the amount of five hundred dollars (\$500.00) or more must have three (3) signatures on the purchase order and approval by majority vote from the board of mayor and aldermen prior to ordering. (as added by Ord. #2013-01, Feb. 2013)

5-705. Emergency or time limit. In an emergency situation or a time limit situation, the mayor or vice mayor may obtain verbal permission from a majority of the board of mayor and aldermen and notify the city recorder or administrative assistant to write the purchase order. Emergency purchases in the amount of one thousand five hundred dollars (\$1,500.00) or over must obtain sealed bids. (as added by Ord. #2013-01, Feb. 2013)

CHAPTER 8

FUND BALANCE POLICY

SECTION

- 5-801. Purpose.
- 5-802. Categories.
- 5-803. Responsibility.
- 5-804. Order of use of restricted and unrestricted funds.
- 5-805. Authority to commit funds.
- 5-806. Stabilization funds.
- 5-807. Authority to assign funds.
- 5-808. Unassigned fund balance.

5-801. Purpose. The fund balance policy is intended to provide guidelines during the preparation and execution of the annual budget to ensure that sufficient reserves are maintained for unanticipated expenditures or revenue shortfalls. It is also intended to preserve flexibility throughout the fiscal year to make adjustments in funding for programs approved in connection with the annual budget. The fund balance policy should be established based upon a long-term perspective recognizing that stated thresholds are considered minimum balances. The main objective of establishing and maintaining a fund balance policy is for the town to be in a strong fiscal position that will allow for better position to weather negative economic trends. (as added by Ord. #2012-04, June 2012)

5-802. Categories. The fund balance consists of five (5) categories: nonspendable, restricted, committed, assigned and unassigned.

(1) Nonspendable fund balance consists of funds that cannot be spent due to their form (e.g. inventories and prepaids) or funds that legally or contractually must be maintained intact.

(2) Restricted fund balance consists of funds that are mandated for a specific purpose by external parties, constitutional provisions or enabling legislation.

(3) Committed fund balance consists of funds that are set aside for a specific purpose by the Town of Caryville Board of Mayor and Aldermen. Formal action must be taken prior to the end of the fiscal year. The same formal action must be taken to remove or change the limitations placed on the funds.

(4) Assigned fund balance consists of funds that are set aside with the intent to be used for a specific purpose by the Town of Caryville Board of Mayor and Aldermen. Assigned funds cannot cause a deficit in unassigned fund balance.

(5) Unassigned fund balance consists of excess funds that have not been classified in the previous four (4) categories. All funds in this category are

considered spendable resources. This category also provides the resources necessary to meet unexpected expenditures and revenue shortfalls. (as added by Ord. #2012-04, June 2012)

5-803. Responsibility. (1) Nonspendable funds are those funds that cannot be spent because they are either:

(a) Not in spendable form (e.g. inventories and prepaids).

(b) Legally or contractually required to be maintained intact.

It is the responsibility of the finance director to report all nonspendable funds appropriately in the town's financial statements.

(2) Restricted funds are those funds that have constraints placed on their use either:

(a) Externally by creditors, grantors, contributors, or laws or regulations or other governments.

(b) By law through constitutional provisions or enabling legislation.

It is the responsibility of the finance director to report all restricted funds appropriately in the town's financial statements. All restricted funds must also be reported to the town's governing body within two (2) months of the end of the fiscal year. (as added by Ord. #2012-04, June 2012)

5-804. Order of use of restricted and unrestricted funds. When both restricted and unrestricted funds are available for expenditure, restricted funds should be spent first unless legal requirements disallow it.

When committed, assigned and unassigned funds are available for expenditure, committed funds should be spent first, assigned funds second, and unassigned funds last. (as added by Ord. #2012-04, June 2012)

5-805. Authority to commit funds. The town's governing body has the authority to set aside funds for a specific purpose. Any funds set aside as committed fund balance requires, at a minimum, the passage of a resolution by a simple majority vote. An ordinance may also be used. Commitment must take place prior to the June 30th of the applicable fiscal year. If the actual amount of the commitment is not available by June 30th, the resolution or ordinance must state the process or formula necessary to calculate the actual amount as soon as information is available. In the event the governing body wishes to lift the committed status of funds so that they may be used for general purposes, a formal action equal to that which originally committed the funds must be taken. (as added by Ord. #2012-04, June 2012)

5-806. Stabilization funds. The town's governing body has the authority to establish a financial stabilization account that will be a committed fund balance. A financial stabilization account may be established for the purpose of providing funds for an urgent event that affects the safety of the

general public (e.g. flood, tornado, etc.). The minimum level for the financial stabilization account is five percent (5%) of general fund expenditures. The recognition of an urgent event must be established by the mayor. The specific urgent event must be reported to the governing body at their next meeting. A budget amendment must be approved by the town's governing body. In the event that the balance drops below the established minimum level, the town's governing body will develop a plan to replenish the financial stabilization account balance to the established minimum level within four (4) years. (as added by Ord. #2012-04, June 2012)

5-807. Authority to assign funds. Upon passage of the fund balance policy, authority is given to the town's finance director to assign funds for specific purposes in an amount not to exceed five thousand dollars (\$5,000.00) per purpose or in total not to exceed twenty-five thousand dollars (\$25,000.00). Any funds set aside as assigned fund balance must be reported to the town's governing body at their next regular meeting and recorded in the minutes. The governing body has the authority to remove or change the assignment of funds with a simple majority vote.

The town's governing body has the authority to set aside funds for the intended use of a specific purpose. Any funds set aside as assigned fund balance requires a simple majority vote and must be recorded in the minutes. The same action is required to change or remove the assignment.

Upon passage of a budget ordinance where fund balance is used a source to balance the budget, the finance director shall record the amount as assigned fund balance. (as added by Ord. #2012-04, June 2012)

5-808. Unassigned fund balance. Unassigned fund balance is the residual amount of fund balance in the general fund. It represents the resources available for future spending. An appropriate level of unassigned fund balance should be maintained in the general fund in order to cover unexpected expenditures and revenue shortfalls.

Unassigned fund balance may be accessed in the event of unexpected expenditures up to the minimum established level upon approval of a budget amendment by the town's governing body. In the event of projected revenue shortfalls, it is the responsibility of the finance director to report the projection to the town's governing body on a quarterly basis and shall be recorded in the minutes.

Any budget amendment that will result in the unassigned fund balance dropping below the minimum level will require the approval of two-thirds (2/3) vote of the town's governing body.

The fund balance policy establishes a minimum unassigned fund balance equal to twenty-five percent (25%) of general fund expenditures. In the event that the balance drops below the established minimum level, the town's governing body will develop a plan to replenish the fund balance to the

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established minimum level within two (2) years. (as added by Ord. #2012-04, June 2012)